MODERNIZING

NORTH AMERICAN ECONOMIC ALLIANCE

NAFTA IN THE 21ST CENTURY

- **Creating North American Growth = American Growth**
  - *NAFTA Modernization Is a Reasonable Goal:* It's a fact that NAFTA was negotiated more than two decades ago. It's perfectly reasonable to consider how to modernize the terms of trade between our countries for the realities of the 21st century.

- **How to Modernize**
  We need to keep a few guiding principles in mind in order to succeed:
  - **First, Do No Harm.** Interrupting the $1.3 trillion in annual trade across our borders or reverting to the high tariffs and other trade barriers that preceded NAFTA could put at risk many of the 14 million U.S. jobs that depend on trade with Canada and Mexico.
  - **Second, Move Quickly.** Uncertainty about the future of America's terms of trade with Canada and Mexico would suppress economic growth and may engender political reactions that undermine U.S. exporters.
  - **Third, Keep the Agreement Trilateral.** Maintaining NAFTA's three-party framework is critical as transitioning to entirely new bilateral agreements presents real risks. Such a transition could disrupt the flow of commerce and cost jobs. Also, moving to divergent rules would add to costs for U.S. companies and erode their global competitiveness.
  - **Fourth, Ensure a Seamless Transition.** As House Ways and Means Committee Chairman Kevin Brady has said, it's vital to proceed "in a manner that retains current benefits in a seamless way that does not disrupt the current agreement." This approach would simplify and expedite the process—and minimize the risk of disrupting trade.

U.S. CHAMBER OF COMMERCE

  - **Fifth, Follow TPA's Rules.** As U.S. Secretary of Commerce Wilbur Ross and others have pledged, the administration should continue to follow the procedures established in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, known as TPA. Pursuing the TPA statute's negotiating objectives and following its consultation procedures will build broader support in Congress and the U.S. business and agriculture communities for this effort.

- **Areas of Focus**

  - First, we should not abandon NAFTA provisions that have brought real benefits for Americans, including the agreement's rules on investment and procurement.

    - *Procurement*: Some have suggested eliminating the NAFTA's procurement chapter. While this might appear to be a pro-"Buy American" move at first glance, it would have the opposite effect: It would lead directly to reduced sales of made-in-USA products and harm the American workers who make them. Rather, the United States must insist on reciprocal access for procurement markets in our trade agreements—as the NAFTA provides today. Indeed, it is incorrect to say that NAFTA's procurement rules have stopped the U.S. government from "Buying American."

    - *Investment*: NAFTA's investment protections are also squarely in the U.S. national interest. Under the NAFTA, the governments of Canada and Mexico agreed to investment rules that guarantee U.S. investments will not be subject to discriminatory treatment and will be compensated in the unlikely event of expropriation. Critically, these obligations are enforced through Chapter 11's investor-state dispute settlement (ISDS) provisions, which provide for neutral arbiters to uphold these investment protections. In this regard, the NAFTA should be modernized to ensure that all sectors, including financial services, as well as investment agreements are afforded the same level of protection and enforcement of these key investment protections.

  - We should seek to include provisions relevant to trading in the 21st century, such as digital commerce, intellectual property, customs modernization, rules governing state-owned enterprises, competition policy, and regulatory and technical barriers to trade.

  - Incorporating the topics mentioned in the previous bullet while following the five key principles will result in a quick and mutually beneficial modernization of the agreement, leaving our businesses, workers, farmers, ranchers, and consumers better off.

  - Enhancing Buy American provisions, which certainly sounds like a smart policy choice, would simply invite similar actions from the governments in Canada and Mexico to the detriment of U.S. exporters, while complicating government projects at home.

  - Additionally, each government should seriously study the evidence that tightening NAFTA's already stringent rules of origin could backfire—and actually reduce North American content by encouraging firms to just pay WTO tariffs. The result in this scenario would be less investment and employment in North America. Manufacturers in some sectors have indicated that the NAFTA's stringent rules of origin already suppress their production in North America.