



April 22, 2024

Via Electronic Submission

Juan Millan
Acting General Counsel
Office of the United States Trade Representative
600 17th St., NW
Washington, DC 20508

**Re: Comments on Promoting Supply Chain Resilience—
Docket Number USTR—2024-0002 (FR Doc. 2024-04869 Filed 3-6-24)**

Dear Mr. Millan:

The U.S. Chamber of Commerce (Chamber) appreciates the opportunity to submit the following comments in response to the Office of the U.S. Trade Representative (USTR) Federal Register notice (FRN) soliciting input on “Promoting Supply Chain Resilience.” The Chamber is the world’s largest business federation, representing the interests of hundreds of thousands of small businesses, a majority of the largest U.S. companies, 1,500 state and local chambers of commerce, 500 national associations, and 130 American Chambers of Commerce abroad. Consequently, our members’ interests in international trade, investment, and supply chains are both broad and deep.

Rebutting the Notice’s “Background”

The FRN’s background states in part: “Over the last several decades, however, U.S. trade and investment policy—including rules related to supply chains—were designed to incentivize short-term cost-efficiency and drive tariff liberalization, with the goal of creating an unfettered global marketplace... This is the race to the bottom... It has also contributed to the hollowing out of the American industrial base and vital U.S. jobs, and harmed many of our communities and working families.”

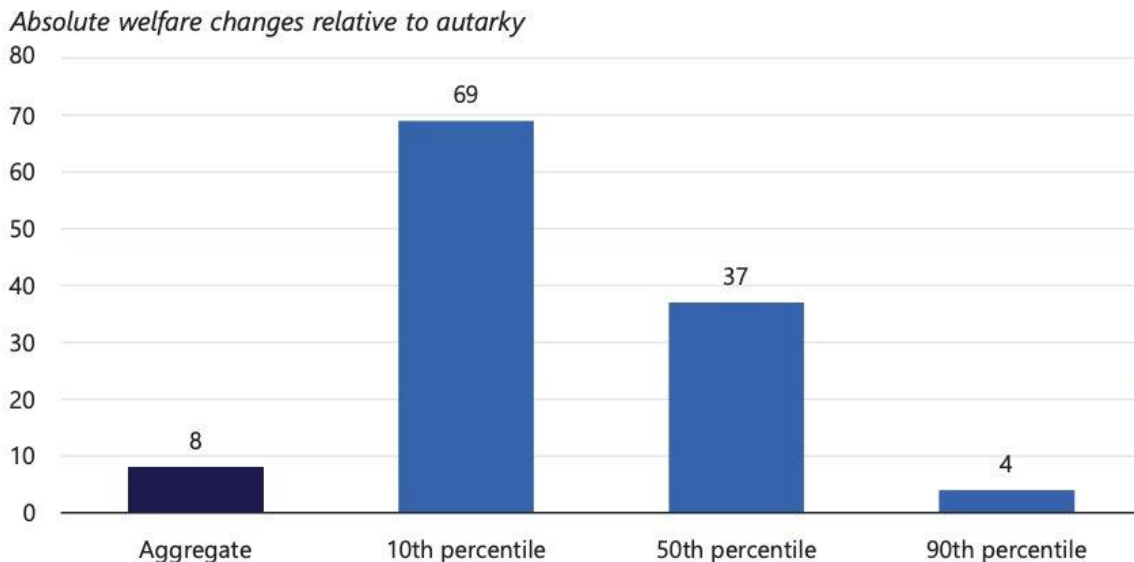
This series of unsupported assertions echoes the narrative advanced [again](#) and [again](#) by select Administration officials over the past year. For a brief corrective, consider the March 2024 Annual Report of the White House Council of Economic Advisors, which states in part: “There are well-documented 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).”

Indeed, the economic consensus over many decades has held that the gains from trade are very large. While international trade contributes to competition and disruption in the domestic market, the facts show that the overwhelming majority of Americans derive great benefits from international trade and investment—exceeding costs by a very wide margin. This is certainly true over the “last several decades” emphasized in the FRN, which appears to be an allusion to the three decades since the creation in 1994 of the World Trade Organization (WTO) and the entry-into-force of the North American Free Trade Agreement (NAFTA).

