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November 26, 2018

Mr. Edward Gresser  
Chair of the Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17th Street, NW  
Washington, DC 20508

Re: USTR-2018-0034; Request for Comments on Negotiating Objectives for a U.S.-Japan  
Trade Agreement

Dear Mr. Gresser:

In accordance with *Federal Register* notices related to the above-referenced docket, the National Association of Manufacturers submits these comments regarding the negotiating objectives for a U.S.-Japan Trade Agreement.

If you have any questions, please do not hesitate to contact me.

Respectfully,



Linda Dempsey

**Comments of the National Association of Manufacturers  
on Negotiating Objectives for a U.S.-Japan Trade Agreement  
(Docket USTR-2018-0034)**

November 26, 2018

Manufacturers appreciate the opportunity to provide input on the administration's negotiations with Japan for a U.S.-Japan Trade Agreement.

The National Association of Manufacturers (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 more than 12.7 million women and men across the country and produced a record \$2.33 trillion in output to the U.S. economy through the first half of 2018.

*Manufacturing in the United States is most successful when markets at home and abroad are open and fair. Today, manufacturers in the United States export about half of U.S. value-added output (\$1.35 trillion), helping to support record U.S. manufacturing production and about half of the U.S. manufacturing workforce. Global economic growth over the last quarter century has lifted hundreds of millions of people around the world out of poverty, propelling almost 600 million people, mostly in Asia, into the middle class since 2000. These consumers have created record levels of demand for a wide range of advanced and high-quality consumer and durable manufactured goods produced in the United States, from personal care, medical equipment and food products that meet consumer demand to major capital and electrical equipment that build new cities and modernize infrastructure.*

*To continue expanding output and well-paying manufacturing jobs across the country, manufacturers in the United States need a strong and multi-faceted trade policy to strengthen opportunities to reach the 95 percent of consumers outside of the United States and continue to expand U.S. manufacturing competitiveness. Such a strategy must seek to expand opportunities at home and overseas, including by:*

- *Growing exports and overseas sales.* Over the last quarter century, manufacturers in the United States have quadrupled exports, which has helped drive a similar quadrupling of U.S. manufacturing output to reach record levels. Continued expansion in exports is vital to enable the highly-productive U.S. manufacturing sector to grow well-paying American jobs. Eliminating tariff and non-tariff barriers, raising standards to ensure non-discriminatory and fair treatment for U.S.-produced goods, protecting intellectual property rights and increasing transparency, fair competition and good regulatory processes are all important to help expand U.S. exports overseas.
- *Expanding access to fairly-traded imports and inputs to improve U.S. manufacturing competitiveness.* Manufacturers in the United States have long supported open markets at home and around the world that allow all players to access imports in a fair and competitive manner in order to drive innovation, productivity and stronger manufacturing in ways that are critical to boost U.S. manufacturing competitiveness.
- *Improving access and protections for inbound and outbound investment.* Inbound and outbound investment in manufacturing are also important drivers of growth in the U.S. manufacturing sector, with both forms of investment supporting millions of manufacturing jobs and increased U.S. exports, capital investment and research and development in the United States.

- *Tackling the wide variety of market-distorting trade barriers in foreign markets that undermine fair competition. To achieve these expansions, manufacturers also need continued work to eliminate the many forms of trade distortions, from subsidies and outright discrimination against U.S. manufacturers, goods and investments to actions resulting in currency misalignment other forms of market-distorting practices.*<sup>1</sup>

*Market-opening, high-standard and enforceable trade agreements with important markets like Japan have long been a critical part of manufacturers' strategy to achieve these goals. Manufacturers, therefore, look forward to a productive U.S.-Japan negotiation in order to expand trade and investment opportunities and address market-distorting trade barriers.*

## **I. Opportunities to Bolster the U.S.-Japan Commercial Relationship**

Manufacturers in the United States welcome opportunities to expand the commercial relationship with Japan, including through the negotiation of a U.S.-Japan Trade Agreement. Japan is the third largest economy and the 10<sup>th</sup> most populous country in the world. A stronger, more open and competitive U.S.-Japan commercial relationship will expand opportunities for the growth of manufacturing and jobs in the United States.

The United States and Japan already share a substantial trade and investment relationship, with more than \$185 billion in two-way trade in manufactured goods and accumulated cross-border investment in manufacturing of more than \$180 billion.

Japan is the United States' fourth-largest manufactured goods trading partner overall. U.S. manufactured goods exports to Japan in 2017 equaled \$53 billion, with substantial exports of chemicals, transportation equipment, computer and electronic equipment and manufactured food products. Japan is the fourth-largest export market for U.S. manufactured goods, after Canada, Mexico and China, even though Japan represents only 1.7 percent of the world's population.

U.S. imports of manufactured goods from Japan totaled \$132 billion in 2017, with high levels of imports of transportation equipment, machinery, computer and electronic products and chemicals. Japan is the fourth-largest supplier of manufactured goods imports into the United States, after China, Canada and Mexico.

