April 22, 2024

Ambassador Katherine Tai
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

RE: Written Comments: Promoting Supply Chain Resilience (Docket No. USTR-2024-0002)

Dear Ambassador Tai:

On behalf of the National Retail Federation, we welcome the opportunity to provide written comments regarding the Office of the United States Trade Representative's notice on Promoting Supply Chain Resiliency[1] (Docket No. USTR-2024-0002).

NRF, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail succeed. NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing $5.3 trillion to annual GDP and supporting one in four U.S. jobs — 55 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

A safe, efficient, predictable, resilient and timely supply chain is critical to the success of any retailer. The ability to ensure that products are available for the consumer, whether they shop in-store or online, is key to the retail supply chain. We have all seen firsthand the cascading disruptions caused when supply chains were completely overwhelmed from beginning to end during the pandemic. Significant efforts by the private sector and governments enabled supply chains to recover and we have seen trade flows return to pre-pandemic growth levels.

While the pandemic-induced supply chain disruptions were unique in size and global in nature, unfortunately disruptions in the supply chains are not uncommon. Whether caused by a weather incident, labor dispute or something else, retailers have always included risk mitigation as a part of their supply chain plans. We are now seeing more disruptions with bigger impacts. This year alone, retailers and others are dealing with significant supply chain disruptions from attacks impacting commercial shipping through the Red Sea and Suez Canal, restrictions on using the Panama Canal due to low water volumes and, most recently, a shutdown at the Port of Baltimore because of the collapse of the Francis Scott Key bridge.

[1] https://www.regulations.gov/document/USTR-2024-0002-0002

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With all of these disruptions, it is important to note that trade continues to move through the supply chain. The supply chain has adjusted to each of these incidents and cargo continues to find a way to get where it needs to go. This highlights how important supply chain resiliency and mitigation practices are to retailers.

Administration Background on Trade and Investment Policy

While we appreciate USTR examining its role regarding supply chain resiliency, NRF views resiliency as a whole-of-government function. There is no one single agency that can promote resiliency alone. USTR certainly plays a critical role in resiliency, the role of ensuring a positive trade agenda that seeks to open markets, encourage investment and reduce tariffs (both foreign and U.S.) on key consumer goods while ensuring that our trading partners play by the global trade rules to which they have committed.

It is important to point this out because we believe that the information included in the Federal Register Notice (FRN) regarding trade is inaccurate. In the Background of the FRN, USTR states, "*global supply chains have been designed to maximize short-term efficiency and minimize costs, leading to greater vulnerability and unsustainable dependencies, and furthermore have promoted trade that may not reflect our core values, like labor standards and environmental protection*." We wholeheartedly disagree with this assessment by USTR.

The efficiencies and costs that are referenced have led to benefits for workers, consumers and companies. Creating these efficiencies has led to reduced barriers and costs that benefit all global supply chain stakeholders, including workers and consumers.

The recently released Council of Economic Advisers' 2024 Economic Report of the President[2] points out, "*There are well-documented gains from trade and cross-border investment flows. The benefits of global integration include lower inflation, a greater variety of goods and services, more innovation, higher productivity, good jobs for American workers in exporting sectors, foreign direct investment in U.S. industries, and a higher likelihood of achieving our climate goals* (Bernstein 2023)". This directly contradicts the Background that USTR provided in the FRN.

The CEA report also further highlights that lower-income families benefit the most from imports with increased variety of products and reduced costs. The report notes, "*trade with China has benefited most Americans' purchasing power, are consistent with a larger body of evidence on the benefits from trade with all countries—again, with disproportionate benefits accruing to lower-income households*[3]." This certainly is consistent with what NRF members have witnessed, and too quickly dismissed by USTR as a benefit of trade.

