Business Roundtable

Comments in Response to Executive Order Regarding Trade Agreements Violations and Abuses
Docket No. USTR—2017—0010

Submitted by Business Roundtable
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Business Roundtable is an association of chief executive officers of leading U.S. companies working to promote sound public policy and a thriving U.S. economy. Business Roundtable members lead companies that employ nearly 15 million people and produce more than $6 trillion in annual revenues. Comprising roughly one-quarter of total U.S. stock market capitalization, these companies invest more than $100 billion annually in research and development, equal to 30 percent of private U.S. research and development spending. In addition, Business Roundtable member companies pay more than $220 billion in dividends to shareholders and generate more than $400 billion in sales for small- and medium-sized businesses annually.

Business Roundtable appreciates the opportunity to provide comments and contribute to the performance review of U.S. trade and investment agreements by the Secretary of Commerce and the United States Trade Representative.

BUSINESS ROUNDTABLE KEY TRADE POLICY PRINCIPLES

As the Administration reviews the country's trade policies, including the above referenced performance review of U.S. international trade and investment agreements, Business Roundtable recommends four key principles for expanding American economic growth and job creation through international trade and investment. Business Roundtable member companies developed these principles to guide policy makers as they seek to modernize and strengthen existing U.S. trade agreements, facilitate the completion of new trade agreements that will improve the competitiveness of U.S. companies and their workers and ensure strong and effective enforcement of U.S. trade laws and trade agreements. Specifically, Business Roundtable companies believe that:

1. Trade is a pillar of U.S. economic policy, and U.S. economic growth and jobs depend on domestic policy initiatives as well as expanded trade opportunities with other countries.

2. The United States needs more trade agreements to win the race for exports and jobs and ensure that we can shape the rules of the international trading system to our advantage.

3. High-standard and modern trade agreements are critical tools that American companies and workers need to access international markets for their U.S.-produced goods and services.

4. Enforcement is essential to creating a level playing field for U.S. companies and workers, and the United States should pursue strong and effective enforcement of trade and investment agreements and U.S. trade laws, consistent with U.S. statutory requirements and international trade obligations.

(See Appendix A for Business Roundtable's full report on its *Key Trade Policy Principles*)

STRONG RULES, STRONG DISPUTE SETTLEMENT PROCEDURES AND STRONG ENFORCEMENT OF U.S. RIGHTS UNDER INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS ARE ALL ESSENTIAL FOR U.S. ECONOMIC GROWTH

As the Administration considers ways to further prevent violations and abuses of U.S. rights under international trade and investment agreements, Business Roundtable believes it is essential to recognize that a successful enforcement strategy depends on the United States having strong international trade and investment agreements to enforce. This means maintaining existing agreements, strengthening and modernizing them where appropriate, and negotiating new agreements to keep pace with our foreign trade competitors. It also means fully and properly implementing and enforcing such agreements over time so that they deliver maximum value to American businesses and workers.

Without comprehensive and high standard bilateral, regional and multilateral trade and investment agreements, the U.S. economy will not realize its full economic potential. Moreover, without strong rules and dispute settlement procedures in such agreements and a strong commitment by the U.S. government to use them to stop violations and abuses of U.S. rights, such agreements will not deliver on their full potential.

Such rules and procedures include strong protections for U.S. intellectual property rights and investment (including Investor-State Dispute Settlement) and for labor and the environment. Strong rules and procedures in U.S. international trade and investment agreements help ensure U.S. companies are treated fairly and have similar rule-of-law protections in international markets as they do in the United States, thereby providing a measure of confidence and predictability.

U.S. membership in and support of the World Trade Organization (WTO) is essential to developing and implementing a strong and effective trade enforcement strategy that levels the playing field for U.S. companies and workers. The WTO provides a vital forum for enforcing U.S. rights under the various WTO Agreements to ensure that the United States receives the full benefits of its WTO membership. While WTO members are reviewing possible reforms, the WTO dispute settlement system—which has a wide reach through a comprehensive set of fundamental rules and agreements covering 164 countries—should still be used aggressively to prevent WTO members from violating and abusing U.S. rights under those WTO rules and agreements.

Business Roundtable also believes that, in addition to providing a valuable enforcement mechanism, the WTO has broadly benefited the overall U.S. economy and helped address serious unfair trade practices as well as remove barriers to trade. For example, a recent comprehensive study by the U.S. International Trade Commission (ITC) of U.S. trade agreements found that increases in patent protection since the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) entered into force increased U.S. international receipts for the use of intellectual property by 12.6 percent in 2010; and the WTO's Information Technology Agreement increased annual U.S. exports of covered information technology products by $34.4 billion (56.7 percent) in 2010.[1]

The United States currently has 14 Free Trade Agreements (FTAs) with 20 countries, including Israel, Canada, Mexico, Australia, Chile, Singapore, South Korea, Morocco and a set of Latin American and Middle Eastern countries. Business Roundtable believes that these FTAs, which have strong trade and investment rules and dispute settlement procedures, have broadly benefitted U.S. businesses and the overall U.S. economy. Indeed, the same ITC study also found that on balance U.S. FTAs have increased total U.S. employment of both high- and low-skilled workers.[2] Other important facts regarding the value of FTAs to the trade balance and U.S. economy include:

- Countries with which the United States has FTAs spend significantly more of their income on American-made goods and services. For example, NAFTA countries (Canada and Mexico) spend an average of 20 percent of their GDP on U.S. exports, Central American and Dominican Republic Free Trade Agreement countries (CAFTA-DR) spend nearly 12 percent of their GDP on U.S. exports and Singapore spends roughly 10 percent of its GDP on U.S. exports. Meanwhile, Israel spends more than 6 percent of its GDP on U.S. exports and Korea spends nearly 5 percent of its GDP on U.S. exports. All of these ratios are substantially higher than the less than 2 percent of GDP that the European Union, Brazil, Japan, China and India (all non-FTA partners) spend on U.S. exports.

- In 2015, the United States had an aggregate $7.8 billion trade surplus in goods and services with its 20 FTA partners. This compares to a $509 billion U.S. deficit in goods and services trade with non-FTA countries. This suggests that FTAs are not key drivers of America's overall trade deficit.

- On a bilateral basis, in 2015, the United States ran a trade surplus in goods with 14 of its 20 FTA partners and a trade surplus in services with 15 of its FTA partners.

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[1] See United States International Trade Commission, "Economic Impact of Trade Agreements Implemented Under Trade Authorities Procedures, 2016 Report," Inv. No. 332-555, Pub. No. 4614, June 2016.
[2] *Ibid.*

- While it is true that the United States had a collective goods trade deficit in 2015 with three FTA partners identified in the Federal Register notice regarding the Report on Significant Trade Deficits – Canada, Mexico and South Korea – the United States had a \$46.4 billion trade surplus in services with these countries, which offset nearly half (44 percent) of the collective trade deficit. In fact, in 2015, the United States had an overall trade surplus (including services trade) of \$11.9 billion with Canada.

U.S. Bilateral Investment Treaties (BITs) are high standard agreements designed to encourage adoption of market-oriented domestic economic and regulatory policies that create a fair (open, transparent and non-discriminatory) environment for investment. As with WTO Agreements and U.S. FTAs, strong rules and dispute settlement provisions, including the right of U.S. investors to submit an investment dispute to international arbitration, enhance the benefits of U.S. BITs. They are particularly important in helping U.S. small- and medium-sized enterprises fully benefit from trade and protecting U.S. investments in growing markets abroad.[3]

CONCLUSION

Business Roundtable shares the Administration's goals of promoting strong economic growth, fostering rapid job growth for American workers and ensuring access to a fair and free trading system for American businesses and workers. Business Roundtable recommends that as the Administration undertakes its performance review of U.S. international trade and investment agreements, the Administration also needs to fully consider their many benefits for the United States.

Finally, it is essential for the Administration to recognize that enforcement efforts can include a variety of actions: dispute settlement under WTO Agreements, FTAs and BITs; negotiations on new agreements; actions under U.S. trade laws; and other initiatives. The full range of actions should be considered in pursuing trade enforcement, recognizing that what may be effective for one enforcement challenge might not be for another and the extent to which one type of enforcement action as opposed to another may prove to be more beneficial to the overall U.S. economy.

We look forward to working closely with the Administration to promote exports, strengthen our nation's international competitiveness and prevent unfair foreign trade and investment practices and unfair imports.

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[3] See U.S. International Trade Commission, "Small and Medium-Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms," Inv. No. 332-509, Pub. 4169, July 2010.

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APPENDIX A

Business Roundtable Key Trade Policy Principles

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It is in the national interest and imperative for the President, Congress and private sector to work together on economic initiatives that support stronger U.S. economic growth, create more economic opportunity and well-paying jobs for Americans and boost the competitiveness of U.S. companies and workers. To promote these goals, we need to move forward forcefully with a pro-growth economic agenda that includes a range of domestic initiatives and a proactive and constructive U.S. trade agenda.

That U.S. trade agenda should include supporting the rules-based international trading system and U.S. trade agreements that have shaped it, modernizing existing agreements and negotiating new high-standard agreements and strongly enforcing U.S. trade laws and agreements. Such an agenda should broadly aim to expand U.S. trade opportunities – exports and imports of goods and services – and address unfair foreign trade and investment practices and unfair imports, not narrowly focus on U.S. trade deficits. This document lays out key principles for U.S. leadership in achieving these objectives.

1) **Trade is a Pillar of Economic Policy: *U.S. Economic Growth and Jobs Depend on Domestic and International Policy Initiatives.*** The Administration, Congress and private sector need to collaborate on a range of domestic economic policy initiatives. These include modernizing the tax system, taking a smarter approach to regulation, investing in infrastructure and helping Americans develop new skills throughout their lifetime.

   We also need to recognize that the U.S. economy will not realize its full potential unless the United States does more to create trade opportunities with other countries and attract foreign direct investment to the United States. The U.S. economy and American jobs benefit from both U.S. exports and imports and their central role in global and regional supply chains, which also lower costs for U.S. consumers. Expanded trade will allow U.S. companies and workers to sell more American-made goods and services to the 95 percent of the world's consumers who live outside the United States. A fully functioning and globally competitive U.S. Export-Import Bank is a vital trade tool for maximizing such U.S. export opportunities and directly and indirectly supporting American jobs at U.S. companies of all sizes.