To elaborate, the CEA report shows that the gains from trade in the United States accrue overwhelmingly to the lowest-income Americans far more than those earning the highest incomes:

Figure 5-13. Pro-Poor Bias in Gains from Trade in the United States (Percent Welfare Gain)



Council of Economic Advisers

Source: Fajgelbaum and Khandelwal (2016, table V).

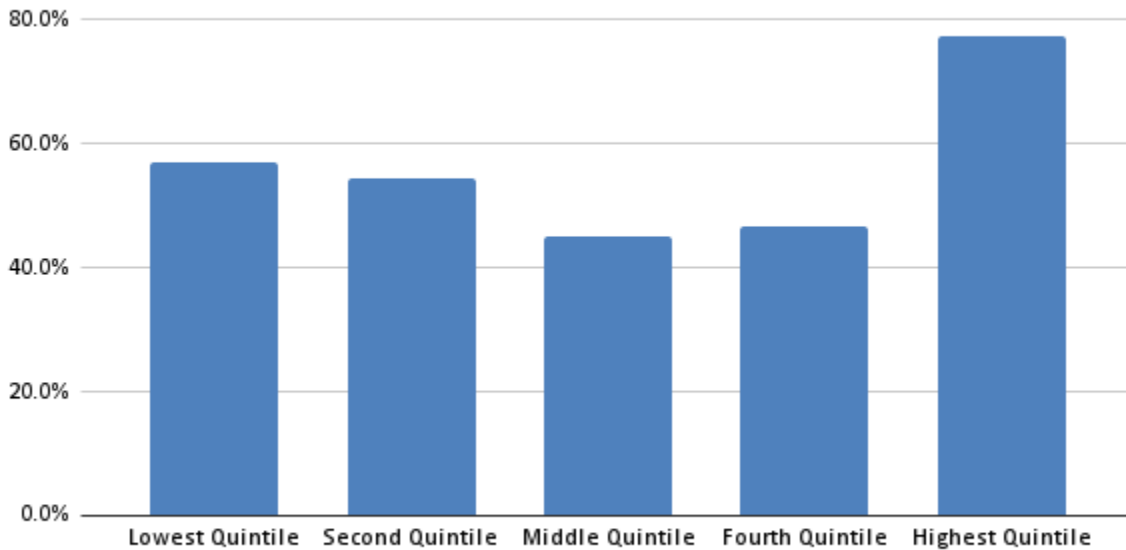
2024 Economic Report of the President

More broadly, the FRN’s background and the speeches cited above paint a picture of three decades of “American carnage” that they ascribe to trade policy. However, the real economic record of this period of growth in international trade and investment is overwhelmingly positive. The Chamber has never hesitated to identify the significant industrial challenges facing the United States and the shortcomings in

U.S. policy over this period; however, the broad strokes of the FRN’s condemnation are incorrect.

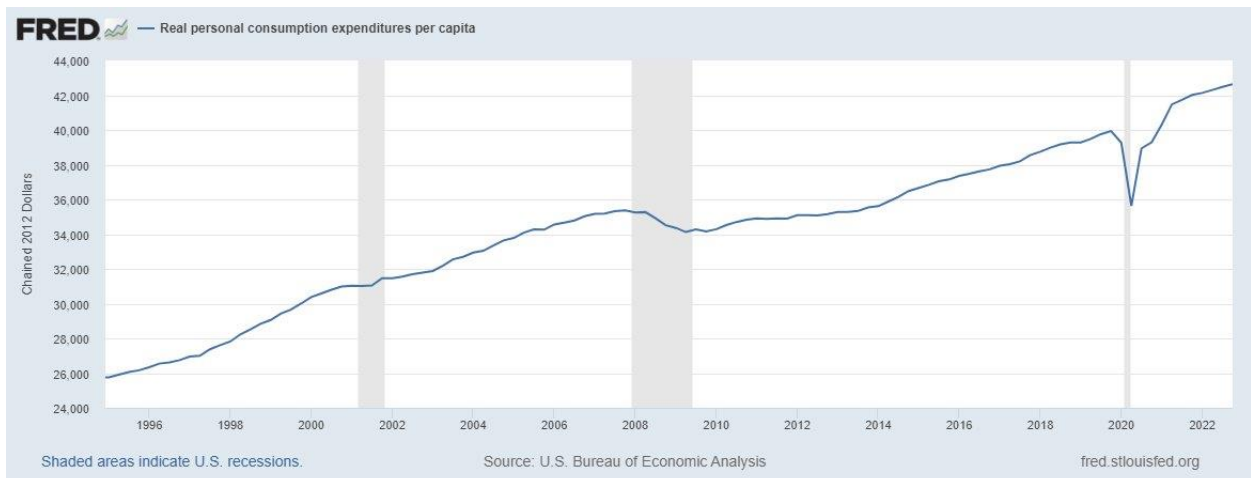
To this point, real household income after transfer payments and taxes has risen since 1994 by well over 40% for every quintile, with the lowest-income quintile enjoying some of the strongest gains (well above 50%).