[2] 2024 Economic Report of the President – https://www.whitehouse.gov/wp-content/uploads/2024/03/ERP-2024.pdf (03/21/24)
[3] 2024 Economic Report of the President – https://www.whitehouse.gov/wp-content/uploads/2024/03/ERP-2024.pdf (03/21/24)

As NRF pointed out in our comments filed[4] with USTR regarding the agency's request for comments on Advancing Inclusive, Worker-Centered Trade Policy (Docket No. USTR-2023-0004):

> "It is worth considering as well that for millions of families, the consumer perspective on trade matters more than the employment perspective: Not every American wants or needs a job. According to U.S. government data, in 2022 94 million people were not in the labor force by choice, 36% of the total labor force in that year. Some are retired; others are in school full-time. Still others have chosen to care for family needs full-time. Being able to find affordably priced goods and services — not a job — is what matters to these individuals. According to Bureau of Labor Statistics data, in 2021 40% of all U.S. households had income averaging less than $35,000. These households care about the costs of children's clothing, household items like sheets and furniture, and toys. If costs increase because policymakers want to use trade policy to "encourage" a shift to U.S. production of those items, that policy will impact these families. The higher costs must come from elsewhere in the family budget.
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> Thus, a trade policy that prioritizes the concerns of those focused on employment opportunities and dismisses as less relevant the consumer impacts of trade will fail to meet the needs of the millions whose priority is an ability to purchase needed goods and services at budget-friendly prices. This includes the audience focused on jobs: Every one of them is also a consumer. We believe strongly that the administration cannot afford to dismiss as unimportant how trade policies and actions may affect every American as a consumer, and focus only on their impacts on the subset of Americans who are workers."

It is also important to highlight the millions of jobs that are tied directly or indirectly to trade and the global supply chain. In our joint association study, Imports Work for American Workers[5], we found that imports support more than 21 million American jobs across the country, including a net positive number in every U.S. states. The study also found the following:

- Imports from key trading partners — including Canada, China, the European Union and Mexico — support a net positive number of U.S. jobs.
- Import-related jobs are good jobs that pay competitive wages. **Nearly 8 million of the jobs related to importing are held by minorities and 2.5 million jobs are held by workers represented by unions.**
- The vast majority (96%) of companies that import are small or medium-sized businesses.
- U.S. trade policies, many now pending before Congress and the administration, have the potential to both support and hurt these jobs. Changes that impose new barriers to imports would have a negative impact on import-related jobs, while changes that make it harder to impose those restrictions would preserve jobs.

It is important for USTR to understand and consider this study, the conclusions of the administration's own economists at the CEA, and other independent studies that highlight the benefit

[4]NRF Comments - USTR Worker-Centered Trade Policy 081123 – Final - https://www.regulations.gov/comment/USTR-2023-0004-1469 (08/11/23)

[5] https://tradepartnership.com/wp-content/uploads/2021/05/ImportStudy2021FINAL.pdf (05/20/2021)

of trade, supply chains and the global value chain. As we evaluate trade policy and supply chain resiliency going forward, we need to make sure those policies are based on an accurate assessment of the costs ***and benefits*** of trade, and modeled to address challenges and opportunities for a 21st century supply chain. This means more modern rules of origin and systems that provide *more* opportunities for supply chain diversification, not less.

While everyone agrees on the need to include an assessment of the health of domestic manufacturing as a part of the global supply chain, policies aimed at "reshoring" need to focus on products and inputs to production that make the most sense to onshore. The ongoing commentary that previous trade agreements have led to unfettered globalization and a race to the bottom is not accurate. It is important to understand that trade and investment are mutually reinforcing, and U.S. companies bring and enforce high standards globally with those investments overseas. NRF members have supported enhanced labor and environment provisions in trade agreements because they seek suppliers who will work with them to implement and enforce these standards.

In addition, the commentary about the *"hollowing out of the American industrial base"* due to trade is also inaccurate and not supported by facts. U.S. manufacturing and productivity are at all-time highs. The negative commentary seems to ignore the role of productivity gains, most notably the role of technology and automation in transforming U.S. manufacturing toward more advanced manufacturing, with higher paying jobs that are more fulfilling and less labor intensive. Promoting the expansion of advanced automation and production capabilities in the U.S. could be an effective plan to increase competition among manufacturers in critical industries, expand supply chain resilience and lower prices for consumers moving forward. This would allow the U.S. to strengthen export competition globally as well.

In short, USTR's consideration of ways to improve the resiliency of U.S. supply chains must be based on a factually accurate picture of the impacts of trade and investment on the U.S. economy (*all* sectors), workers (*all* workers) and consumers (especially low-income consumers). A vision of the impacts of trade and investment on supply chains that is too narrow or one-sided risks the development of recommendations that are actually harmful to the resiliency of U.S. supply chains.

<u>USTR Questions for Consideration</u>

1. How can U.S. trade and investment policy, in conjunction with relevant domestic incentive measures, better support growth and investment in domestic manufacturing and services?

