Statement for the Record
National Association of Manufacturers
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Senate Committee on Finance
on “President Obama’s 2015 Trade Agenda”

January 27, 2015
The National Association of Manufacturers (NAM) is pleased to provide the following statement to the Senate Committee on Finance on “President Obama’s 2015 Trade Agenda.”

The NAM is the largest manufacturing association in the United States, representing more than 14,000 manufacturers small and large in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million women and men across the country, contributing more than $2.08 trillion to the U.S. economy in 2013 alone.

Manufacturers in the United States increasingly participate and compete in a global economy that has become highly challenging, with slower-than-hoped-for growth in many parts of the world and increased competition from overseas. Not only do 95 percent of the world’s consumers live outside our borders but world trade in manufactured goods has expanded to more than $11 trillion, of which U.S. manufactured goods exports only represent nine percent. As well, economic activities overseas, from infrastructure and foreign government procurement to resource production and distribution, are providing fresh new opportunities for our manufacturers to invest and engage in growth-producing activities around the world that support a strong U.S. manufacturing base.

The NAM has long championed a robust trade and investment policy to grow manufacturing in the United States. At its core, a robust and pro-manufacturing U.S. trade policy should seek to open markets and level the playing field overseas, improve the competitiveness of manufacturers in the United States and ensure the strong enforcement of the rules of the trading system at home and by our trading partners.

Opening Markets Overseas Requires Trade Promotion Authority and Strong New Agreements

Trade and investment agreements play an outsized role in providing businesses of all sizes across all 50 states better access to the global economy. By setting the rules of the global trading system, multilateral, plurilateral and bilateral agreements level the playing field and enable manufacturers in the United States to compete more successfully.

Most of the world’s countries have agreed to a basic set of trade rules as part of several agreements under the auspices of the World Trade Organization
Efforts to strengthen and expand these rules for all WTO members and eliminate tariffs and other barriers in the “Doha” negotiations have unfortunately stalled as a few major countries have refused to pursue an ambitious agenda moving forward.

The NAM is very pleased to see the WTO Trade Facilitation Agreement (TFA) move forward and is urging conclusion of an expansion of the Information Technology Agreement (ITA). The TFA is the first multilateral trade agreement to be concluded in the history of the WTO, and it has the potential to reduce significantly the barriers that countries – particularly developing countries – face in moving goods by increasing port efficiency, improving customs and regulatory processes, and upgrading infrastructure to increase trade exports. Now that the WTO agreement is on its way to ratification, countries will have to begin the work of assessing and implementing the commitments to realize the full benefit of the TFA. The United States is currently the largest single-country provider of trade-related assistance, and the U.S. Trade Representative has already committed to working with other donors and with WTO Members to help developing countries fully implement the TFA. The financial and technical assistance provided by the United States and others must be provided in a coordinated, strategic and efficient way to countries that are committed to implementation. We encourage Congress to work with USTR and other agencies to ensure that funds and other forms of assistance are being delivered in the most effective way.

An expanded ITA, which is expected to eliminate tariffs on about 200 additional technology products – or roughly $1 trillion in global sales each year – would create an estimated 60,000 new American jobs, enhancing innovation in the United States and increasing global GDP by roughly $190 billion. Manufacturers have strongly supported this expansion given the benefits of this tariff-cutting agreement not just to producers of new high-tech equipment, but to all manufacturers that, as consumers, will be able to benefit from lower costs and greater innovation. U.S. leadership on the ITA expansion has been critical and we continue to urge action by America’s trading partners to agree to a broad ITA expansion package.