Change in Real Average Household Income By Quintile, 1994-2019

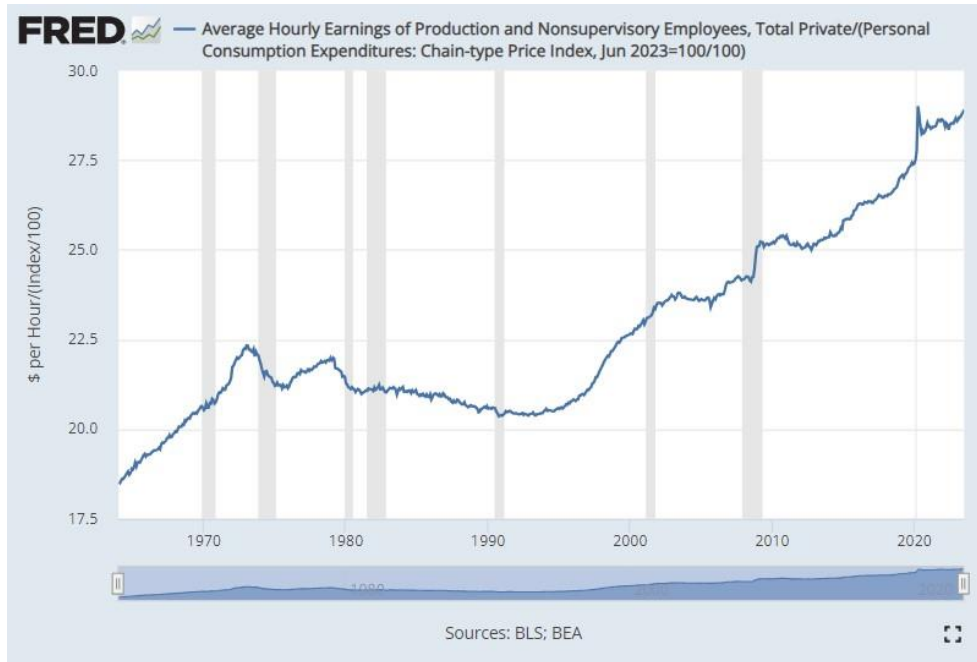


Source: <https://www.cbo.gov/publication/59509>

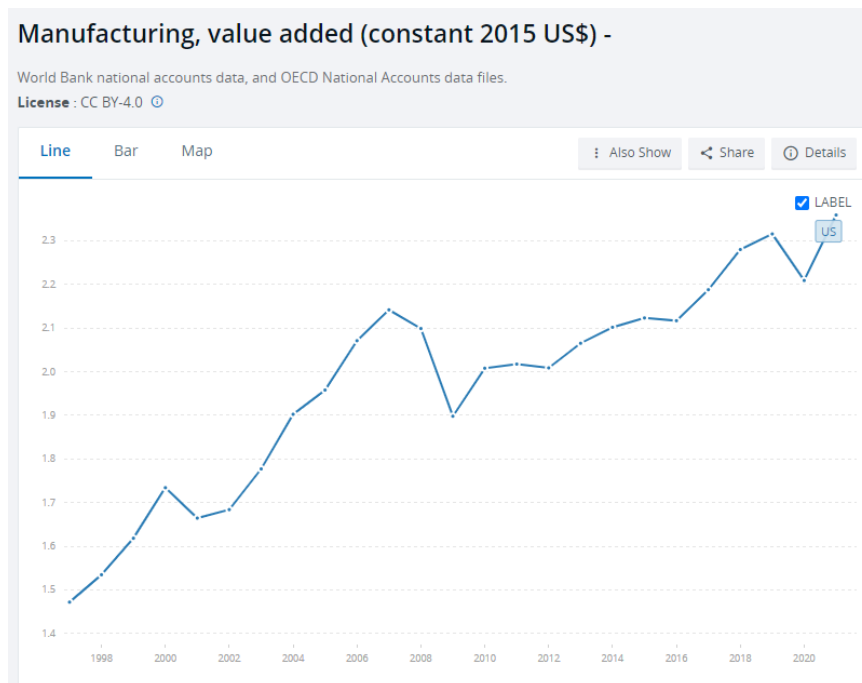
Indeed, the period since 1994 has seen Americans’ real personal consumption expenditures per capita—one of the broadest measures of Americans’ real living standards—rise by more than 60%:



Other data show strong gains for “production and nonsupervisory employees,” a category of working Americans whose average hourly earnings emerged from stagnation and began to rise significantly and steadily around 1994.



Finally, the Administration’s frequent allusions to the “hollowing out of the American industrial base” is belied by the data, which show U.S. manufacturing value-added rising by more than 60% since the mid-1990s.



Certainly some U.S. industries have suffered significant losses. This has been particularly true in low-wage industries such as apparel manufacturing, which employed more than 1 million Americans in the 1980s but just [86,000](#) in early 2024. However, the U.S. economy has generated more than 45 million net jobs over the past 30 years. The number of U.S. jobs that depend on trade now exceeds [41 million](#)—and jobs tied to trade pay, on average, 15% to 20% more than those that are not.

Setting the record straight on these broad issues is important to any consideration of the specific supply chain-related questions included in the FRN.

QUESTIONS

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?

The Domestic Roots of International Competitiveness

With regard to fostering growth and investment in domestic manufacturing and services, U.S. public policy should aim to foster the expansion of high-skill, high-wage, high value-added manufacturing, services, and agricultural industries. Enhancing the competitiveness of these industries is achieved in part through a domestic “running faster” agenda that includes investment in infrastructure, workforce development, development of the full breadth of U.S. energy resources, and a sensible approach to immigration.

The Administration should work with industry to identify impediments and disincentives to investment, manufacturing, and services growth in the United States. Officials should take care to avoid policy “own goals” that make domestic production more costly. They should carefully consider all new policy and regulation—before it is enacted—to ensure it does not unintentionally create additional impediments to growth or disincentives to development of the U.S. economy and industrial base.

A Market-Opening Trade Agenda

In addition to getting the right domestic policies in place to create a pro-growth, market-friendly investment environment, the Administration should do much more to attune its trade and investment policy to support U.S. industries. It is a truism that 95% of the world’s consumers and 80% of its purchasing power lie outside the United States, but these facts are never lost on the U.S. business community. A “make it in America” agenda such as that supported by the Administration cannot succeed if

U.S. businesses—from manufacturing and business services to agriculture—cannot sell their products abroad on competitive terms. For the many industries where economies of scale are essential to competitiveness, “going global” is indispensable to any successful business strategy.

In this regard, the Chamber is [encouraged](#) by work concluded by the Commerce Department on the Indo-Pacific Economic Framework (IPEF) Agreement Relating to Supply Chain Resilience, which may play a valuable role in the event of future supply chain disruptions. On a similar note, the Administration’s supply chain workstreams on critical minerals and semiconductors in fora such as the U.S.-EU Trade and Technology Council, the State Department’s International Technology Security and Innovation (ITSI) Fund, and others have the potential to strengthen critical supply chains with key allies.

However, more action is needed. Unfortunately, U.S. access to foreign markets is inferior to that of many of our chief trade competitors. According to a [report](#) by the World Economic Forum, the U.S. ranks a disastrous 130th out of 136 economies in terms of the “tariffs faced” by our exports overseas. (The report is dated, but very few actions in the past eight years have lowered the “tariffs faced” by U.S. exporters.) A thicket of “non-tariff” barriers tends to move in tandem with tariffs.

One major reason American exporters are often at a disadvantage in key foreign markets is that so many other countries have negotiated free-trade agreements (FTAs) with one another. FTAs lower the steep tariffs other countries levy on U.S. exports as well as non-tariff barriers. U.S. exports to other countries face an [average tariff of 6.8%](#), roughly three times the level the U.S. imposes.

According to the WTO, [361 bilateral or plurilateral FTAs](#) are in force around the globe today—up from about 100 at the turn of the century. The EU has trade agreements in place with [78 countries](#), Canada and Mexico more than 50 each, and China 35. Africa is hard at work making its continental free-trade zone a reality. USTR’s assertions that new trade agreements have gone out of fashion are privately greeted with disbelief by foreign trade officials.