U.S. trade and investment policy must go hand in hand with domestic policies to support growth in the U.S. economy overall (agriculture, manufacturing *and* services). This needs to include efforts to improve and expand market access for U.S. farmers, service providers, retailers and manufacturers overseas. We should also focus efforts to expand high-tech, high-skill, high-wage and high-value added manufacturing and services jobs in the United States. We need to make sure we don't have practices and policies in place that make U.S. farm or manufacturing products or services more costly or less productive. We need to upskill to improve competitiveness.

As we pointed out in our comments[6] on a Worker-Centered Trade Policy:

> "A domestic investment policy that can ensure trade benefits flow to underserved communities is to ensure the U.S. government supports a robust workforce development system that prepares workers to hold jobs of importance to their local communities, including retail. An educational system that prepares our students to compete at a global level (i.e., online selling opens the world which they can either sell to if they are good OR not be able to sell to if they don't know how) is of paramount importance. Equipping students with digital skills that will be used in nearly every job of the future (indeed, in many of the present) will be key to ensuring they benefit from all that global engagement has to offer. More generally, it is important that our students, workers and businesses understand the basics of how trade works, and in particular the benefits it offers, so they are not fearful of global engagement.
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> Other domestic investment policies and actions can also help individuals in underserved communities both export and import. A key ingredient would be to ensure that everyone has ready access to fast internet service, so they can support the creation of new small businesses that are better able to engage with customers outside the United States to whom they export and suppliers outside the United States from whom they import outside the United States. Such investment would particularly benefit those living in rural areas, older workers, and African Americans and Hispanics living in underserved urban areas. Small businesses operating out of their homes and selling jewelry, handbags and other consumer goods they have made are essentially small retailers. They depend crucially on access to the internet, which enables them to reach millions of potential customers outside the United States. Enforceable trade agreements that support this economic activity would be valuable to them."

In addition to the policies above, we need to make sure we have long-standing programs such as the Generalized System of Preferences retroactively renewed. The long-term expiration of the program has had a significant negative impact on output and jobs, especially for smaller businesses that have been forced to pay the tariffs while the program has been expired. Similarly, proactively renewing the African Growth and Opportunity Act will help secure further investment with our sub-Saharan partners.

In addition to GSP and AGOA renewal, we again call upon USTR to adjust the China Section 301 tariffs to limit the impact of the tariffs to those products that will actually address the issues raised in the 301 investigation to address forced technology transfers and a lack of protection for intellectual property rights. These tariffs continue to impact businesses large and small for both finished goods and inputs to production. The tariffs have been fully paid by these U.S. businesses. Many have absorbed the increased cost, which has impacted their bottom line. We also call for a renewal of the expiring exclusions as well as a reopening of the exclusions process if the tariffs are to continue.

Another program area to consider is increasing the use of U.S. Foreign Trade Zones. The U.S. FTZ program's participants epitomize supply chain diversity across numerous industries and stakeholders.

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[6] NRF Comments - USTR Worker-Centered Trade Policy 081123 – Final - https://www.regulations.gov/comment/USTR-2023-0004-1469 (08/11/23)

The FTZ should serve as a cornerstone of resilience for the USTR and other agencies seeking to fortify supply chains. The program offers a robust framework for ongoing domestic and supply chain investments.

Illustrated by the data found in the FTZ Board's annual report[7], virtually every sector engaged in import/export activities leverages the FTZ program for its benefits. In the 2022 FTZ Board report to Congress, the FTZ Board reported 29 distinct industry sectors for warehouse/distribution operations and 26 distinct industry sectors for production operations. Championing the FTZ program inherently champions investment and cultivates supply chain diversity across all industries.

Both the FTZ Board's annual reports and the 2023 USITC study [8]underscore the program's adoption by manufacturers and distributors alike. While the bulk of FTZ-related jobs reside in manufacturing, a notable portion of companies operate within distribution environments, underscoring the program's versatility and diversity. Furthermore, numerous small- to medium-sized businesses capitalize on the FTZ program to reduce costs, maintain competitiveness, and thrive in global markets.

2. What existing or new tools could help ensure that growth in domestic manufacturing and services does not undergo the same offshoring that we have experienced over the past few decades?

