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SENATE FINANCE COMMITTEE

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The Border Trade Alliance thanks the Committee for the opportunity to provide this written testimony for the record and to provide oral testimony at the field hearing in San Antonio, Texas on November 20, 2017.

The BTA is committed to working with the Administration, Congress, and stakeholders in the public and private sectors across North America in order to craft a modernized North America Free Trade Agreement. For reasons we will discuss, we believe exiting the agreement would be terribly damaging to the U.S. economy the economies of our trade partners.

The Border Trade Alliance

For over 30 years, the BTA has provided a forum for analysis and advocacy on issues pertaining to the U.S.-Canada and U.S.-Mexico border regions. A network of public and private sector representatives from all three NAFTA nations, our organization has been involved in a number of important border issues, ranging from the implementation of the North American Free Trade Agreement, to the original organization of the Department of Homeland Security to the perennial issues of staffing, infrastructure and trade processes.

NAFTA renegotiation: Do no harm

The BTA approaches a renegotiation of NAFTA through the lens of an organization that was a vocal supporter of NAFTA at the time of its original negotiation and implementation. We remain a supporter today and we view a revisiting of the agreement as an opportunity to modernize the agreement to align with the realities of today’s economy, not as a step toward dismantling the agreement. First and foremost, renegotiation should **do no harm**.

Nearly 9 million U.S. jobs depend on trade with Canada. Five million U.S. jobs can be attributed to trade with Mexico. Our three nations’ supply chains are deeply integrated, which has created a highly efficient, just-in-time manufacturing environment that has resulted in an enhanced quality of life throughout the region. Just moving goods across the continent was responsible for nearly 50,000 jobs in the trucking industry alone in 2016.[1]

[1] American Trucking Associations’ Economics Department

There are several other trade pacts globally in addition to NAFTA, however, offering manufacturers, importers, and exporters, other options for investment.

While the BTA was initially encouraged that U.S. Trade Representative Robert Lighthizer used the word "modernization" in a letter to congressional leaders that opened the congressional consultation period over NAFTA's renegotiation, and that he stressed that the administration is focused on economic growth as it contemplates renegotiation, we are growing increasingly concerned about rhetoric from the administration that would indicate it believes a dismantling of the agreement would be a wise course of action.

The risks of exiting NAFTA

We believe dismantling NAFTA would be terribly damaging to the U.S. economy, and would make the administration's stated goal of achieving 3 percent annual economic growth a near impossibility.

Our opinion is not an outlier. A recent *Wall Street Journal* survey found that over 80 percent of economists the paper polled believe that a NAFTA withdrawal would result in lower economic growth for the U.S. Seven percent of those polled believe an exit would result in a recession.[2]

The risks for border states are acute.

In a post for *Texas Monthly*, Justin Yancy, president of the Texas Business Leadership Council, wrote[3]:

> *But whether you are a banker in Dallas or a farmer in Lubbock, make no mistake—withdrawing from NAFTA would be devastating for Texas.*
>
> *Not only is Mexico the Lone Star State's largest trading partner, but more than 380,000 jobs in Texas directly depend on trade with Mexico.*

Yancy goes on to write that leaving NAFTA will immediately make Texas exports less competitive and make the cost of living more expensive, as businesses likely eye shifting entire supply chains to new countries and the higher tariffs get passed along to consumers in the form of higher prices.

The integration of the NAFTA partners Mexico and Canada into U.S. supply chains is significant. In my state of California, Mexico is our leading export destination by a long shot. Number 2 is Canada. The same can be said of fellow border state Arizona.

We observe a similar phenomenon on the northern border. For example, Michigan's number 1 export market is Canada, followed by Mexico. Michigan's top import partner? Mexico. In fact, an analysis by the credit ratings agency Fitch finds that Michigan is especially at risk if NAFTA

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[2] "Forecasters Predict Nafta Withdrawal Would Slow US growth," https://www.wsj.com/article_email/a-nafta-recession-1510522167-lMyQjAxMTE3NDE0MzExMTM2Wj/

[3] "Texas Has Most to Win or Lose with NAFTA Renegotiation," https://www.texasmonthly.com/burka-blog/texas-win-lose-nafta-renegotiation/

is dismantled. Michigan's exports account for 7.4 percent of its gross state product, which Fitch says leaves the state "uniquely exposed" if the agreement were unwound.[4]

A modernized NAFTA will help all of North America remain competitive against other trade blocs, preserving U.S. jobs and discouraging the outflow of capital. And the modernized agreement will also ensure that products made in the U.S. can compete on store shelves abroad, while lowering prices and expanding consumer choice here at home.