Manufacturers also strongly support the negotiation of a broad Environmental Goods Agreement (EGA) as soon as possible. Global tariffs on environmental products are as high as 35 percent in some nations; eliminating these tariffs would have a substantial and positive impact on manufacturers who are working to develop new and improved goods aimed at solving environmental challenges. Achieving an EGA will unlock significant opportunities for manufacturers to decrease the cost of these products to consumers inside and outside the United States, drive innovation, and expand sales and manufacturing jobs. Negotiations are taking place this week on this important negotiation on which manufacturers are seeking quick action.
The WTO is also seeking move forward on a long stalled global liberalization trade negotiations that began in Doha, Qatar, in November 2001. Manufacturers continue to seek an ambitious outcome that will open new markets, not lock in longstanding barriers to trade in manufactured goods.

In addition to the WTO, the United States has negotiated free trade agreements on a bilateral or plurilateral basis. These agreements – referred to as either free trade agreements (FTAs) or trade promotion agreements – eliminate barriers more comprehensively than the WTO agreements and set in place stronger and clearer rules to improve the competitiveness of manufacturers in the United States, including rules on the protection of intellectual property and investment and ensuring greater transparency and fair competition.

The United States’ experience under our FTAs demonstrates that where manufacturers from the United States can compete on a level playing field abroad, they can boost sales and grow their share of foreign markets. America’s 20 existing free trade agreement partners account for less than 10 percent of the global economy but purchase nearly half of all U.S. manufactured goods exports.¹ For many states, including Ohio and Texas, that figure is closer to 60 percent.² The United States enjoys a nearly $60 billion manufacturing trade surplus with its trade agreement partners, compared with a $508 billion deficit with other countries.

Renewing and Modernizing Trade Promotion Authority is Essential to a Robust U.S. Trade Policy

To negotiate the type of comprehensive, high-standard and market-opening trade agreements that have driven export growth and jobs across the country, trade promotion authority (TPA) is essential.³ TPA legislation has been in place and was utilized during the negotiation and implementation of the Uruguay Round Agreements creating the WTO and for 13 FTAs negotiated since 1974.⁴

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³ It is sometimes argued that hundreds of trade agreements have been negotiated without TPA. Those agreements are not the type that open markets overseas or include binding and state-of-the-art dispute settlement. For example, Trade and Investment Framework Agreements provide a useful opportunity for the United States to engage in economic discussions with foreign governments but do not obligate either country to open its market or address barriers.
⁴ Of all U.S. market-opening FTAs, only the U.S.-Jordan FTA was implemented without TPA. Notably, the Jordan FTA is much less comprehensive and less developed than our other FTAs, and most prominently lacks the state-of-the-art time-limited dispute settlement provisions that are found in the North American Free Trade Agreement and all subsequent FTAs.
Since TPA was put in place most recently in 2002, U.S. manufactured goods exports more than doubled from $623 billion to $1.38 trillion.\(^5\) Those exports support millions of American jobs, including, for example, 212,000 in Michigan, 189,000 in Pennsylvania, 185,000 in New York and 107,000 in New Jersey.\(^6\) In Oregon, Delaware and Maryland, manufacturing accounts for more than 80 percent of all state exports. Full state fact sheets are available at the NAM’s website.\(^7\)

Manufacturers welcomed the Bipartisan Congressional Trade Priorities Act of 2014, introduced at the beginning of last year by Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) in the Senate and by House Ways & Means Committee Chairman Dave Camp (R-MI) in the House.\(^8\) This legislation sets forth the much-needed Executive-Congressional framework to ensure that both branches of government work to achieve the strongest possible outcomes in our trade agreements. This legislation also provided important updates to the traditional TPA framework, including with respect to priority negotiating issues.

Action on TPA is vital to ensure that U.S. negotiators can bring home the strongest possible outcomes in both the ongoing Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (T-TIP) talks that will set in place new and stronger rules to level the global playing field and to engage in major new negotiations. Such legislation is also need for the EGA, the Trade in Services Agreement talks and future negotiations.

Time is of the essence. Other major economies are already negotiating dozens of agreements without the United States that could put manufacturers and workers in the United States at a significant competitive disadvantage. If Congress does not move expeditiously to pass TPA and ensure the United States continues to lead in striking trade deals that drive manufacturing growth and job creation, we will be forced to sit on the sidelines while other countries negotiate deals that exclude us.