Many of the answers identified in question number one apply here as well. What kinds of jobs does the administration want to keep in the United States? Presumably, high-wage, high-skilled advanced manufacturing and services jobs, with policies in place to ensure all workers are qualified to hold these jobs. Many of the low-wage, low-skill jobs that have been outsourced are jobs that most Americans are not looking for. We need to focus on upskilling to maintain an advantage in these types of manufacturing and service-related jobs.

3. How can U.S. trade and investment policy promote a virtuous cycle and "race to the top" through stronger coordination and alignment on labor and environmental protections within trusted networks among regional and like-minded trading partners and allies?

First and foremost, NRF members do not engage in a "race to the bottom" when sourcing with overseas partners. They will bring their high standards and corporate values to their supply partners, both in the United States and abroad. They seek to do business only with companies who comply with those standards and values. Advances in labor and environment practices and requirements globally happen when American companies engage with suppliers and customers abroad, and their governments, through global trade. Key to this are trade agreements that include provisions on labor and environment *as well as* market access through tariff reductions. Our partners won't agree to improved standards in these areas unless there are market access benefits provided as well.

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[7] 84th Annual Report of the Foreign-Trade Zones Board to the Congress of The United States - https://www.trade.gov/sites/default/files/2023-08/AR-2022.pdf (08/2023)

[8] Foreign Trade Zones (FTZs): Effects of FTZ Policies and Practices on U.S. Firms Operating in U.S. FTZs and Under Similar Programs in Canada and Mexico (Investigation No. 332-588, USITC Publication 5423) - https://usitc.gov/publications/332/pub5423.pdf (04/2023)

It should be noted though that companies cannot do this alone. There needs to be coordination among governments on these issues as well. As an example, the issue of forced labor in the supply chain needs coordination among governments, the private sector and non-governmental organizations. While the U.S. has a ban on products made with forced labor, especially from China, many of our allies do not have a similar ban. While U.S. retailers are doing everything they can to ensure there is no forced labor in their supply chains, including investing in new technologies for supply chain tracing and mapping, there needs to be a more U.S.-government led coordinated effort with our allies and other countries to address this issue. We need to ensure that our partners and allies themselves are enforcing their own laws on these issues.

4. What are examples of trade and investment policy tools that potentially could be deployed in the following sectors to enhance supply chain resilience? In these sectors, what features of the current policy landscape are working well, or less well, to advance resilience?

It is important to note that supply chain resiliency cannot be promoted by government regulation alone. As we note above, supply chain disruptions are not new. Even before the COVID-19 pandemic, there were numerous events that impacted global supply chains. These issues include weather-related incidents (hurricane, earthquake, typhoon, etc.) that would affect the U.S. as well as key trading partners, labor issues stemming from port labor negotiations that cause significant congestion, and geopolitical disruption. Of course, the impacts of these disruptions paled in comparison to those caused by the COVID-19 pandemic when consumer demand outpaced the availability of goods, inputs to production and transportation-related services needed to get products to market, and every country in the world was affected. Despite these challenges, disruptions and congestion, U.S. ports adjusted and eventually moved record amounts of cargo.

The response to "supply chain resiliency" should not be an attempt to onshore or reshore all manufacturing. The resiliency we saw during the pandemic was made possible because retailers and others had redundancies built into their supply chains and were able to shift sourcing of key products to markets that had capacity. A prime example of why we should not rely solely on domestic manufacturing for supply chain resiliency was the recent baby formula shortage that occurred a couple of years ago. Prior to the 2022 shortages, the domestic production of infant formula accounted for 98% of U.S. consumption. This proved to be a major vulnerability. When one major production facility was shut down it caused a crisis. What helped alleviate the crisis was the ability to import more infant formula. That was only made possible by suspending the duties on imported formula and addressing other regulatory issues. This example certainly highlights why relying solely on domestic production should not be a key part of supply chain resiliency.

Specific to the sectors identify by the FRN, we offer the following thoughts:

- **Agriculture, forestry, and fisheries**.

  The administration should look to invest in existing authorizations and tax structure to incentivize increased domestic food processing and production — but not feel compelled to move all of it to U.S. shores. This would include key sectors such frozen foods processing, small grains milling, inland and offshore aquaculture, seafood processing and associated supply chains. We would encourage this investment to be modeled after the administration's notable work to expand meat and poultry processing as well as domestic fertilizer production.