Furthermore, exiting NAFTA will weaken the trilateral diplomatic relationship North America currently enjoys. In fact, strengthening the relationship was a primary reason NAFTA was created in the first place.

We are also concerned that binational collaboration on national security, environmental issues will be weakened, and that siting, designing and management of future ports of entry may become more difficult.

We share Ambassador Lighthizer's desire that an updated NAFTA reflect the dramatic changes that have occurred in our economy since the agreement's implementation nearly 25 years ago. For example, cross-border electronic commerce scantly existed at the time the agreement came into force, while some industries that sought specific treatment under NAFTA are mere shells of their former selves. We encourage all three nations to approach renegotiation as an opportunity to shape a 21st century trade agreement and to do so in the spirit of friendship that has defined these cross-border relationships for generations.

Recommendations for the U.S. negotiating position

The BTA believes the U.S. negotiating position should be characterized thusly:

- It should be future-focused, seeking to ensure that the next NAFTA is aligned with today's economy;
- that it recognizes that tariff-free trade enhances the competitiveness of all of North America, including and especially U.S. manufacturers;
- that the agreement enhances the quality of life of U.S. consumers through greater choice, increased competition, and lower prices;
- that the renegotiation should be conducted trilaterally;
- that negotiations should be conducted with urgency, so as to minimize the uncertainty injected into the North American economy;
- that a new NAFTA should continue to seek to remove non-tariff barriers to trade, which add needless costs and delays to the conduct of cross-border business;
- that the agreement should develop a mechanism for facilitating the movement of workers needed to fill the labor gaps that exist today; and

[4] Fitch Ratings analysis: https://www.fitchratings.com/site/uspf/trade-in-time-of-trump

- that renegotiation offers the opportunity for the three nations to memorialize security protocols toward promoting consensus over a shared definition of what constitutes adequate border security.

Recommendations for a modernized NAFTA

The BTA, which is comprised of business representation from both the U.S. northern and southern border, including customs brokers, private bridge owners and operators, manufacturers, third party logistics providers, trucking companies, the banking industry, chambers of commerce, as well as and local governments, was a vocal supporter of NAFTA dating back to its original negotiation and implementation. We remain a strong supporter today.

It is with the insight of years of experience in cross-border commerce and a firm belief that free trade is a catalyst for economic growth that we submit the following recommendations.

<u>A robust stakeholder process</u>

As the three NAFTA nations set about a reopening of the terms of the agreement that unites our economies, we would encourage the establishment of a robust stakeholder process that solicits a wide diversity of viewpoints and unique insights about NAFTA's role in particular industries and/or communities.

To that end, we would recommend another public comment period after the three nations arrive at an agreement in principle so that stakeholders can react to it and provide recommendations where they might prove necessary. NAFTA is one of the most consequential trade agreements in global commerce. The U.S. government's stakeholder outreach should reflect that fact.

<u>Amending rules of origin, averting the tariff shift</u>

The current contours of NAFTA allow for a sort of international free riding, which the next NAFTA should seek to eliminate.

Under the current tariff shift rules, components originating in other countries can be imported to Mexico duty-free under Mexico's "Rule 8" program, then assembled with other components to form a new, NAFTA-eligible product that is then imported into the U.S. duty-free. The new NAFTA should eliminate these types of loopholes by a thorough review of the tariff shift rules. If another qualification method is required, in addition to the minimum regional value content, the new agreement should reduce the special tariff shift exclusions and standardize the rules. We also recommend considering qualification by changes to subheading or heading level for all tariff classifications.

<u>Improve customs processing</u>

The revised NAFTA should implement the North American Single Window proposal, which would allow one set of data to be used for all import and export transactions within the region.