Notably, Japan is the fifth-largest country source of inward manufacturing investment into the United States on a historical cost basis, after Canada, the United Kingdom, Ireland and Germany. Japan's accumulated investment stocks reached \$156 billion in 2017, supporting nearly 409,000 manufacturing jobs.<sup>2</sup> Japanese investment in U.S. manufacturing has grown substantially over the past several decades, with major investments in both physical capital and research and development.

While the United States and Japan share a robust commercial relationship, manufacturers in the United States have long supported efforts to expand and improve that relationship. Key challenges that manufacturers face in Japan include (but are not limited to):

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<sup>1</sup> More information on these issues can be found in the following NAM submissions: National Association of Manufacturers, **Comments on Administration Report on Significant Trade Deficits and Request to Appear at Public Hearing** (May 10, 2017), accessed at [http://documents.nam.org/IEA/NAM\\_Submission\\_on\\_Trade\\_Deficit\\_Review.pdf](http://documents.nam.org/IEA/NAM_Submission_on_Trade_Deficit_Review.pdf); National Association of Manufacturers, **Submission for the 2019 National Trade Estimate Report on Foreign Trade Barriers** (October 30, 2018), accessed at [http://documents.nam.org/IEA/NAM\\_NTE\\_Comments\\_2018\\_FINAL.pdf](http://documents.nam.org/IEA/NAM_NTE_Comments_2018_FINAL.pdf).

<sup>2</sup> Bureau of Economic Analysis (BEA), U.S. Commerce Department, **Foreign Direct Investment in the United States**, accessed at [https://apps.bea.gov/iTable/index\\_MNC.cfm](https://apps.bea.gov/iTable/index_MNC.cfm).

- Japan's regulatory environment that does not always adhere to good regulatory practices, including implementation of Japan's Public Comment Procedure by ministries and agencies that is too short, does not uniformly provide meaningful opportunity to comment and submit new data on the impact of policies, regulations, standards, procedures and other measures as they are developed, and often does not make available translations of government notifications and regulations.
- Technical regulations, standards, testing procedures and conformity assessments that remain unique to Japan and are not well aligned with global norms, and that often do not use evidence-based cost-benefit analyses or provide opportunities for interested stakeholders to participate in advisory groups on new policies and other measures, including but not limited to Japan's implementation of European-style hazard-based regulatory approaches to chemical assessment and management (such as the EU REACH-type Chemical Substances Control Law).
- Recent legislative changes to the frequency and eligibility criteria for Japan's drug pricing programs that have raised serious concerns about the country's commitment to innovation and intellectual property, as well as to transparency and non-discrimination between foreign and domestic innovative manufacturers.
- Potential increases in the frequency of medical device reimbursement revisions, which would be extremely burdensome to manufacturers and impact their ability to invest in the development and availability of innovative medical technologies.
- Government policies, actions and interventions that negatively impact competition in the Japanese, U.S. and third country markets.
- Competition policy rules that could be improved through greater transparency, due process and other measures to strengthen their application.
- Japan's implementation of geographic indications (GIs) as part of its agreement with the European Union, which requires careful monitoring to ensure that Japan provides continued protection against the overly-broad application of GIs to infringe on use of common food names as previously negotiated.
- Japan's customs processing, which is both complex and time consuming, and its particularly low *de minimis* threshold for low-value shipments (currently only 10,000 yen, or about \$88), which impede access for manufacturers in the United States, particularly small- and medium-sized manufacturers.
- Barriers to multiple forms of distribution in Japan, including direct selling and unequal treatment of express delivery service providers, particularly compared to Japan Post, that limits access by manufacturers using those services to ship into Japan.
- Limited foreign investment and market access for key manufacturing industries, which the World Trade Organization indicates "may be attributed, inter alia, to impediments to mergers and acquisitions, insufficient regulatory reform and financial transparency and flexibility."<sup>3</sup>
- The maintenance of tariffs and other non-tariff barriers on goods imports into Japan.

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<sup>3</sup> World Trade Organization, **Trade Policy Review Report by the Secretariat, Japan** (June 18, 2013), accessed at [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S005.aspx](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S005.aspx).

- An unlevel playing field resulting from Japan's preferential agreements with other countries, including with respect to traditional trade issues, but also new issues, such as cutting-edge guarantees related to digital trade and cross-border data flows.

As the United States and Japan look to initiate formally these new negotiations, manufacturers look forward to working with the U.S. government to ensure that these negotiations move quickly to address the unlevel playing field created by agreements with other countries and focus on achieving a more open and expanded U.S.-Japanese trade and investment relationship that tackles market-distorting trade practices and other commercial challenges through strong, clear and enforceable outcomes.

## **II. Conclusion**

Manufacturers welcome the administration's focus on improving global trade relationships with Japan and other countries and look forward to working closely with the Office of the U.S. Trade Representative and other executive branch agencies to improve the U.S.-Japanese commercial relationship.