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Executive Secretary

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We, the Instituto para el Desarrollo Industrial y el Crecimiento Económico, A.C. (*IDIC*), a Mexican industrial think tank hereby submit our comments to the President's Export Council in response to its invitation published in the Federal Register on May 14<sup>th</sup> 2015.

Our organization strongly believes that industrial development is a fundamental component of a healthy economy for any country. Thus, a thriving industrial base is paramount to competitiveness in a country's domestic and export markets, especially in today's globalized trade and economic environment. Hence, industrial development is vital to the Export Council's mission of providing "*the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth.*"

Trade and competitiveness are key topics in the Council's agenda, as they are important to an integral approach to strengthening exports and making U.S. goods preferred for regional and global supply chains. Therefore, it is essential that the Council recognize the detrimental effect that overuse and abuse of investigations of subsidies and/or dumping of NAFTA products can have on this supply chain and the competitiveness of North American products in our collective market, and others.

Attaining a reliable North American supply chain is fundamental to U.S. competitiveness in its domestic market, as well as in the global market. New Free Trade Agreements (FTAs), or revisions to existing FTAs that the U.S. currently has in effect, need to focus on further reducing trade barriers and increase commerce with sights of prosperity. WTO, NAFTA and other trade agreements and regulations are applied to all members, including the U.S. Thus, when facing disputes such as subsidy and/or dumping investigations, the U.S. should set as a priority reaching solutions through consultations and settlement, and not by extending to the maximum, and beyond, the litigation process, as this process becomes extremely expensive and can take a huge toll on U.S. exports.

U.S. goods have found in its NAFTA partners steady markets for their exports. In 2014, U.S. exports to Mexico and Canada represented 34% of its total exports<sup>1</sup>. And if we analyze U.S. export flows we can see that a good part of its exports to its NAFTA partners are of intermediate products in production chains like machine and auto parts, plastic materials, and finished products that require complex supply and productive chains.

This shows that U.S. exports have and will benefit greatly from further strengthening NAFTA supply chains. Why? Because it is naturally advantageous to create supply and productive chains that are contiguous (quicker lead times, cheaper freight), and because Mexico and Canada are reliable suppliers and partners: they have the necessary quality control to produce and/or assemble excellent products that are competitive in the North America region and global markets --not only for their price, but also for high-quality. Mexico and Canada are the U.S.'s main trading partners, so creating supply and production chains with its NAFTA partners helps

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<sup>1</sup> UNcomtrade <http://comtrade.un.org/data/>

to generate income in the NAFTA countries --a great contribution to their consumer-driving economies--, thus maintaining their capability to import and consume U.S. products. The same effect can be expected by the U.S. when NAFTA partners invest in creating supply and production chains with fellow U.S. companies.

So the question is: How do we improve what we have in order to foster U.S. and NAFTA exports? At least part of the answer is easy: by removing obstacles to intra-NAFTA trade. One of the main and current obstacles U.S. exports and NAFTA partners face are trade disputes among the three countries, and these can be more burdensome than any tariff, regulatory or logistic hurdle. It is important that U.S. trade policy fully appreciate the benefits of improving the NAFTA objectives of consultations and settlements, particularly when trade disputes are increasing among NAFTA members. It is essential that litigation should not be seen as the favorite outcome for trade disputes; consultation and settlement should become an important way to resolve disputes, and NAFTA left the door open to do just that.

Trade disputes among NAFTA partners hamper trade exchanges between them and decrease their economic benefits. It is important to remember that this also affects U.S. exports. Increasing subsidy and dumping allegations/investigations are taking a toll on NAFTA's exchanges by reducing the competitiveness of NAFTA and U.S. products in the NAFTA and global markets. Even if trade remedies mechanisms are a right that industries have and it cannot and should not be denied, NAFTA industries facing subsidy and/or dumping investigations should make consultations and settlements a priority; litigation, most of the time, is an expensive and long process that adversely affect both individual and collective interests.

Currently there are 10 antidumping duties against U.S. goods (and 3 investigations that are underway in Mexico) by its NAFTA partners, and the U.S. has 12 standing antidumping orders against its NAFTA partners. This is a sizable number of "special duty" cases running both ways that compromise the effectiveness of NAFTA production and supply chains. U.S. trade policy should recognize that NAFTA's subsidy and dumping investigations also affect U.S. goods because those countries represent their main markets, thus a U.S. trade policy priority should be to strive for less confrontational and detrimental trade dispute resolution.

In addressing these issues, we respectfully suggest that the U.S. should consider that NAFTA provides consultation mechanisms, like article NAFTA 1907, to deal with trade disputes. Reviewing and applying these mechanisms in a way that strengthens the objectives of consultations and settlements, over litigation, would benefit trade exchanges among these members, increasing U.S. export potential.

Consequently, we encourage this Council to review, on a priority basis, NAFTA's consultation and dispute settlement mechanisms in order to assure that these mechanisms increasingly operate in a manner that promotes consultation and settlement over litigation with the U.S. North-American Partners.



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