

# CALIFORNIA CHAMBER of COMMERCE



June 12, 2017

To: Members of the California Congressional Delegation

From: (Mrs.) Susanne Stirling, Vice President-International Affairs

*On behalf of the California Chamber of Commerce, below are comments provided to the U.S Trade Representative regarding Negotiating Objectives on the Modernization of the North American Free Trade Agreement with Canada and Mexico.*

California is one of the 10 largest economies in the world with a gross state product of over \$2 trillion. International trade and investment are major parts of our economic engine that broadly benefit businesses, communities, consumers and state government. California's economy is diverse, and the state's prosperity is tied to exports and imports of both goods and services by California-based companies, to exports and imports through California's transportation gateways, and to movement of human and capital resources.

Although trade is a nationally determined policy issue, its impact on California is immense. In 2016, California exported to 228 foreign markets. Trade offers the opportunity to expand the role of California's exports. In its broadest terms, trade can literally feed the world and raise the living standards of those around us.

The U.S. Department of Commerce reported that, in 2016, California exports amounted to \$163.6 billion, with California maintaining its perennial position as a top exporting state.

Exports from California accounted for 11 percent of total U.S. exports in 2016. California's top export destinations are Mexico, Canada, China, Japan and Hong Kong. California trade and exports translate into high-paying jobs for over one million Californians.

California is a top exporter in the nation of computers, electronic products, and sales of food and kindred products. Computers and electronic products are California's top export, accounting for 26.1 percent of all the state's exports.

As you may know, the California Chamber of Commerce is a broad-based nonprofit membership organization through which business, industry and agriculture join forces to work toward positive action on key issues that affect California's economic climate.

The organization, established in 1890, is the largest and most broadly based employer representative in California. Our members include over 13,000 firms of all kinds and sizes, representing three million jobs--one quarter of the state's private sector workforce, as well as 300 affiliated local chambers of commerce and 200 trade associations. Through its grassroots action program, the California Chamber reaches out to a statewide network of approximately 430,000 small business owners.

The California Chamber also offers a variety of services to help businesses comply with complex laws and regulations, as well as, compete in the international marketplace.

The California Chamber supports expansion of international trade and investment, fair and equitable market access for California products abroad, and elimination of disincentives that impede the international competitiveness of California business.

## **Comments to Office of the U.S. Trade Representative**

### **NAFTA Negotiations: Negotiating Objectives Regarding Modernization of North American Free Trade Agreement with Canada and Mexico - Docket number USTR-2017-0006**

Thank you for the opportunity for the California Chamber of Commerce to comment on the North American Free Trade Agreement, as the United States intends to commence negotiations with Canada and Mexico regarding modernization. We understand that the NAFTA was negotiated more than 25 years ago, and, while our economy and businesses have changed considerably over that period, NAFTA has not. We agree with the premise that the United States should seek to support higher-paying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities under NAFTA.

The provisions of the North American Free Trade Agreement with Canada and Mexico have been beneficial for American industries, agricultural enterprises, farmers, ranchers, energy companies and automakers. Any renegotiation of NAFTA must recognize the gains achieved and ensure that U.S. trade with Canada and Mexico remains strong and without interruption.

The CalChamber actively supported the creation of the North America Free Trade Agreement among the United States, Canada and Mexico, comprising 484.3 million people with combined annual trade with the United States being around \$1.069 trillion in 2016. In 2016, goods exports totaled over \$496.919 billion while goods imports totaled nearly \$572.217 billion.

On December 17, 1992, the NAFTA was signed by President George H.W. Bush, Mexican President Carlos Salinas, and Canadian Prime Minister Brian Mulroney. The framework agreement proposed to eliminate restrictions on the flow of goods, services, and investment in North America. The historic agreement, after passing through both the U.S. House of Representatives and the U.S. Senate, was signed into law by President Bill Clinton on December 8, 1993, and took effect on January 1, 1994.

Prior to NAFTA, there was a Canadian-U.S. Free Trade Agreement, signed by President Reagan, that went into effect in 1989. When NAFTA was signed, the agreement with Canada was suspended, but not terminated, as it was no longer needed. Before NAFTA, Mexican tariffs on U.S. imports were 250% higher than U.S. tariffs on Mexican imports. NAFTA granted the three signatories “Most Favored Nation” status and would eliminate trade barriers over a 15-year period, beginning when it took effect in 1994.

