

The Honorable Penny Pritzker
U.S. Department of Commerce
Washington, DC 20230

Dear Madam Secretary,

The members of the Advisory Committee on Supply Chain Competitiveness appreciate the opportunity to support the Department's efforts to promote the competitiveness of the global supply chain at this crucial time in American economic recovery. We appreciate the emphasis the Administration places on global competitiveness as critical to that recovery and to national growth and prosperity. Accordingly, we reaffirm our offer of assistance in any way that we can support the Department's commitment to keep America competitive in the global marketplace.

Generally, the Committee supports the current trade and economic negotiating agenda to boost American trade competitiveness. We also urge the Administration to vigorously assure adherence by our trading partners to trade agreements that have already been negotiated and to the opening of global markets to American products in the same way America opens its markets to foreign competitors of American producers, while ensuring the United States abides by our commitments with our trading partners. More specifically, the Committee offers the following comments and recommendations regarding key trade policy developments.

World Trade Organization Trade Facilitation Agreement

The Committee supports those elements of the Trade Facilitation Agreement ("TFA") signed in Bali that simplify export and import processes and procedures. One of the great impediments to United States exporters is the complexity of export regulations, access to information and regulations on imports, and the risks associated with inadvertent non-compliance with U.S. regulations that result from complex and diverse regulatory frameworks. We believe a goal of the Administration should be regulatory simplification and harmonization, within and outside of the United States. The TFA offers an extraordinary opportunity to achieve that goal by promoting U.S. best practices, for countries to help each other with implementation efforts, and for U.S. agencies to work together for optimum export and import process efficiencies at the border. In this respect, we recommend the following:

- We urge USTR to ensure coordinated messages to the World Trade Organization, the World Customs Organization, and the Asia Pacific Economic Cooperation Council, since these organizations are in some form involved in supporting efforts to build global capacity for enhanced and efficient movement of goods and services across the entire supply chain.
- Work closely with the European Union to achieve maximum efficiency and harmonization of Customs procedures, as the EU implements both TFA requirements and the provisions of its newly adopted Union Code.
- Allow U.S. industry to participate fully in the TFA regulatory implementation process, and utilize the Committee as a sounding board for assessing the impact to U.S. exporters and importers of measures that will be taken around the world to improve the import process in compliance with the provisions of the Agreement.
- Share with the Committee, to the extent possible, proposed foreign regulatory changes intended to comply with the Agreement, so that U.S. companies are able to address potential challenges, both from a U.S. and a foreign subsidiary or partner perspective.

TTIP and TPP and the Trade in Services Agreement

The Transatlantic Trade & Investment Partnership (“TTIP”), the Trans-Pacific Partnership and the Trade in Services agreements now being negotiated provide opportunities to address regulatory harmonization and simplification. We urge negotiators to:

- Assure that duty reductions, to the extent achieved, are not frustrated by complex country-of-origin evidentiary requirements and become so difficult to obtain and maintain that the benefits are significantly diminished and that opportunities are then closed especially to smaller and medium sized companies.
- Harmonize and integrate the rules and requirements of the various border oversight agencies. As examples we site the importance of American food exports and imports to both American farmers and consumers of foreign origin products. Harmonization of such regulations with our trading partners is essential to the safe and efficient flow of these commodities.
- Align security programs in such a manner as to facilitate and not frustrate or impede legitimate trade. The key to modern, efficient supply chains is

predictability and reliability. Except in the case of credible evidence of security threat, border authorities should be held accountable to specific transparent clearance standards. We extend that to the application and approval of export license applications.

U.S. Customs and Border Protection Trade Transformation Initiatives

We make the following recommendations related to U.S. Customs and Border Protection (CBP) initiatives impacting trade and supply chain competitiveness:

- CBP work closely with the Committee and the Department on the agency's numerous Trade Transformation Initiatives to ensure not only that they are not in conflict with export controls but that they adequately reflect and complement the export control compliance environment. We note also that there may be opportunities to leverage the new data that will be made available via CBP's automated export manifest initiative, which will provide electronic manifest information for shipments departing on all modes of transport. The near-term future availability of such manifest information should be taken into account when determinations are made regarding the most efficient and least burdensome requirements that can be placed on exporters.
- We strongly support export criteria requirements of the C-TPAT for Export program, which we understand are being put in place as a result of commitments made by the United States Government as it negotiates bilateral Mutual Recognition Agreements with its trading partners. The Committee offers that it may not be necessary for U.S. exporters to comply with additional export security criteria in order to mirror the non-U.S. side, given the maturity and sophistication of our current export system.
- As CBP develops a "Trusted Trader" concept, we encourage the Department to look at the possibility of replicating that concept in the export world. We believe that such a program could be beneficial for purposes of intra company-related trade activities. We recommend such a program while recognizing that dual-use export controls are predicated upon end user considerations.

Advanced Export Information (AEI)

The U.S. Census Bureau recently established a pilot program for purposes of testing a new initiative under the rubric of Advanced Export Information which, if adopted, would result in the elimination of an option currently offered to a select group of exporters for a

post-departure filing of shipments, generally known as “Option 4.” AEI would then require advance filing of shipments in all circumstances.

Option 4 filing has been of great benefit to approved exporters, who are eligible on the basis of their full commitment and long standing record of full compliance with U.S. export and import laws and regulations. The Option 4 program has been a successful example of “account-based” export management, in which trusted parties are relieved of a burdensome, one-size-fits-all, “transaction-by-transaction” approach applicable to every export shipment. If specific problems have been identified, we strongly encourage that they be addressed and ameliorated in order to make Option 4 itself more robust, allowing the preservation of this efficient and effective filing option, and perhaps even its further expansion.

For U.S. companies that provide, for example, urgently needed commercial spare parts to a global customer base, losing Option 4 capabilities would seriously jeopardize the U.S. companies’ ability to meet delivery performance criteria for response times, without substantial additional staffing and adding stores of spare parts at new distribution points around the world . Not only would the elimination of Option 4 be costly to exporters in terms of negative operational impact and significant required IT investment, it would be a regression from the account-based management initiatives that are the new standards of import/export management, such as C-TPAT, the Centers of Excellence and Expertise, and developing Trusted Trader programs. In addition, eligible filers should not lose what has been identified as a benefit crucial to global competitiveness. Simultaneously, the above noted automated export manifest initiative for all modes of transport is well underway, and we encourage the leverage of such manifest information to further support the maintenance of Option 4 filing.

The members of the Committee are privileged to be in a position to offer these ideas and insights. We thank you for your time and reaffirm our commitment to the Department to continue our efforts in support of American global trade and supply chain competitiveness.

Sincerely,

Committee