

THE PRESIDENT'S EXPORT COUNCIL
WASHINGTON, D.C. 20230

December 3, 2015

President of the United States of America
The White House
Washington, DC 20500

Dear Mr. President,

The PEC has presented you with 58 letters of recommendation since September 2010 in fulfilling its mandate to advise the President on matters relating to the export trade of the United States. These recommendations reflect our prioritization of actions and policies needed to support expansion of United States exports; they have provided impetus for notable accomplishments as well as important ongoing efforts by your Administration.

We write to present you with a set of recommendations that we believe should be prioritized for action by your Administration over the next 12 months. These recommendations reflect our assessment of matters that are both actionable and offer the broadest potential benefits to the United States economy and workers in promoting and supporting export growth. Some reaffirm prior recommendations, while others offer new ideas. Please note that, in presenting these specific recommendations, we do not intend in any way to diminish the importance of the many other ongoing activities undertaken by the United States Government to promote economic growth through increased exports.

Global Competitiveness

On October 5, 2015, trade ministers announced the completion of the Trans-Pacific Partnership (TPP). An agreement that will immediately eliminate 98 percent of duties on industrial goods exports to Brunei Darussalam, Japan, Malaysia, New Zealand, and Vietnam, that offers substantial tariff cuts for key agricultural exports, that lifts complex restrictions on U.S. services exports, and that establishes new disciplines to facilitate the growth of digital commerce among economies that together represent almost 40 percent of the global economy, offers the greatest potential to create meaningful new opportunities for expanding exports across all sectors of the American economy. We recommend that your Administration engage Congress to implement the Trans-Pacific Partnership as soon as possible.

In addition to the TPP, your Administration is actively engaged in other important trade negotiations, including the Transatlantic Trade and Investment Partnership (TTIP) with the European Union and Bilateral Investment Treaty (BIT) negotiations with China. TTIP offers the potential of eliminating all tariffs on trade to our largest export market, as well as minimizing non-tariff barriers, eliminating restrictions on services trade, and establishing disciplines on discriminatory treatments that can serve as models for other trading partners – including emerging trade issues such as cross border data flows and regulatory coherence for certain

sectors. Similarly, the BIT negotiation is the most important bilateral commercial initiative between the United States and China; upon conclusion, it would provide a framework for greater stability in the overall bilateral relationship. Removing investment and licensing barriers, strengthening protection of intellectual property, and continuing to build a level playing field would all create the basis for stronger commercial relations and open opportunities for U.S. exports. We recommend that your Administration seek to accelerate the pace of the TTIP and China BIT negotiations in order to secure a comprehensive agreement as quickly as possible.

On October 6, 2015, the European Court of Justice invalidated the determination of the European Commission that the Safe Harbor framework between the United States and the European Union provides an adequate standard of privacy protection under EU law. This decision adversely affects U.S. exporters who leverage data as a regular component of their supply chains, as well as with respect to global customer management and internal human resources management. If a new framework agreement is not concluded soon, U.S. exporters face substantial uncertainty and transatlantic trade may be thrown into disarray. The impact will be especially severe for SMEs, who will struggle to meet the enormous compliance costs associated with this ruling. The prospect of regulatory fragmentation is real and significant; already at least one local data protection authority has ruled that EU-approved model contract clauses no longer have legal basis, and German data authorities have issued a position paper indicating they will not currently authorize data transfers to the United States on the basis of binding corporate rules (BCRs). We commend your Administration for its prompt and urgent attention in raising this important issue with the EU. We recommend that your Administration accelerate efforts to conclude a new safe harbor framework agreement as soon as possible, and we urge your Administration to support intermediate steps, such as by engaging Congress in support of legislation to extend U.S. privacy protection rights to EU citizens.

Your Administration is also engaged in plurilateral negotiations for a Trade in Services Agreement (TiSA) and an Environmental Goods Agreement (EGA). The United States consistently maintains a surplus in services trade, and TiSA offers the potential of addressing fundamental barriers to trade in services and creating new market access opportunities for U.S. services exports. The EGA offers the potential to lower trade barriers to environmental technologies and create new opportunities for channeling U.S. innovation. We recommend that your Administration engage our negotiating partners and the WTO to advance each of these negotiations to the point where summits can be leveraged for the purpose of concluding ambitious, comprehensive, and high-standard outcomes in each negotiation.