The informal entry and export value limits for both Canada and Mexico should be raised to match U.S. limits.

Strengthen regional customs administration

We recommend that a modernized NAFTA feature an improved dispute settlement tool so that governments can work to resolve differences in classifications.

We would also recommend the adoption of a regional tariff numbering system (similar to the European Union Integrated Tariff of the European Communities or TARIC code) to allow the use of a single Harmonized System classification to identify the same goods throughout the region.

Facilitating cross-border movement for business purposes

The agreement should be forward thinking and allow for professionals to move back and forth across NAFTA borders with little bureaucratic delay. For example, a skilled U.S. technician should be able to repair and service sophisticated equipment in Canada or Mexico, which not only reflects today's business environment, but also ensures the highly skilled position remains in the U.S. Such an approach should apply to professionals involved in the administration of the supply chain, as well, such as customs brokers and freight forwarders.

We also recommend using this period as an opportunity to negotiate with Mexico to extend the duration of that country's FMM permit, which is currently valid for only six months and is required to visit manufacturing facilities in Mexico.

Finally, we urge the preservation of the TN Visa in any forthcoming agreement.

Trucking from point of origin to destination

The BTA has supported and continues to support a cross-border trucking regime between the North American trade partners that permits commercial trucks to convey freight from the point of origin to the point of destination.

Our position recognizes the paramount importance of traffic and truck safety, which should define a cross-border trucking system.

We also encourage a modernized NAFTA to allow and encourage cross-border investment by the trucking industry to develop a more competitive North American transportation market.

Furthermore, access to trusted traveler programs like SENTRI and NEXUS, or trusted trader programs like FAST lane access, should be open to drivers regardless of whether they are citizens or permanent residents of the NAFTA nations.

Streamlined sales to Mexico

The modernized NAFTA should develop a more coherent import-export system for products leaving Mexican maquiladoras.

Under the current system, a finished product manufactured in a Mexican maquiladora, but destined for the Mexican market, must be exported out of Mexico, imported into the U.S. or Canada, and then exported back to Mexico.

This is needlessly bureaucratic and time consuming. Products manufactured in Mexican maquilas should be able to remain in Mexico without first being exported out of the country.

<u>A single company identifier</u>

A modernized NAFTA should develop a single identifier for firms conducting cross-border trade.

Under today's NAFTA, U.S. companies are identified by their federal tax ID, Canadian firms are identified by their business number, while Mexican firms are identified by their RFC, or *registro federal de causantes*.

These multiple identifiers promote confusion for companies attempting to monitor their supply chains throughout the three partner countries. A renegotiated NAFTA presents an opportunity to develop a single NAFTA identifier.

<u>A liberalized services market</u>

The BTA encourages the U.S. to advocate for a liberalized market for professional services, including in the financial, accounting and insurance sectors.

U.S. providers of such services should be able to reach customers with little red tape in Canada and Mexico.

<u>Improved cross-border, inter-agency coordination</u>

The next NAFTA should establish a formalized inter-agency body between all three countries comprised of all governmental agencies with cargo hold authorization.

Such an organization could focus on promoting better coordination between North American governmental agencies with responsibility for the movement of trade, continually seeking greater efficiencies and establishing a coherent process for addressing conflicts.

<u>A three-nation COAC</u>

In the U.S., the Commercial Operations Advisory Committee, or COAC, has been an effective mechanism for members of industry to communicate their unique needs directly to Customs and Border Protection leadership and to develop lasting policies and procedures to make cross-border trade more efficient and more secure. Legislation in the U.S. has codified COAC in U.S. statute.

COAC provides a model that ought to be adopted across all three nations and be reflected in the next iteration of NAFTA. Private sector entities in all three countries should have a central forum for discussing emerging challenges in NAFTA trade and present their recommendations to customs authorities in Canada, the U.S. and Mexico.

A three-nation COAC could provide a forum for identifying industries that have left North America, industries whose businesses models are radically changing, and emerging industries that North American leaders should work together to attract and retain through regulatory reforms.