Failure to move forward would deal a damaging blow to a recovering U.S. manufacturing sector facing significant competitive challenges. The United States is one of the most open economies in the world. According to the World Trade Organization, America has the lowest applied tariff of any G20 country. But the World Economic Forum found that U.S. exporters face far higher tariffs abroad

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\(^7\) Id.

than their competitors in major markets like China, Russia, India and Brazil. Without TPA, the United States is unarmed in ability to eliminate those duties and other impediments to open and fair competition.

The Bipartisan Congressional Trade Priorities Act of 2014 provides a very strong model to move forward on TPA as soon as possible. Not only does this legislation set forth clear and ambitious goals to eliminate tariffs and open overseas markets to U.S. goods, services and investment, it also establishes powerful new trade negotiating objectives that address existing and emerging commercial challenges to manufacturing growth and exports in markets around the world.

For the first time in a TPA bill, the Bipartisan Congressional Trade Priorities Act confronts the serious and growing problem of forced localization barriers to trade. It seeks to eliminate trade distortions and unfair competition from state-owned enterprises and to promote regulatory transparency, procedural fairness and rule-making based on risk assessments and sound scientific evidence. It includes critical new provisions addressing cyber theft and protecting trade secrets and confidential business information.

The legislation would foster manufacturing growth and innovation here in the United States. It includes highly important negotiating objectives to establish more open and fair trade in goods, improved transparency and protections and enforcement for intellectual property, and provisions that will ensure that U.S. property overseas is treated fairly and in accordance with core U.S. due process principles.

Just as importantly, the legislation would restore the vital partnership between Congress and the President that facilitates the negotiation and approval of trade agreements. It enhances congressional oversight over trade negotiations and, for the first time, explicitly confirms and provides that any Member of Congress can access negotiating text, submit views and attend trade agreement negotiating rounds. Separate House and Senate advisory groups would oversee ongoing trade talks, including through regular, scheduled meetings.

At the same time, the Bipartisan Congressional Trade Priorities Act provides the appropriate structure to empower U.S. negotiators to bring back the strongest possible trade agreements to open markets and level the playing field. Without this authority, our trading partners have little incentive to make tough decisions or put their best offer on the table.

From the NAM’s perspective, this legislation provided the type of framework needed to secure new, market-opening trade agreements. The NAM looks for new TPA legislation to be introduced shortly in the 114th Congress and urges Congress and the Administration to move forward on strong TPA legislation as quickly as possible.
Strong, High-Standard and Market Opening Outcomes Are Required in Ongoing Negotiations

The ongoing TPP and T-TIP negotiations hold enormous potential to expand U.S. exports and international sales and to promote jobs and economic growth if they are concluded successfully. Taken together, these agreements would open markets with nearly one billion consumers covering nearly two-thirds of global GDP and 65 percent of world trade.

Yet, not just any agreement will suffice. The outcomes obtained in both the TPP and the T-TIP must be bold and concrete, particularly on market access, intellectual property and investment rules, the new 21st century issues and the agreement's overall enforceability. Weak and insufficient outcomes in these areas will put at risk broad-based manufacturing support for ultimate agreements which are made even more important given the number of countries at the negotiating table.

In particular, the NAM has identified the following issues as critical:

- **Market access**: New and concrete market access, especially in the major countries with which the United States does not already have free trade agreements – Japan, Malaysia, Vietnam and each of the EU member states. Each of these markets poses substantial, but different, challenges to manufacturers, from deeply embedded non-tariff barriers to tariffs and beyond. As we have seen with the implementation difficulties in the Korea-United States Free Trade Agreement (KORUS FTA), strong and detailed market-opening commitments matter deeply, particularly in countries that have resisted more open competition and trade liberalization. It is, therefore, critical that manufacturers across our most vital industry sectors see outcomes on core market access issues and related disciplines that will ensure fairness and effective and substantial new market access. Even with the EU, where tariffs are relatively low, the elimination of tariffs would result in over $10 billion in duty savings, and an even modest alignment of U.S. and EU regulatory standards and nontariff barriers could increase combined GDP by an estimated $106 billion.