- **Pharmaceutical and medical goods**.

  The focus should be on the promotion and investment in more advanced manufacturing of pharmaceutical ingredient manufacturing for Active Pharmaceutical Ingredient (API) and Key Starter Materials (KSMs), necessary to enhance surety of supply in vital medicines. The administration has rightly focused on hospital-grade drugs to date, but the focus should be on expanding the focus to over-the-counter and generic medications that are known to be at risk for shortages.

  The manufacturing focus should look at both the U.S. market as well as a North America approach. This could include direct funding of domestic manufacturing clusters through the Department of Commerce and Health and Human Services and regulatory streamlining for new facilities, which requires coordination with the Food and Drug Administration, the Environmental Protection Agency and others.

- **Textiles, such as yarns, fabrics, apparel, and other finished goods**.

  Reducing vulnerabilities and increasing resilience means improving access to a wide variety of inputs like fibers, yarns, and fabrics, and expanding geographic choice for high quality final assembly. By contrast, inflexible apparel supply chains create dependencies for brands and retailers on single suppliers for fibers, yarns and fabrics and on single countries for final assembly.

  During the earliest days of the COVID-19 pandemic, some apparel retailers were able to leverage their resilient supply chains to pivot quickly in the face of disruptions and support the public health response. For example, by March 27, 2020, just two weeks after most specialty retail stores were forced to close their doors, a member company tapped into its expansive supply chain and long-standing vendor relationships to immediately source PPE for hospitals in need, including millions of masks and protective gowns. Member companies also donated hundreds of thousands of masks to institutional customers like cities, states and hospital systems as well as making them available for sale directly to customers with a portion of the proceeds and more masks donated to nonprofits.

  Generally, U.S. "free" trade agreements adopt a yarn-forward rule of origin, which requires that upstream inputs like yarns and fabrics are made in the parties to the agreement for the finished apparel good to receive the agreement's duty-free treatment. This strict rule of origin for apparel is unique among other developed countries which deploy alternatives that allow for greater access to third country inputs. Unfortunately, U.S. trade agreement partners often do not have the expansive variety of yarns and fabrics that apparel brands and retailers are seeking to meet consumer demand.

This strict rule of origin contributes to the lack of utilization of U.S. free trade agreements in the apparel sector. Last year, just 16% of U.S. apparel imports qualified for duty-free treatment under a free trade agreement. Mexico, whose trade preferences to the United States have been limited by the yarn-forward rule of origin in USMCA and NAFTA, sent just $2.9 billion in apparel to the U.S. last year, accounting for 3.7% of U.S. apparel imports. Over the last 20 years, Mexico's share of apparel exports to the U.S. and its absolute amount have steadily declined. In 2003, Mexico's over $7 billion in apparel exports to the U.S. accounted for over 11% of all U.S. apparel imports. To take another example, U.S. imports of apparel from CAFTA-DR have been stagnant. In 2008, apparel imports from CAFTA-DR countries accounted for 10.5% of U.S. apparel imports while 15 years later CAFTA-DR countries' share of U.S. apparel imports in 2023 was 10.4%.[9]

Aside from adopting more flexible rules of origin in the base text of our free trade agreements, there are trade policy tools that could be used to enhance supply chain resilience in the textiles and apparel sector. For example, CAFTA-DR includes a short supply mechanism that allows petitioners to get access to third country fibers, yarns and fabrics when an administrative process finds that the requested input is not available in commercial quantities in the parties to the agreement. However, under that process a single producer with the capability to make a similar product (as opposed to the actual product requested) can block the request for fibers, yarns or fabrics from a third country. This can serve to preserve monopolies in the fiber, yarn and fabric sectors, which are inherently less resilient than supply chains with greater choice. A reformed CAFTA-DR short supply mechanism that prioritizes supply chain resiliency would not allow a single producer to block short supply requests but rather would require at least two producers in the region to make the requested product in commercially available quantities. This would ensure that petitioners have access to the most resilient supply chain possible. We encourage USTR to consider the reformed short supply process [10]as proposed by the Coalition for Economic Partnerships in the Americas, which NRF is a member of.