The CalChamber's long-standing support for NAFTA is based upon an assessment that it serves the employment, trading and environmental interests of California and the United States, as well as, Canada and Mexico, and is beneficial to the business community and society as a whole. Since 1993, trade among the three NAFTA countries has nearly quadrupled.

Now the renegotiation process started with the May 18, formal Administration notification to Congress of its intent to renegotiate NAFTA, and then as provided by the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, offers a 90-day trigger period for negotiations with Canada and Mexico to begin.

The California Chamber of Commerce now urges a quick and efficient process, and one that does not hinder ongoing trade and investment among the three NAFTA members who must be kept united in the same end-goal of a successful renegotiation. Throughout this process, the Trade Promotion Authority with its objectives and procedures should be followed. Further, during the process, the CalChamber encourages re-examination of the provisions agreed upon by the three countries during the already negotiated Trans-Pacific Partnership, as these may provide a starting point for further discussion.

## Mexico

Mexico continues to be California's number one export market, purchasing 16.2 percent of all California exports. California exports to Mexico amounted to \$25.262 billion in 2016, a slight decrease from 2015. Computers and electronic products remained California's largest exports, accounting for 21.7 percent of all California exports to Mexico. Exports of transportation equipment and machinery from California to Mexico grew to total over \$5.1 billion; with chemicals continuing to be a strong export sector as well.

## Canada

Canada remained California's second largest export market, with California exports to Canada increasing to over \$16.18 billion in 2016. Canada purchases over 10 percent of all California exports. Computers and electronic products remained California's largest exports to Canada, accounting for over 30 percent of all California exports to Canada. California exports to Canada directly and indirectly support approximately 110,000 jobs in California, with many of those resulting from export growth under NAFTA.

## California Tourism

From Visit California: (a not-for-profit, 501(C)(6) corporation formed in 1998 to work jointly with the State of California's Division of Tourism in promoting California as a travel destination) - throughout its history, California has shined as a welcoming destination for travelers from around the world. Amid divisive rhetoric and global uncertainties, the state's role on the global stage is more important than ever.

Earlier this year, the Visit California Board of Directors approved \$1 million to tell international travelers that California continues to be a welcoming destination. It was just the second time in Visit California's history that reserve funding was appropriated. (The first was in response to the 9/11 attacks.)

The new initiative is an optimization on California's Dream Big brand platform and the current "Living the Dream" global campaign called "All Dreams Welcome," it leverages the state's "everyone is welcome" culture to roll out the red carpet for travelers from international markets. Guided by global sentiment research, the multi-pronged program focuses heavily on PR activations with additional paid and social content support, along with co-ops for industry partners in markets at highest risk.

Globally, no markets have bigger impacts on California's tourism economy than Mexico and Canada. In 2016, travelers from Mexico spent \$3.2 billion in California, while Canadians spent more than \$2 billion. Research indicated that likelihood to travel to California was down in both due to rising negative sentiment about the United States.

To bring "All Dreams Welcome" to life, in May Visit California led a CEO delegation, joined by mayors from three gateway cities, on a goodwill missions to Mexico and Canada.

#### NAFTA Facts

Per the US Chamber "Facts on NAFTA", the North American Free Trade Agreement has generated substantial new opportunities for U.S. workers, farmers, consumers, and businesses.

- Trade with Canada and Mexico supports nearly 14 million American jobs, and nearly 5 million of these jobs are supported by the increase in trade generated by NAFTA.
- The expansion of trade unleashed by NAFTA supports tens of thousands of jobs in each of the 50 states—and more than 100,000 jobs in each of 17 states.
- Since NAFTA entered into force in 1994, trade with Canada and Mexico has nearly quadrupled to \$1.3 trillion, and the two countries buy more than one-third of U.S. merchandise exports.
- The United States ran a cumulative trade surplus in manufactured goods with Canada and Mexico of more than \$79 billion over the past seven years (2008-2014). For services, the U.S. surplus was \$41.8 billion in 2014 alone.
- NAFTA has been a boon to the competitiveness of U.S. manufacturers, which added more than 800,000 jobs in the four years after NAFTA entered into force. Canadians and Mexicans purchased \$487 billion of U.S. manufactured goods in 2014, generating nearly \$40,000 in export revenue for every American factory worker.
- NAFTA has been a bonanza for U.S. farmers and ranchers, helping U.S. agricultural exports to Canada and Mexico to increase by 350%.
- With new market access and clearer rules afforded by NAFTA, U.S. services exports to Canada and Mexico have tripled, rising from \$27 billion in 1993 to \$92 billion in 2014.
- Canada and Mexico are the top two export destinations for U.S. small and medium-size enterprises, more than 125,000 of which sold their goods and services in Canada and Mexico in 2014.

