

October 22, 2018

The Honorable Robert E. Lighthizer
United States Trade Representative
Executive Office of the President
Washington, D.C. 20508

Dear Ambassador Lighthizer:

I am pleased to transmit an addendum on the U.S. – Mexico – Canada Agreement (USMCA) to the report submitted on September 27, 2018 accordance with section 105(b)(4) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and section 135(e) of the Trade Act of 1974, as amended, by the Industry Trade Advisory Committee on Small and Minority Business (ITAC 9) reflecting consensus advisory opinion on the USMCA.

ITAC 9 has begun our review of the USMCA against the bilateral between US and Mexico. We have some additional insights and recommendations to highlight for USTR.

Increase the de minimis value for a certificate of origin to \$2,500. De Minimis value for the requirement for a certificate of origin in Article 5.5 of Chapter 5 (Origin Procedures) should be increased to \$2,500 in line with the de minimis value in Article 7.8.2 of Chapter 7 (Customs and Trade Facilitation). While formal entry requirements are waived for express shipments of \$2,500 or less, it is our understanding that a certificate of origin is still required for any shipments -- including express shipments -- valued over \$1,000, and not \$2,500 as per our NAFTA 2.0 recommendations. We were disappointed to see that there was no increase since 1994 and believe that adjusting for inflation would have been a good start. For additional context, \$1,000 in 1994 adjusted for inflation is approximately \$1,690 in 2018. Our recommendation for \$2,500 was to take into account inflation over past quarter century plus future growth.

Our committee respectfully requests that USTR work with Canada and Mexico to correct this inconsistency and increase the de minimis value in which a certificate of origin is not required to \$2,500.

The US should not backslide on its de minimis values for express shipments. We welcome that de minimis thresholds have increased in all three markets which mean that importers in the region will avoid paying tariffs and related taxes on low value and express shipments but are disappointed that Canada and Mexico have not raised their levels in line with the United States. We hope this is an area for more flexibility from both USMCA trading partners. We were surprised to learn there is a footnote that suggests the US could fall back to level as low as \$100 for express shipments from Canada and Mexico, a step backward from our current \$800 de minimis level. We find such a provision to be counter to the agreement in which our FTA partners may encounter de minimis thresholds higher than non-FTA partners.

Our committee welcomes additional discussions with Canada and Mexico in coming years to find a solution that allows for phased in increases in their de minimis values for

express shipments. Further, we urge the United States not to backslide on its de minimis threshold value of \$800.

Revisit restrictions on drawback. Article 2.5: Drawback and Duty Deferral Programs under Chapter 2 (National Treatment and Market Access) has not been substantially updated and still restricts duty drawback. The trilateral agreement does not take into account our committee's recommendations. One additional way to help SMEs be competitive is to eliminate drawback restrictions and allow for reduced input costs when manufacturing in the region.

Our committee requests that USTR work with Canada and Mexico to find ways to ease restrictions on drawback.

Provide clear and early guidance on how smaller and new-to-market US exporters can operationalize the new preferential TRQs into Canada under the USMCA: Many smaller and newer players in the dairy, poultry, egg sectors have been kept out of the Canadian market until now. The newly established TRQs for US dairy, poultry and egg products are a positive win for the US ag and food sector. The USMCA notes that there will be an import licensing regime for the preferential TRQs. Provisions on the process for US access into Canada for newly established TRQs are included, which is welcomed. Under the agreement, Canada is expected publish all relevant TRQ information and administration on its designated website *at least 90 days prior* to the beginning of the TRQ year, including the quota size and eligibility requirements. Ideally, Canada can publish at least 6 months in advance in order for US exporters to connect with preferential import quota holders to allow for those US exporters of all sizes (including small and medium sized producers) that have not utilized the existing WTO TRQs in the past to be able to benefit from duty-free access under the new TRQs on day 1.

Our committee respectfully requests that USTR work with Canada to outline clear guidelines for US industry on how the preferential TRQs will work as soon as possible and at least 6 months prior to implementation of the agreement, and how small and medium sized companies can connect with import quota holders and/or access the TRQs directly.

Resolve outstanding Section 232 actions and counteractions related to steel and aluminum as soon as possible before the new USMCA is signed. SMEs were delighted to hear the news that a new trilateral deal had been reached, and many immediately asked when Section 232 tariffs related to US-Canada and US-Mexico trade would be eliminated. Section 232 tariffs remain in place for steel and aluminum sourced from Canada and Mexico. US SMEs that rely on steel and aluminum inputs continue to feel the hit of increased costs on steel and aluminum products whether imported or sourced domestically. In addition, Section 232 retaliatory tariffs are still in place on US goods into both countries, effectively negating NAFTA duty-free access into these markets. We have heard good news that now that the USMCA has been concluded. USTR would like to deal with Section 232 issues.

Our committee requests that USTR capitalize on the positive momentum of the USMCA and double down with Canada and Mexico to allow for access for steel and aluminum into the United States from Canada and Mexico without Section 232 tariffs, and to ensure

retaliatory tariffs on US goods are removed as soon as possible and before the USMCA is signed at the end of November.