5. **What additional sectors may need dedicated trade and investment policy approaches to advance supply chain resilience? What should such approaches entail? With respect to those sectors, what features of the current policy landscape are working well, or less well, to advance resilience?**

One area identified by an NRF member is food processing in the U.S. A lack of focus on domestic policies promoting manufacturing has reduced opportunities to increase competition, capacity and automation in the United States. Further consolidation of food, pharmacy and over-the-counter (OTC) processing across the industry has allowed suppliers to pass along high costs to retailers and consumers in the United States. From 1972 to 1992, the number of manufacturing facilities in these industries declined by roughly one-third. The top four corporations control more than 80% of the market for beef processing, corn seed, soybean processing, baby food, pasta, cereal, soda and more.

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[9] All data in this paragraph calculated using U.S. International Trade Commission data available at https://dataweb.usitc.gov/.
[10] Recommendations for an Improved CAFTA-DR Short Supply Mechanism – https://img1.wsimg.com/blobby/go/22dee558-ac80-4801-b2f6-9c5d799b644e/downloads/Short%20Supply%20One%20Pager.pdf?ver=1656008984085

Further, a lack of onshore and nearshore seafood processing has led to an overwhelming trade deficit in fresh and frozen seafood.

Promoting the expansion of advanced automation, manufacturing and production capabilities in the U.S. could be an effective plan to increase competition among manufacturers in critical industries, expand supply chain resilience and lower prices for consumers moving forward. This would allow the U.S. to strengthen export competition globally as well. As an example, historical increases in labor and energy costs combined with a decline in available workforce has led to a surge in automation in the European Union over the last decade. The use of automation and 24-hour production shifts has led to increased capacity, increased yields and reduced costs of goods on grocery essentials from Europe. This may be a lesson the U.S. can follow to improve production capacity and efficiency.

6. Across sectors, how does access to capital equipment, manufacturing equipment, and technology support supply chain resilience for U.S. producers, and is there a role for trade and investment policy?

For all sectors, the access to capital equipment, manufacturing equipment and technology are critical for U.S. producers. There should certainly be a trade and investment policy that facilitates access to this equipment, fosters technology development and provides training. This would certainly help companies of all sizes innovate, remain competitive and improve resiliency. Part of this policy should be an examination of current tariff policy and the impact it has on sourcing equipment or their component parts. This would include the harmful Section 301 China tariffs which continue to impact U.S. manufacturers that rely on their equipment or components from China because they can't source them from anywhere else, even the U.S. market.

Processing can drive production given the right incentives. Absent federal investment and incentives, it is unlikely that processors would see enough return on investment early on to build new capacity. However once present, the option and demand signal presented by new processing capacity can help to grow production, particularly in areas like frozen foods and small grains milling. The latter also pays dividends on the climate front, as many small grains are also carbon-sequestering cover crops.

7. How can the development of technical standards and regulations support supply chain resilience?

We strongly believe that aligning on technical standards for supply chain visibility and traceability could help foster more resilient and regenerative supply chains. Harmonizing regulatory regimes among our allies and trading partners will help level the playing field and create more competition.

8. There is concern that preferential rules of origin in free trade agreements can operate as a "backdoor" benefiting goods and/or firms from countries that are not party to the agreements and are not bound by labor and environmental commitments. What actions could be taken to mitigate these risks and maximize production in the parties? What policies could support strong rules of origin and adherence to rules of origin?

At the outset, we disagree with the concern as raised by certain domestic industries. The purpose of a free trade agreement is to increase the trading relationship among the parties subject to the agreement. Unfortunately, because of restrictive rules of origin, especially in textiles and apparel, we end up in a managed trade situation where companies are not able to fully utilize the agreement as discussed above. Because of the restrictive rules of origin in the CAFTA-DR, trade in apparel and textiles has actually dropped from the region. Companies continue to source from the region, but they may not be claiming CAFTA-DR benefits because the rules are too strict and their products don't qualify. Implementing overly restrictive rules of origin in preference programs will likely generate the same result — companies simply won't use the programs and they will act as a disincentive to supply chain diversification.

USTR should move away from outdated rules of origin and examine what rules are needed for a truly global 21st century supply chain. We have certainly seen improvements in enforcing labor and environmental standards, which should be core to free trade agreements. There is a desire for increased visibility and transparency into supply chains for a variety of reasons. Regardless of the existence of an FTA, there is plenty of incentive to ensure that sourcing partners are adhering to improved labor and environmental standards.