Meanwhile, the United States has FTAs with just 20 countries, a figure that has been unchanged for more than a decade. This means U.S. exporters are often among a minority paying tariffs to sell their wares in key markets.

Officials have been passive in the face of these facts despite the remarkably positive record of America’s FTAs. While U.S. FTA partners represent just 6% of the world’s population outside the United States, in recent years they have regularly purchased nearly half of all U.S. exports. U.S. exports to new FTA partner countries

have tended to grow roughly three times as rapidly on average in the five-year period following the agreement's entry-into-force as the global rate of growth for U.S. exports, as Chamber [research](#) shows. Moreover, while USTR officials have recently said FTAs "pit" one sector of U.S. industry against another, the facts show that America's FTAs have delivered [huge benefits](#) for U.S. [manufacturers](#), [agriculture](#), [services](#), and [small businesses](#) as well as the workers they employ.

The United States and other market economies face a formidable challenge today from China's model of state capitalism. Faced with demographic challenges and a painful contraction in its property sector, China appears to be doubling down on non-market policies that emphasize even greater investments in manufacturing, which are subsidized on a scale qualitatively different from other countries. China's tepid domestic market cannot possibly absorb the production arising from its substantial overcapacity in sectors from steel and solar products to EVs, and as a result China is endeavoring to externalize its internal imbalances: It is attempting to export its way out of its industrial woes.

Responding to these challenges is a daunting task, but abandoning a trade agenda focusing on strengthened trade ties with market-oriented economies in Africa, the Americas, Asia, Europe, and the Middle East only exacerbates this challenge. The House Select Committee on the CCP is only the latest of the bipartisan voices to call for a robust "third-country agenda" that includes market-opening trade agreements with allies and partners in diverse regions. The Chamber urges USTR to reconsider its reticence on this front.

In addition, strengthening trade and investment ties with allies is particularly important in defense and technology sectors where U.S. statutes restrict or prohibit government contracts for materials from specified foreign entities (e.g., specialty metals, rare earth elements). While these matters are not typically addressed in FTAs, it is vitally important to consider the use of treaties and other instruments—and waivers in the case of Buy American rules—that impede critically important co-production with allies in the defense and aerospace sector.

The Miscellaneous Tariff Bill

There is more that can be done in U.S. trade policy to enhance the competitiveness of domestic manufacturers by lowering their production costs. For example, the U.S. levies duties on a wide range of inputs used by U.S. manufacturers that simply are not available from domestic sources. In many cases, these are raw materials or low value-added parts and components that cannot be produced domestically at scale or at a competitive price.

For several decades, a partial solution has been Miscellaneous Tariff Bills (MTBs), which temporarily suspend tariffs on a carefully vetted list of imported goods, most of which are inputs used by U.S. manufacturers. The U.S. International Trade Commission (ITC) confirms that products proposed for tariff relief are not made in the U.S. or are unavailable in sufficient quantities to meet the needs of U.S. businesses.

Unfortunately, the last iteration of the MTB lapsed more than three years ago, and the newest one has been on hold. Meanwhile, manufacturing offshore often means not having to pay these duties on inputs. [Canada](#), for example, worked with its domestic manufacturers to permanently end duties on many manufacturing inputs. USTR should work more actively with the Congress to seek passage of the MTB.

Tariff Relief

Similarly, it would be entirely appropriate to respond to the most compelling pleas for relief from the Section 301 tariffs on goods from China. More than a few U.S. manufacturers—including producers of telecom equipment, faucets, grills, and more—make their products in the U.S. but depend on some imported inputs. Absent tariff relief, the incentives these manufacturers face are clear: They could move their operations offshore and achieve big cost savings within months—at the cost of laying off thousands of Americans.

Meanwhile, these companies' competitors often import finished goods into the U.S. duty free. In other words, the Section 301 duties punish American companies for manufacturing their products in the U.S.—and give an advantage to those manufacturing offshore. Multiple administrations have declined to remedy this situation. Establishing a streamlined, responsive petition process for firms to seek longer-term or permanent relief from the Section 301 tariffs is long overdue.

In addition, the Administration should consider elimination of other tariffs on critical inputs such as titanium sponge, a product for which there is no domestic production at present. Tariffs on such input materials negatively impact product costs, reduce the competitiveness of domestic manufacturers, and tend to drive producers of downstream products offshore.