A unified approach to infrastructure that reflects today's trade volumes

The condition and capacity of trade-facilitating infrastructure throughout the North American marketplace should be a major priority of a modernized NAFTA.

The BTA recommends that the three partner countries commit to a framework for jointly developing border infrastructure like port campuses and access roads that reflects not only rising trade volumes, but that acknowledges that all three countries' economic competitiveness is affected by one another's infrastructure.

A unified approach to infrastructure development, which includes greater availability of broadband internet access and advanced non-intrusive inspection technology, should be focused on eliminating congestion and bottlenecks. Joint facilities will reduce redundant, time-consuming inspections and reflect a cooperative spirit consistent with NAFTA.

Finally, we recommend that the administration approach the renegotiation with the posture that revenues generated at each border from trade be reinvested to support the infrastructure and staffing needs of the borders before remitting dollars to each country's treasury.

Unified cargo processing

The BTA is very encouraged by the concept of unified cargo processing (UCP) that has been deployed at ports of entry along the Mexico border.

Under UCP, U.S. and Mexican customs personnel work side by side on U.S. soil to conduct outbound and inbound inspections. Each country's officer can make the determine as to whether to send a shipment to secondary inspection. Even in the case where a more invasive inspection is required, UCP ensures that a shipment is only unloaded once, if at all, rather than what exists today, whereby a truck could be unloaded in its country of origin and its country of destination.

UCP represents an example of making our ports of entry more efficient through better regulations, while ensuring security and increasing capacity. Coupled with new technology that increases non-intrusive cargo searches, the port of the future will deliver real improvements in security and freight mobility, which will expand job-creating commerce and trade.

In the case of the international bridge in Rio Grande City, Texas, for example, 70 percent of cargo there will be eligible for UCP, essentially doubling the bridge's importing infrastructure capacity. The port still maintains the ability to electronically scan 100 percent of cargo and share inspection images with Mexico.

UCP represents an approach to inspections that should be the norm in a 21st century economy in the world's most consequential trade pact. It also reflects the incremental progress achieved in previous pilot programs conducted between the U.S. and Canada and the U.S. Mexico to inspect cargo before it leaves its country of origin.

Improved cross-border financial transactions

We have been concerned by increased challenges faced by the U.S. banking industry in its ability to conduct cross-border transactions between the U.S. and Mexico. Bank Secrecy Act and Anti

Money Laundering (BSA/AML) has proven a major factor in banks not only de-risking by closing account relationships for entire industry segments, but also in closing branches throughout the U.S.-Mexico border region.

The large number of closures has resulted in fewer banking options for border region businesses and their customers, which harms the economic climate of the region. Many institutions are refusing to process international wires and transactions, and in some cases, are even actively encouraging their customers to seek new banking partners. Due to new capital requirements under Dodd-Frank, forming *de novo* banks has become almost an impossibility.

A new NAFTA should anticipate that frequent, small-value banking transactions are part of cross-border commerce and a trilateral regulatory regime should be designed accordingly to accommodate such transactions.

<u>A modernized North American Development Bank</u>

The North American Development Bank has benefitted 15 million residents on both sides of the U.S.-Mexico border through sustainable infrastructure since its formation in 1994.

With an initial $405 million in total paid-in capital contributions from the U.S. and Mexico, NADB has leveraged investments totaling $7.1 billion in the development of sustainable infrastructure. NADB is the only development bank that finances projects in the United States and has financed 107 projects in economically-distressed areas. In Mexico, NADB has financed an additional 124 projects for a total of 231 projects in both the U.S. and Mexico.

We would encourage the U.S. to seek the first capital increase in NADB's history in the NAFTA renegotiation talks. As an acknowledgement of Mexico as a trading partner, we would also recommend expanding the Bank's ability to participate in the development and financing of natural gas pipelines, power plants in Mexico for North American energy security, as well as trade facilitation projects at our international land crossings while supporting border security.

Furthermore, public-private partnerships should remain eligible for NADB financing.

Once again, we appreciate the opportunity to provide these comments on NAFTA. Please count on our organization's over 30 years of experience in cross-border commerce and our board of directors, which is comprised of trade professionals throughout North America, as a resource as you and your colleagues consider the future of the agreement.