Manufacturing, Services & Agriculture

In July 2015, participating members of the World Trade Organization reached an agreement to expand the scope of the Information Technology Agreement (ITA); however, the benefits of these tariff commitments should not be diluted through unduly long phaseout schedules. We recommend that your Administration engage foreign governments to secure implementation of this critical expansion of duty-free treatment under the ITA as soon as possible, and based upon the shortest timeframes possible.

We have urged your Administration to promote the acceptance of U.S. standards in foreign markets and to continue to lead efforts to promote regulatory cooperation practices that recognize sound science and risk-based approaches. Regulatory cooperation can support more efficient, transparent and cost-effective approaches to regulatory management systems between trading partners, while at the same time respecting national sovereignty and local regulatory requirements. We urge your Administration to undertake additional priority action to promote the acceptance of U.S. standards in foreign markets and to continue to lead efforts to promote regulatory cooperation practices. Your Administration can demonstrate the importance of these actions by hosting U.S. Standards Conferences designed to highlight the economic and environmental benefits of U.S. standards approaches, including at major global trade fairs. We further recommend that your Administration designate a Standards Advocate to coordinate interagency policy and to prioritize capacity building and regulatory cooperation efforts with key trading partners.

The U.S. economy requires substantial investments in infrastructure to grow and remain globally competitive. We therefore recommend that you issue an executive order to establish a bipartisan National Commission on Infrastructure Investment that includes representative experts on infrastructure and project finance from federal, state and local governments and the private sector. This commission should lead efforts: to identify and report to the President on the highest priorities for infrastructure investment in the United States; to develop a plan for implementing such priority infrastructure projects; and, to recommend mechanisms that ensure full and efficient long-term funding of infrastructure development generally. America's networks of roads, rails, waterways, ports, and transit systems serve as gateways for all U.S. exporters – manufacturers, farmers and ranchers, as well as service providers including the travel and tourism industry. We therefore urge your Administration and this commission to address near and long-term infrastructure investment priorities in a comprehensive manner, recognizing that goods, services, and people each require safe and efficient infrastructure networks to reach global markets and facilitate mobility. The PEC stands ready to work with your Administration and this commission in identifying specific policies and priorities for strengthening the export competitiveness of the U.S. economy through investments in infrastructure.

In the near term, we hope that Congress will soon present you with multi-year surface transportation reauthorization legislation for signing. If enacted into law, we urge your Administration to promulgate implementing regulations for administering this reauthorization as soon as possible.

SME Business Engagement

Access to capital is the lifeblood of entrepreneurship, and we have urged your Administration to continue its support for programs at all levels of government to help entrepreneurs and startup firms access capital that, in turn, spurs innovation, creates jobs, and nurtures entrepreneurial ecosystems. We reiterate the urgency of that recommendation today, particularly for small emerging growth enterprises with less than 50 employees and/or less than three years of business operation. We therefore recommend that your Administration establish a Small Emerging Growth Enterprise Credit Review, to be led by the Small Business Administration and to include

relevant agencies such as the Department of the Treasury and the Department of Commerce. This review should identify and report to the President on the effectiveness of all federal programs that assist small emerging growth enterprises in accessing capital; in its report, the review should include a gap analysis and best practices and should also provide recommendations for improving the effectiveness and administration of such programs in meeting the capital needs of small emerging growth enterprises, particularly in support of export competitiveness. For example, the SBA ONE program for streamlining the application process will be rolled out nationally beginning in January 2016 and should prove beneficial to small emerging growth enterprises. We further recommend that your Administration engage Congress to expand programs of proven utility in promoting access to capital for small enterprises, such as an extension of authorization for the State Small Business Credit Initiative (Pub. L. 111-240) from 2017 through FY 2022.