- **Strong and High-Standard Rules**: The core rules of our modern free trade agreements must actually achieve the “model of ambition” that the TPP leaders promised in 2011. In particular, intellectual property protections, from patents and copyrights to trademarks and trade secrets, must be state-of-the-art, fully enforceable and applicable to all products. Manufacturers strongly oppose any outcome that would provide lengthy or indeterminate transition periods for some countries on some types of intellectual property, whether or not based on development or other indicators. Strong protections consistent with U.S. law for duration of
protection, as well as rigorous enforcement provisions for intellectual property are a vital jobs and manufacturing issue.

Similarly, the outcomes on investment market access, protections and enforceability must also provide full protection to American investments in the TPP and T-TIP markets, including access to the neutral investor-state dispute settlement procedures that are contained in thousands of agreements worldwide. All products and sectors must be accorded the same basic neutral enforceability guarantees as should breaches of major investment contracts in infrastructure, natural resources and other domains that help drive U.S. exports into foreign markets. Moving backwards on these rules as some countries have proposed will undermine investment which is the biggest driver of U.S. exports and commerce overseas.

- **New Rules on Digital Trade and Fair Competition.** New trade agreements must also reflect the globally connected economy, where digital trade and the use of cloud computing is increasingly critical to manufacturers, particularly small companies, as a means to access overseas markets. Strong trade agreement commitments that ensure the ability to move data across borders and that prohibit domestic localization requirements for information technology infrastructure are sought by industries across the manufacturing spectrum. As well, fair competition in overseas markets, including with respect to state-owned enterprises, is important to ensure manufacturers can compete successfully in the global market. Allowing strong standards in each of these areas to be riddled with exceptions will not advance America’s pro-manufacturing agenda.

- **Enforceability.** Final agreements must also be fully enforceable and comprehensive. The value of our trade agreements in helping to grow manufacturers’ opportunities and competitiveness overseas is dependent on the fact that they are binding and enforceable.

Strong and ambitious outcomes on market access, intellectual property, investment, cross-border data, fair competition and full enforcement are vital components of successful outcomes not only in the TPP and T-TIP negotiations but also other negotiations on which the United States may and should embark.

**Improving Manufacturers’ Global Competitiveness Requires New and Improved Trade Legislation and Policies**

Manufacturers in the United States face stiff competition from competitors around the world both in global markets and here in the United States. To improve opportunities for our manufacturers, it will be important for Congress to
pass and the President to sign key trade legislation, including the following legislation in this Committee’s jurisdiction:

- **Miscellaneous Tariff Bill (MTB).** The MTB is a pro-competitive piece of legislation that allows manufacturers in the U.S. to import certain manufacturing inputs and other products duty free when those products are not produced or available in the United States. This decades old program has been critical to support and grow manufacturing jobs in the United States by cutting costs and strengthening our manufacturers’ competitiveness in the global economy. The MTB expired over two years ago, resulting in a major $748 million tax on manufacturing in the United States. Manufacturers are urging Congress to move forward quickly on MTB legislation that will ensure a predictable, transparent and timely process.

- **Customs reauthorization.** Customs reauthorization legislation is needed to cut red tape and expedite legitimate trade at our borders, while strengthening and requiring time-limited enforcement activities to prevent transshipment and illegitimate trade.

- **Preference legislation.** The NAM has long supported well-crafted preference legislation, such as the Generalized System of Preferences (GSP) that expired on July 31, 2013. Such legislation helps developing countries expand their economic growth opportunities, while also helping manufacturers reduce costs on important inputs.