9. What factors are driving supply chain and sourcing decisions, and how does trade and investment policy impact them? How do companies factor geopolitical risk into their global and domestic manufacturing and sourcing decisions? How do companies take into account traceability and transparency considerations in supply chain and sourcing decisions?

There is an endless list of factors that drive a retailer's supply chain and sourcing decisions. It all depends upon the product itself, but the key factors include quality of the product, capacity requirements, availability of skilled workforce, adherence to standards and codes of conduct, adherence to rule of law, local infrastructure considerations, port capacity and sailings as well as many other considerations.

As noted earlier, companies have always included risk mitigation into their supply chain planning. This planning and a focus on supply chain resiliency has become a key focus since the pandemic as we continue to see events that are causing supply chain disruptions. There is no "one-size-fits-all" approach as each company has a different strategy depending upon their business model and what level of risk they are willing to accept within their supply chain.

Many are able to manage these risks by diversifying their supply chains. Part of the solution is also working with supplier partners and transportation providers that share core values and can respond when an incident occurs. The level of information sharing among partners has risen significantly since the pandemic. Transparency and visibility within the supply chain has become even more important over the past couple of years. That visibility is important to understand what is happening within a supply chain, attempt to identify a potential disruption event before it occurs and be able to respond accordingly to limit any potential impact.

10. To what extent is supply chain resilience shaping capital allocation decisions among industry and investors?

Supply chain resilience is not a new issue to the retail industry. As noted throughout these comments, retailers have been working for decades to address risk mitigation and the need for a resilient and agile supply chain. Despite the challenges we witnessed during the pandemic and the ongoing disruptions because of issues in the Suez Canal and the Panama Canal, supply chains have been able to respond and recover quickly. Nobody could have forecasted the dramatic shift in consumer demand that we witnessed during the pandemic when consumers shifted close to $1 billion in spending away from services to consumer goods as businesses were essentially forced to shut their doors. We saw another swing in spending as the economy opened back up again. Despite those dramatic shifts, retailers were able to respond because of the resiliency and flexibility they have within their supply chains. They have certainly recognized that overreliance on one supplier or one country is not sustainable. This needs to be further advanced with trade policy that incentivizes supply chain diversification.

11. How can supply chain resilience be measured, including the costs of insufficient resilience, and the impacts of trade and investment policy on resilience? What are appropriate quantitative or qualitative data to consider?

It is unclear if there is an accurate way to measure supply chain resilience. Part of the difficulty in this is that every disruption event that requires resiliency is different. A one-size-fits-all approach may not be appropriate. Every industry may be impacted differently by a specific event. There certainly are opportunity costs when retailers can't get their goods to market, either a component to a manufacturer or a finished product to a consumer. There are multiple efforts within the government to evaluate this issue. The Department of Homeland Security recently launched its Supply Chain Resilience Center that is attempting to answer this question.

Economics literature may suggest a way to think about the costs of disruptions. A supply chain disruption causes delays in delivery of goods. The economics literature has estimated the "tariff equivalent" of such delays: i.e., if the cost of delay were a tariff, how high would the tariff need to be to generate that cost? So, if a disruption can be measured in X days' delay in delivery, the "tariff equivalent" can be estimated, and the total cost to the U.S. economy of that "tariff" can be estimated.

12. How can U.S. trade and investment policy support supply chains that are inclusive of small, disadvantaged businesses and underserved businesses, including minority-owned and women-owned businesses, veteran-owned businesses, service-disabled veteran owned small businesses, and HUBZone businesses, and promote trade opportunities in underserved communities?

We refer again back to the comments[11] that NRF submitted to USTR regarding Advancing Inclusive, Worker-Centered Trade Policy. In addition, many retailers have their own programs aimed at providing opportunities for all of the classes of businesses as identified in the question. They are

[11] NRF Comments - USTR Worker-Centered Trade Policy 081123 – Final - https://www.regulations.gov/comment/USTR-2023-0004-1469 (08/11/23)

looking to foster those relationships both here and abroad. In order to achieve their goals, we again call upon USTR to negotiate new trade agreements focused on the needs of the 21st century global supply chain, especially rules around digital trade which are so important for many of these businesses to reach new customers outside of the U.S.

NRF appreciates the opportunity to submit written comments on this important topic. If you have any questions, please contact Jonathan Gold, NRF's vice president, supply chain and customs policy.

Sincerely,

David French
Executive Vice President
Government Relations