Trade Promotion and Advocacy

The Trade Facilitation Agreement (TFA) was approved by the World Trade Organization in November 2014. The WTO recently estimated that full implementation of this agreement could increase global merchandise exports by up to \$1 trillion annually. The TFA will take effect once two-thirds of the WTO's 161 members ratify the agreement; to date, however, only 52 have done so. We recommend that your Administration engage foreign governments, particularly among developing countries, to secure the TFA's entry into force as soon as possible and with the broadest coverage among WTO members.

Workforce Readiness

Effective career and technical education programs are vital to addressing the shortage of skilled workers needed to fill in-demand positions. The Carl D. Perkins Career and Technical Education Act has proven significant in mitigating the skills gap and improving student outcomes by providing students with the necessary academic, technical, and employability skills required for successful entry into the workforce. Legislative authorization for this Act recently expired; we therefore urge your Administration to engage Congress in order to secure a reauthorization of this Act as soon as possible.

The Workforce Innovation and Opportunity Act was enacted into law in 2014, and the Trade Adjustment Assistance Reauthorization Act of 2015 was enacted into law this year. We recommend that the Department of Labor promulgate implementing regulations for administering the WIOA and TAA programs as soon as possible.

Programs that create real-world opportunities for students, teachers and guidance counselors to interact with businesses provide significant opportunities for students to realize the breadth and depth of career options available in their communities, and to appreciate the importance of exports to U.S. businesses; such programs also enable teachers and guidance counselors to better connect education to the training needed for students to compete successfully for the jobs of tomorrow. Two examples include Manufacturing Day, which is supported by the Department of Commerce and business internships for teachers and guidance counselors – an idea that has

begun to receive favorable review.¹ We recommend that your Administration expand support for such programs through further study and dissemination of the benefits and best practices for such programs, as well as support for extension of such programs to other sectors of the U.S. economy beyond manufacturing.

Export Administration

We commend your Administration for launching its comprehensive Export Control Reform (ECR) Initiative, including the transfer of items from the U.S. Munitions List (USML) to the Commerce Control List (CCL). To date, revisions for 15 out of the 21 USML categories have been formally notified to Congress and are now effective. Multiple structural, organizational, and harmonization changes to the EAR and the ITAR have been published for industry input and have become effective. Once industry has had a chance to absorb such changes, they will make for a more efficient export control system. We appreciate that this has been an arduous and challenging process for both the government and U.S. exporters, and we encourage your Administration to build on the significant progress achieved to date and focus in FY 2016 on completing the remaining USML categories, the harmonized definitions rule, the common destination control statements rule, and other ways of streamlining the licensing and compliance requirements of the regulations.

We congratulate the Departments of State, Commerce, Defense, and Energy in their development of a single IT platform that allows for the efficient sharing of license application and related documents and data among the agencies. We recommend that your Administration build on this success by developing as soon as possible a common license application form that could be used via a public application portal. The new portal should allow for a direct interface so that companies can integrate their business information directly with the electronic application process as seamlessly as possible. We also urge your Administration to continue its efforts to harmonize regulations across all agencies that have jurisdictional oversight to the export control process. In addition, a common, critical element in the successful deployment of ECR has been the development of interactive instructional tools that industry may utilize for training and guidance purposes. We recommend that your Administration continue to prioritize the development of these and similar tools for outreach and education.

Finally, the PEC has noted that U.S. export competitiveness and national security interests both depend upon an efficient, transparent, and predictable system for reviewing defense and aerospace exports. As we face unprecedented global security threats, cooperation and interoperability with our allies and partners is more important than ever before. Our focus should be on ensuring that the United States continues to be the preferred supplier to address these security requirements. As the control list restructuring effort comes to a close, we encourage your Administration to develop and implement additional efficiencies to streamline and facilitate licensing that enables increased security cooperation with our allies and partners – including expediting license requests in support of U.S. Government international security

¹ See, e.g., 2014-15 Independent Evaluator's Report: Real World Externships for Teachers of Math, Science, and Technology, prepared by Neal Pollock, MA, and Mary E. Losch, Ph.D., Center for Social and Behavioral Research, University of Northern Iowa.

programs and building upon progress to improve the defense technology security and foreign disclosures process.

Thank you for your consideration of these recommendations.²

Sincerely,



Ursula Burns

² Please note that this letter was prepared by the private sector appointed members of the PEC.