Movement on this legislation is an important part of a robust trade policy that will advance our manufacturers’ global competitiveness.

**Enforcement of Trade Agreements and Trade Rules Is Also Critical**

Enforcement of trade rules, both domestic and those contained in international agreements, is also an important feature of a robust trade strategy.

**Trade Agreement Enforcement Ensures that America Gets the Bargain it Negotiated**

For our trade and investment agreements to be successful, it is vital to ensure effective enforcement of the commitments contained in those agreements by our trading partners and the United States to create a more level playing field.

On the international side, the United States has worked actively through successive administrations to address market access barriers and other unfair treatment of U.S. exports and products. Before agreements first enter into force, the Office of the United States Trade Representative (USTR) works vigorously to
ensure the full implementation of commitments. In most cases, commitments are implemented fully. In cases where they are not, USTR works through the consultation and ultimately the dispute settlement provisions provided in trade agreements to ensure full implementation. Indeed, since the WTO was established nearly two decades ago in 1995, the United States has brought and successfully resolved 70 of the 74 cases that have been concluded. Notably, the United States has brought more than 20 percent of the over 480 requests for consultation made overall in the WTO. These cases have an important impact on growing manufacturing in the United States. For example, in March the United States won a very important WTO case that addresses manufacturers’ concerns over China’s export restrictions on rare earths that impeded access to such inputs. Most recently, the WTO Appellate Body sided with the United States in its complaint over Argentina’s onerous and discriminatory import licensing regime. The United States has pursued cases with regard to actions by many of our major trading partners, from the European Union, Canada and Mexico to Brazil and India. Without the underlying agreements, such strong dispute settlement outcomes that open markets and ensure fair treatment would not be possible.

Sustained attention is needed to address other governments’ failure to implement their trade and investment commitments fully, including where appropriate through the use of WTO and FTA dispute settlement mechanisms. Whether it is a newer agreement, such as the Korea-U.S. Free Trade Agreement or one that has been in force for decades, the United States should not hesitate to ensure that all trade agreement obligations are enforcement.

**Upholding the United States' International Obligations at Home**

Similarly, the United States should uphold its obligations under international agreements and honor remedies imposed when U.S. actions are found to be out of compliance with those obligations. Just as we expect our trading partners to meet the letter of their international obligations, so should the United States.

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Most recently, the WTO has found again that the U.S. Country-of-Origin Labeling (COOL) regulations for meat products is discriminatory and therefore out of compliance with the United States’ WTO obligations. The NAM believes it is critical that the United States bring this law into compliance with its international commitments as soon as possible to avoid the trade retaliation that may be imposed on exports to our two largest markets (Canada and Mexico), which would cause serious economic harm to many manufacturers in the United States. To prevent such negative impacts on manufacturers in the United States, the NAM is calling upon Congress to ensure that the Administration has the authority to act quickly to suspend indefinitely the COOL regulations in regard to meat products if the WTO rules against those regulations.

Enforcement through Investor-State Dispute Settlement (ISDS)

With regard to the enforcement of trade and investment agreements, the NAM also strongly supports the continued inclusion and use as appropriate of ISDS contained in U.S. FTAs and investment treaties. ISDS is a vital enforcement tool that allows individual investors (whether business or non-profit) to seek enforcement of basic principles – such as non-discrimination, compensation for expropriatory action (i.e., takings) and fair treatment – before a neutral arbitration panel. ISDS is in essence an enforcement mechanism and those seeking a more level playing field for manufacturers in the global economy should support the inclusion of this mechanism in existing and future agreements, including the TPP and T-TIP agreements, as well as bilateral investment treaties (BITs), such as currently being negotiated with China. Such provisions should be broadly available both for the core investment rules of the underlying agreements, but also with respect to contracts and other investment agreements signed by investors with the foreign government. Proposals to eliminate or modify these core enforcement rules should be rejected as such outcomes undermine rather than strengthen a strong enforcement agenda.

