June 12, 2017

Mr. Edward Gresser
Chair of the Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street
Washington, D.C. 20006

Re: Negotiating Objectives Regarding Modernization of North America Free Trade Agreement with Canada and Mexico.

Dear Mr. Gresser:

On behalf of the Association of Equipment Manufacturers (AEM) and our 950 member companies that manufacture equipment and provide services for the construction, agriculture, utilities and mining sectors worldwide, we would like to thank you for this opportunity to provide comments on renegotiating the North America Free Trade Agreement (NAFTA).

Equipment manufacturers in the United States employ nearly 1.3 million Americans, contribute $159 billion to the U.S. economy and raise over $25 billion in federal and state taxes each year. Since the creation of NAFTA, our industry has benefited greatly from duty-free access to our industry’s largest two export markets, Canada and Mexico. Updating NAFTA has the potential to further strengthen North American competitiveness and incentivize investment in domestic manufacturing.

While we support efforts to modernize NAFTA, most notably through adding provisions governing electronic commerce and regulatory cooperation, it is imperative that we both maintain the current duty rates for commodities as negotiated for each industrial sector by the NAFTA participants, and work with the trade partners on further reductions toward a goal of zero percent.

Conversely, imposing any additional non-tariff barriers to cross-border commerce would risk serious harm to the U.S. economy. The imposition of tariffs, non-tariff trade barriers or overly restrictive rules of origin would cause catastrophic economic damage to domestic manufacturers. For more than two decades, equipment manufacturers have integrated supply chains throughout North America. Disrupting these supply chains would make U.S. manufactured goods more expensive to produce and less competitive in our export markets. With nearly 30 percent of equipment manufactured in the U.S. designated for export, the decline in global sales associated with these burdensome provisions would reverberate throughout the U.S. economy.

We would like to take this opportunity to highlight the following ways where an updated NAFTA can strengthen our domestic manufacturing base without hurting America’s economic prosperity.
Remanufacturing

Many equipment manufacturers offer remanufactured products. Remanufacturing uses advanced techniques to bring end-of-life components and products back to the form and function of its original condition. A modernized NAFTA should maintain the current agreement’s disassembly rule to ensure that components recovered from goods disassembled in a NAFTA party jurisdiction are considered originating in that jurisdiction as the result of such disassembly. A modernized NAFTA should also contain language stating that any party that maintains measures prohibiting or restricting the importation of used goods will not apply those measures to remanufactured goods.

Digital Trade and E-Commerce

Equipment manufacturers increasingly rely upon connected technology to add value to their machines and help their customers work more efficiently. Industrial fleets make up the largest group of connected assets in the world. In order to continue offering these innovative services, we need trade policies that address new challenges like restrictions on cross-border data flows and forced localization of computing assets. A modernized NAFTA is the perfect opportunity to set a strong precedent for practical e-commerce trade policy.

Rules of Origin

In some instances, NAFTA rules of origin are more restrictive than those in recent U.S. free trade agreements. A modernized NAFTA should adopt changes to rules of origin that make it strengthen existing supply chains and avoid any measures that could disrupt supplier relationships that benefit American manufacturing competitiveness.

- Equipment manufacturers support the adoption of Track IV rules of origin changes that would reduce the transaction costs of qualifying products for NAFTA benefits.
- A NAFTA modernization that does away with the Heavy Duty requirement would save thousands of supplier solicitations and reduce burdensome record keeping requirements.
- NAFTA contains a de minimis provision that allows goods to qualify as originating provided such materials are not more than seven percent of the net cost. A modernized NAFTA should increase the de minimis provision to 10 percent, in alignment with recent agreements.

Trade Facilitation

*Maintain NAFTA Originating Goods’ MPF and DTA Exemption*

An updated NAFTA must maintain the current exemption of the DTA (*derecho de tramite aduanero*) and MPF (merchandise processing fee) on NAFTA originating goods. Imposing the fees would add unnecessary cost to U.S. manufactured goods and American consumers.

*Digital Documents and Electronic Signatures*

The WTO Trade Facilitation Agreement allows for the digitization of customs documentation to expedite the movement of goods. Reducing the need for suppliers to print, sign, and scan back signed NAFTA documents would simplify and streamline customs procedures. NAFTA should
include language that allows for the digitization of documents and electronic signatures to reduce costs and customs delays.

**NAFTA HTS Classifications**

NAFTA countries should align their HTS tariff codes. Eliminating the chances of goods having three different, binding tariff codes across three countries would prevent confusion on customs forms. Ideally, a consistent classification system should be used by all three NAFTA countries to prevent such issues from occurring. Under a modernized NAFTA Harmonized Classification System, the NAFTA participants shall include a customs ruling process that it is mutually binding and recognized by the participant countries in the same way other Free Trade Agreements and customs unions permit it among its members.

**Allow for Trans-Shipment of Goods**

NAFTA should allow for trans-shipments, preferably with the same or similar language used in the U.S.-Chile Free Trade Agreement, where goods are still eligible if they leave customs control provided that they do not undergo further processing.

In closing, we appreciate your time and consideration of how the United States might build upon the existing NAFTA to benefit equipment manufacturers in the United States. We ask that you consider the changes summarized above as part of your efforts going forward, and AEM and its members stand ready to provide more information to your team as needed.

Sincerely,

Nick Yaksich
Senior Vice President, Government and Industry Relations
Association of Equipment Manufacturers (AEM)