Remove Non-Market Economy Provision (Article 32.10).

The USMCA includes a provision that allows any party to terminate the trilateral agreement in six months if another party enters an FTA with a non-market economy; thus, if Mexico or Canada enter into an FTA with China, the US can withdraw from the USMCA in six months. We are concerned that actions taken by a sovereign nation to pursue trade agreements could put the USMCA at risk, and that it could potentially create a situation in which if Canada or Mexico pursue an FTA with China, the US will terminate the USMCA in six months and tariffs applied on US goods into that market will increase to the MFN (non-preferential) rate. The USMCA already provides withdrawal provisions and a termination review process. Provisions targeting China may inadvertently hurt US SMEs that lose access to important export markets.

Our committee believes this provision is unwarranted given existing withdrawal and termination provisions, and recommends that US, Canada, and Mexico revisit its inclusion in the agreement with aim to remove prior to signing the agreement.

Review and Extension – Outline the criteria for the six-year reviews. More so than larger companies, SMEs rely on FTAs to be solid and provide predictability and stability to do business with their trading partners in foreign markets. At six years after implementation and every six years thereafter, the USMCA review clause requires the three countries to affirmatively agree to continue with the agreement or to undertake new negotiations up to 10 years. However, the provision does not provide clear criteria as to what would determine if the USMCA is working. Trade deficits should not be a primary indicator of whether an FTA is working well for US SMEs. We want to be sure that new and existing access into Canada and Mexico is not disrupted and/or that the agreement is under constant re-negotiation.

Over the next 3-5 years, our committee would like to understand the criteria for 6-year reviews and provide input into the process.

Standards and NTBs – Address the impact on SMMEs of the Agreements provisions.

These include addressing the impact of technical regulations, standards regimes, safeguards and concessions.

We recommend aggressively pursuing mutual recognition agreements and harmonization of standards.

Intellectual Property provisions to be fully reviewed and strengthened.

We request that USTR undertake a full review of Intellectual Property provisions in the USMCA with an aim to strengthen such provisions in the USMCA to ensure full and comprehensive protection of US SMEs' intellectual property.

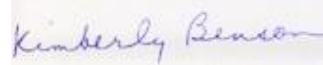
USMCA implementation/readiness is critical. We welcome the modernization elements of the agreement especially those that enhance customs and trade facilitation. However, we are

concerned that sufficient time, additional training, enhanced capabilities, and dedicated funds are necessary to ensure the transition from NAFTA to USMCA can happen without delays at the border. In addition, we have questions as to how this will occur. For example, since a COO will no longer be required, and specific information will be presented instead, will electronic systems accommodate the change or will customs border officers need extra time to process, or extra training to recognize that the elements are in order?

First, we recommend that the three parties work to ensure US, Mexico and Canada Customs officials are ready to enable efficient entries.

*Second, we urge the parties to utilize the cooperation and network mechanisms established in the Agreement to help transition to the new Agreement, including conducting outreach to SMEs to **educate and facilitate use of the USMCA.***

Sincerely,



Kimberly Benson
Acting Chair
Industry Trade Advisory Committee on
Small and Minority Business (ITAC 9)

Chairman

Ms. Karyn L. Page
President and Chief Executive Officer
Kansas Global Trade Services, Inc.

Primary Vice Chairman

Ms. Kimberly A. Benson
President
Zenaida Global

Mr. Brett N. Silvers
Chairman, President and Chief
WorldBusiness Capital, Inc.

Clifton W. Albright, Esq.
President
Albright, Yee & Schmit, LLP

Vice Chairman

Mr. Christopher M. Quinn
Vice President, Industry and Government
Affairs
Jacksonville Regional Chamber of Commerce

Ms. Candace Chen
President and Chief Executive Officer
Power Clean 2000, Inc.

Mr. Donald L. Williams
President and Chief Executive Officer
Princeton Healthcare, Inc.

Elliot M. Levin, CPA
Senior Vice President
Pathfinder, L.L.C.

Mr. George M. Keller
President
Customs Advisory Services, Inc.

Mr. J. Eric Sauereisen
President
Sauereisen, Inc.

Mr. John Allen
Chief Executive Officer
John Allen & Associates International

Mr. Mark W. Wingate
Chief Executive Officer & Chairman of the
Board
Maxi Volt Corporation
Representing the Institute of Electrical and
Electronics Engineers-USA

Mr. Richard J. Grana
President
Impex

Ms. Sharon T. Freeman, Ph.D.
President
Lark-Horton Global Consulting, Ltd.

Mr. Frederick L. Baehner
President
InterMark3, Inc.

Mr. Harry M. Bossey, CPA
President and General Manager
Western TradeWinds, Inc.

Mr. Jeffrey W. Ruffner, P.E.
President/Owner
Kella Enterprises, LLC

Mr. Laszlo Horvath
President
ActiveMedia

Ms. Regina (Gina) R. Radke
President and Chief Executive Officer
Galley Support Innovations

Mr. Roger N. Dickey, CPA
President
Kensington International, Inc.

Ms. Shawn M. Jarosz
President
Trade Moves LLC