Full and Timely Enforcement of Domestic Trade Rules Is Essential

Domestically, the NAM continues to be a strong supporter of the full and fair enforcement of our trade remedy laws that help manufacturers address government-subsidized and other unfair competition. These rules too are an essential part of a robust pro-growth and pro-manufacturing trade policy. U.S. trade remedy laws have long been part of the U.S. legal system and are internationally respected mechanisms, authorized by the WTO.

It is vital that both the Department of Commerce and U.S. International Trade Commission exercise their authority to counteract unfair practices overseas. Full, effective, timely and consistent enforcement by the U.S. government of these globally recognized rules is essential to ensure manufacturers get a fair shake in the global economy.
Enforcement of U.S. trade rules must occur during the investigatory and review stages, but these trade rules must also be enforced fully at our border. Too often, we hear stories of manufacturers that have spent significant time and money to utilize the trade remedy rules only to find importers that are evading these orders. When manufacturers request that Customs and Border Protection (CBP) investigate these cases of evasion, years often pass with no resolution. The Senate Trade Facilitation and Trade Enforcement Act of 2013 (S. 662) includes an important fix to this problem, and manufacturers continue to urge Congress to move this legislation forward. In particular, the provisions in Title III of S. 662 would help strengthen CBP’s authority to enforce antidumping and countervailing duty orders and to investigate effectively alleged evasion of those orders in a time-limited manner.

**Other Key Trade Issues**

The global competitiveness of manufacturers and other industries in the United States to expand exports and promote growth and jobs also requires movement on other key issues, which are outside this Committee’s jurisdiction. In particular, the NAM is strongly supportive of:

- **The long-term reauthorization the Export-Import (Ex-Im) Bank.** The Ex-Im Bank is a vital tool to help grow U.S. exports and increase American jobs. As the official export credit agency of the United States, Ex-Im Bank assists in financing U.S. exports from thousands of American companies and bolsters our global competitiveness. In fact, nearly 90 percent of Export-Import Bank’s transactions directly support U.S. small business. While Congress passed a short-term extension of Ex-Im’s charter to June 2015, this short-term reauthorization is insufficient to provide U.S. exporters and their customers the certainty they need to operate effectively in the global economy where just nine of our major trading partners are providing more than 18 times the level of Ex-Im financing to our competitors overseas.\(^{13}\) Manufacturers are, therefore, urging action on a long-term reauthorization of the Ex-Im Bank as soon as possible.

- **Continued reform of our export control system.** In 2009, the Administration embarked on a major export control reform agenda to address longstanding features of that system that undermine the competitiveness of U.S. manufacturers operating in the global economy. The NAM strongly supports the objectives of the President’s Export Control Reform Initiative: to focus federal resources on the threats that matter most, to bring transparency and coherence to these regulations, and to enhance the competitiveness of manufacturing and technology sectors in the United States. While the Administration is making great strides in reconciling the

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separate control lists, the NAM urges continued efforts to prioritize key policy reforms that would further streamline licensing and system administration, such as establishing an effective program license framework, deploying a truly connected information technology system across licensing agencies, instituting periodic reviews of current license exceptions, renewing the attempt to create an efficient intra-company transfer license for trusted companies and simplifying encryption controls. Accelerating implementation of multilateral regime changes and addressing the barriers to civil nuclear exports would also benefit U.S. security and competitiveness.

**Conclusion**

In manufacturing communities across America, the gains from trade can and should be increased. The United States achieved a record level of $1.38 trillion in manufactured exports last year, but we can do better so that America can expand manufacturing and jobs here at home. To improve the global competitiveness of manufacturers in the United States and grow our manufacturing economy, the NAM urges prompt action on TPA and on new market-opening trade and investment agreements to level the playing field globally, action on key legislation and policy reforms that will advance our global competitiveness and the full enforcement of our trade agreements and existing domestic trade rules.

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