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June 12, 2017

Edward Gresser, Chair, Trade Policy Staff Committee  
Office of the United States Trade Representative  
600 17th Street N.W.  
Washington, D.C. 20508

RE: Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico (USTR-2017-0006)

Dear Mr. Gresser:

We write in response to your request for comments on negotiating objectives regarding modernization of the North American Free Trade Agreement (NAFTA) with Canada and Mexico published in the Federal Register on May 23, 2017. Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico (USTR-2017-0006), 82 Fed. Reg. 23699 (May 23, 2017). The United States is not currently a participant in any international agreements involving maritime services, including NAFTA. For the reasons set forth below, we strongly urge you to continue to exclude maritime matters from NAFTA.

The United States Maritime Coalition (USMC) represents U.S. maritime interests that operate, crew, and build U.S.-flag ships for the domestic and international trades. It is an industry that provides significant economic, homeland, and national security benefits to the United States. Importantly, as has been noted by the U.S. Government Accountability Office, an independent, nonpartisan agency that works for Congress, “the military strategy of the United States relies on the use of commercial U.S.-flag ships and crews and the availability of a shipyard industrial base to support national defense needs.”

Over the last 30-plus years, the maritime industry has often expressed its views to the Office of the United States Trade Representative (USTR) opposing possible coverage of maritime matters under the multilateral, regional, and bilateral free trade agreements (FTAs), including NAFTA. The industry — carriers, dredgers, shipyards, and seafarers — have had a simple message: it strongly opposes the inclusion of maritime matters in trade agreements because it is detrimental to the United States’ national defense and economic interests. Recognizing these negative impacts to the United States, the USTR and every Administration worked to ensure maritime matters were not included in the General Agreement on Tariffs and

*...Dedicated to keeping the American flag flying on all waters*

Trade (GATT), the General Agreement on Trade in Services (GATS), or any regional or bilateral trade agreements to which the U.S. is a party.

Today, the:

- GATT permanently grandfathers the U.S.-build requirement of our cabotage laws.
- GATS effectively excludes maritime transportation services because no commitments of any kind have been made by the U.S. Government.
- NAFTA expressly “reserves the right to adopt or maintain any measure relating to the provision of maritime transportation services and the operation of U.S.-flagged vessels” and comprehensively excludes United States’ maritime transportation goods and services, including under Annexes 301.3, 307.1, and 307.3; Annex II covering water transportation services; and Annex IV exempting treatment for maritime matters.
- Regional and bilateral U.S. FTAs also have expressly excluded maritime transport services (addressing only the landside aspects of port activities).

By taking these steps in NAFTA and all subsequent trade agreements, the United States did not in any way restrain or limit our ability to maintain and promote a strong U.S.-flag fleet and maritime industry in domestic and foreign commerce or to ensure a shipbuilding industrial base to meet national defense needs. The United States also retained its effective unilateral ability to open up foreign markets in maritime and maritime-related services.

The U.S. maritime industry significantly contributes to our economic, national, and homeland security. Nationally, the domestic maritime industry supports nearly 500,000 jobs, a gross economic output of over \$92.5 billion annually, and worker incomes of \$29 billion annually with a \$10 billion tax impact. There are approximately 40,000 vessels in the American domestic fleet. The U.S. shipbuilding and repairing industry contributed almost 400,000 jobs, \$25 billion in labor income, and \$37 billion in GDP each year.

We do not believe that anything has changed here at home or abroad that would alter our view or change the U.S. Government’s position with respect to the inclusion of maritime matters in NAFTA or any other trade agreement. Moreover, nothing has been presented that would indicate why or how the inclusion of maritime in a modernized NAFTA would benefit our American maritime industry and the United States’ national and economic security.

We deeply appreciate the U.S. Government’s support for American cabotage laws and the American maritime industry. There is no justification for any aspect of the domestic maritime transportation services to be the subject of discussion or covered by NAFTA renegotiations; to do so could mean the end of U.S. ownership and crewing of vessels sailing our waters, which is why maritime matters were excluded from NAFTA. Moreover, the GATT

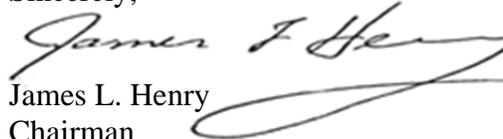
permanently grandfathered the U.S. build requirement of our cabotage laws governing cargo, passengers, dredging, towing, and fishing, which NAFTA explicitly recognizes. That grandfather was fought and “paid for” during those negotiations. There is no reason to open domestic maritime services or the grandfather for discussion in NAFTA renegotiations, or in any other trade context for that matter.

International shipping, auxiliary services, and access to and use of port facilities also must not be included in a modernized NAFTA or any other trade agreement. To do so would imperil the ability of the United States to maintain and support in international commerce a U.S.-flag fleet necessary for national defense, homeland security, and economic security purposes (e.g., the Maritime Security Program and cargo preference laws). Including maritime matters in a modernized NAFTA or other trade agreements also would jeopardize the ability of the United States to open up foreign markets in these areas through a combination of bilateral negotiations backed by exceptionally effective unilateral trade remedies administered by the Federal Maritime Commission (i.e., the Foreign Shipping Practices Act and Section 19 of the Merchant Marine Act of 1920).

Our laws and regulations are clear and transparent. Our international trades are liberalized, as evidenced by the fact that roughly 98 percent of international trade with the United States occurs on foreign-flag vessels. NAFTA’s provisions excluding maritime matters, including the five cabotage laws — cargo, passengers, dredging, towing, and fishing — should be preserved as we do not believe it is desirable, appropriate, or necessary to include maritime matters in a modernized NAFTA or any other trade agreement context.

We appreciate the opportunity to comment on this important matter.

Sincerely,



James L. Henry  
Chairman  
U.S. Maritime Coalition

cc: Joel Szabat  
Executive Director  
Maritime Administration  
U.S. Department of Transportation