The goals of NAFTA are to eliminate trade barriers and facilitate movement of goods and services across borders, promote fair competition, increase investment opportunities, provide protection and enforcement of intellectual property rights, create procedures for trade disputes, and establish a framework for further trilateral, regional, and multilateral cooperation to expand the trade agreement's benefits.

NAFTA, the actual document, is over 1,700 pages long, with 741 pages belonging to the treaty itself, 358 pages for annexes, and 619 for footnotes and explanations. The treaty is separated into 8 parts: General; Trade in Goods; Technical Barriers in Trade; Government Procurement; Investment, Services and Related Matters; Intellectual Property; Administrative and Institutional Provisions; and Other Provisions. These 8 parts are made up of 22 chapters, with an additional 7 annexes.

Per the Federal Register Notice, the CalChamber makes brief comments below on a series of issue areas for future negotiations:

### **Digital Trade/ E-Commerce:**

California is a leader in the field of e-commerce, which positively impacts all aspects of business and society. We need binding rules among the three nations that address current restrictions on cross border data flows and forced localization of computing assets. E-commerce was never negotiated in the NAFTA's original "pre-digital" universe. Since TPP has been shelved, it would be sensible for Canada, the U.S., and Mexico to adapt TPP's e-commerce chapter into the NAFTA context. A modernized NAFTA is the perfect opportunity to set a precedent for an e-commerce trade policy.

### **Intellectual Property Rights:**

California is also a leader in innovation and in related intellectual property, and needs more rights and protections for patents, copyrights, and trademarks. Although this area was included in the original NAFTA, the entire field needs to be updated and upgraded.

### **Regulatory Practices:**

Regulatory barriers to trade is an area which needs to be revisited. Regulations need to be standards and science based.

### **State-Owned Enterprises:**

This subject should be discussed to ensure that SOEs operate and conduct international transactions within the framework of the Agreement.

### **Services:**

As California becomes more of a service oriented economy, it is important to remember that Trade Agreements are not just about trade in goods, but also, to a great extent, about services.

### **Customs Procedures:**

With the World Trade Organization Facilitation Agreement, this subject has come to the forefront. Customs, trade facilitation and related logistics are an everyday subject for importers and exporters. The NAFTA could improve even further on this important subject. The de Minimis levels should be in alignment with other Agreements. Canada and Mexico need to raise their de Minimis levels to assist importers. This would be especially helpful to small and medium sized enterprises or SMEs. To ensure the reliable and efficient movement of goods and services, customs procedures should be a North American priority.

### **Sanitary and Phytosanitary Measures:**

Especially in the area of agriculture and related areas, sanitary and phytosanitary measures are key to a smooth international transaction. The process included should be based on science and common sense.

### **Rules of Origin:**

Each NAFTA country forgoes tariffs on imported goods “originating” in the other NAFTA countries. Rules of origin enable customs officials to decide which goods qualify for this preferential tariff treatment under NAFTA. Current NAFTA Rules of Origin are restrictive and complex. A modernized NAFTA should adopt changes to the Rules which make it easier to qualify for NAFTA benefits and simplify the related administrative process.

### **Energy:**

Per the U.S. Department of Energy, the 1994 implementation of the NAFTA did not apply to Mexico for energy commodities, due to its constitutional provisions. As a result, while the NAFTA promoted U.S. and Canadian energy market integration, it has been less successful in achieving energy market integration between the United States and Mexico. Recent regulatory reforms undertaken by Mexico in both the hydrocarbon and electricity sectors are anticipated to open its energy market to foreign investment, to present an opportunity for increased integration with the broader North American energy system, and to elevate the importance of its energy commodities in trade with the United States and Canada through NAFTA.

**In conclusion**, the Office of the U.S. Trade Representative should be committed to a quick and efficient NAFTA renegotiation. Global trade is crucial to the world economy, and trade agreements are an integral part of that success. The issues outlined above should provide a guide to a modernized NAFTA which serves the interest of American producers, employees and consumers. We wish you the best, as you move swiftly to complete this important task.

Thank you for your consideration.