2) **We Need More Trade Agreements: *The United States Needs to Win the Race for Exports and Jobs.*** The United States needs a winning trade agreement negotiating strategy because our foreign economic competitors are not standing still. Such a strategy should rely on negotiating trade agreements – bilateral, regional, plurilateral and multilateral – that will maximize U.S. leverage and ensure the United States actively

shapes the international trading system so U.S. companies and workers are not disadvantaged.

There are now more than 270 bilateral and regional trade agreements between countries worldwide, and the United States is a party to only 14 of those agreements. These U.S. free trade agreements (FTAs) have greatly benefited the U.S. economy and American jobs by increasing U.S. exports and creating strong, enforceable rules for U.S. trade and investment with those countries. For example, while they include only six percent of the population outside the United States, the 20 U.S. FTA partner countries purchased nearly half of all U.S. goods exports worldwide in 2015. In that same year, the United States had a nearly $8 billion surplus in goods and services trade with FTA partner countries. This compares to a $509 billion U.S. deficit in goods and services trade with non-FTA countries. In the United States, U.S. trade and the trade agreements that help enable it support nearly 41 million U.S. manufacturing, services and other trade-related jobs – more than one in five.

Our foreign competitors are using their own FTA negotiations to advance their own national interests and gain competitive advantages over U.S. companies and workers by: (1) opening foreign markets and creating export opportunities on preferential terms for their companies and workers; (2) creating and supporting higher-paying domestic jobs tied to trade for their workers; (3) writing "free and fair" trade rules on their terms; and (4) advancing their foreign policy and national security goals.

Here are a few examples of other countries' FTA efforts around the globe. The European Union (EU) has completed FTAs with Singapore, Vietnam and Canada. The EU is also negotiating FTAs with Japan, India, Indonesia, Mercosur (Brazil, Argentina, Uruguay and Paraguay), the Philippines, Australia and New Zealand and modernizing its existing FTA with Mexico. China is negotiating the Regional Comprehensive Economic Partnership with 15 countries, including seven of the 11 Trans-Pacific Partnership countries, and a trilateral FTA with Japan and South Korea. Moreover, Mexico, which is the second-largest U.S. goods export market, has a network of FTAs with 44 countries.

3) **High Standard is the Only Standard:** ***The United States Must Negotiate High-Standard and Modern Trade Agreements.*** New U.S. trade agreements and existing U.S. trade agreements that need to be updated should achieve high standards, build on the rules-based international trading system and effectively address emerging economic and technological developments. They should ensure free and fair trade by breaking down foreign tariff and non-tariff barriers and addressing unfair foreign trade and investment practices and unfair imports.

   Existing U.S. trade agreements should be periodically reviewed to see if they should be strengthened and modernized to address any trade issues and challenges that have emerged since they were negotiated. Examples of newer trade issues and challenges include: (1) promoting e-commerce digital trade in goods and services, including the elimination of foreign barriers, for all sectors, to the free flow of data and requirements to store data locally; (2) ensuring market access for new types of services; (3) strengthening intellectual property rights; (4) eliminating foreign localization policies and domestic content requirements for goods and services; (5) ensuring fair competition with foreign state-owned and controlled enterprises; (6) simplifying and harmonizing rules of origin across U.S. trade agreements; and (7) promoting regulatory cooperation and coherence between the United States and its trading partners.

If trade agreements are not fully and properly implemented, enforced and upgraded over time, they risk delivering less value to American businesses and workers. In updating existing U.S. trade agreements, it is critical to maintain these agreements and build on the many benefits they have created for the United States.

The key objectives for negotiating new U.S. trade agreements and modernizing and strengthening existing U.S. trade agreements are set out in the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* (TPA-2015 law). The TPA-2015 law also establishes procedures for: (1) congressional oversight and consultation as well as public input on trade negotiations; and (2) implementation of a completed trade agreement. These requirements ensure that negotiations on U.S. trade agreements are as transparent and informed by Congress and the public as possible.

4) **Enforcement is Essential:** ***The United States Needs an Effective Trade Enforcement Strategy.*** It is essential to create a level playing field for U.S. companies and workers by stopping unfair foreign trade and investment practices and unfair imports. This should involve strong and effective enforcement of U.S. trade and investment agreements – including World Trade Organization agreements – and U.S. trade laws and trade-related regulations, consistent with U.S. statutory requirements and international trade obligations.

   A successful enforcement strategy depends on the United States having strong trade agreements to enforce. This means strengthening and modernizing existing U.S. trade agreements and aggressively pursuing new U.S. trade deals.

   Such enforcement efforts provide an important opportunity to hold our trading partners accountable to strong trade rules. These efforts are also critical to opening international markets, halting unfair foreign trade and investment practices and unfair imports and addressing emerging economic and technological developments vital to U.S. innovation and competitiveness across all sectors of the economy.