Professional and Business Services and Digital Trade

It is laudable that this FRN also inquires about services and trade. Professional and business services employ nearly [23 million](#) Americans—in other words, approximately 75% more Americans than manufacturing—and wages in these fields are 25% higher on average than those in manufacturing (average hourly earnings of \$41.50 versus \$33). This includes subsectors such as software and ICT services,

audiovisual, architecture, accounting, engineering and project management, banking, insurance, and advertising.

By far the most important trade issue for these industries is digital trade because approximately two-thirds of business and professional services can now be traded digitally. As shown in a recent Chamber report, [The Digital Trade Revolution: How U.S. Companies and Workers Benefit from Digital Trade](#), digital trade supports more than 3 million American jobs at companies of every size, sector, and state (see [details by state and congressional district](#)). Companies in fields including professional and business services, manufacturing, arts and entertainment, and agri-business increasingly rely on the digital economy to find customers, manage their internal operations, coordinate research and development, strengthen compliance operations, and ensure secure payments.

Strong digital trade rules have opened international markets for American service providers, manufacturers, and agri-food companies that rely on the global reach of a range of U.S. services and technology providers to succeed. They have also helped small and medium-sized businesses to launch, find customers in new markets, navigate customs and fulfillment challenges, and secure payment from overseas. In 2022, digital-delivered services accounted for more than 67% of all U.S. services exports and 20% of all U.S. exports.

Even so, the potential for service industries to engage in international trade is almost untapped. One in four U.S. factories exports, but just one in every 20 providers of business services does so.

However, global competition looms large. Foreign competitors, particularly the EU, India, and China, are aggressively pursuing their own digital economy ambitions. In addition, barriers to digitally tradeable services trade are proliferating, threatening to shut out U.S. firms and the workers they employ. The spread of digital trade barriers has been documented by the Information Technology & Innovation Foundation, which has found that “the number of data-localization measures in force around the world has more than doubled in four years. In 2017, 35 countries had implemented 67 such barriers. Now, 62 countries have imposed 144 restrictions—and dozens more are under consideration.” Not only do U.S. firms face proliferating digital trade barriers, but discriminatory policies that target American companies are also increasingly common. The experience of Chamber member companies affirms this trend and its widespread nature.

This is why USTR must recommit the United States to leadership on digital trade. The Chamber has addressed this matter at length ([here](#), [here](#), and [here](#), for example) and will continue to do so in the weeks and months ahead.

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?

As noted above, U.S. manufacturing value-added has increased by more than 60% since the mid-1990s, and U.S. professional and business services—a supersector that employs 75% more Americans than manufacturing at high wages—has been positively booming for decades. While some manufacturing has indeed declined sharply in the United States, this trend has been most notable in low-wage sectors that have moved away from high-wage economies broadly. U.S. government policy should not attempt to “reshore” jobs associated with low-skill, low-wage manufacturing for such products as wire harnesses for autos, which exemplify much of the “offshoring” the FRN mentions. In general, however, the answers to question no. 1 above are applicable here as well.

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?

A policy environment conducive to the growth of high-skill, high-wage, high value-added industries—and creating a “race to the top” in such industries—is a laudable goal. Examples of U.S. policies that help accomplish these goals include strong protections for intellectual property (IP) rights, a measured approach to regulation of the booming digital economy, and respect for U.S. competition law’s consumer welfare standard. It is unfortunate that the Administration has at times sought to undermine U.S. competitiveness on a number of these fronts (e.g., with its proposal to exercise “[march-in rights](#)” that would confiscate property and undermine innovation, its [freeze on new LNG exports](#) to our European allies and others, and its immoderate expansion of the reach of [Buy America](#) rules).

American companies are typically seen as exemplary investors and employers around the globe. Their investments overseas tend to be made for the long haul, and partly as a result, foreign affiliates of U.S. multinationals offer some of the highest pay, most generous benefits, and best working conditions of employers in the countries where they operate. For these reasons, U.S. investment is wooed aggressively by foreign governments, a fact that staff at the Chamber observe daily. Because these are long-term investments, executives know that being “good corporate citizens” that hew to high standards makes good business sense.

In this sense, American companies contribute to a “race to the top” in the countries where they operate in the regular course of business. In Latin America and

the Caribbean, for instance, U.S. companies today directly employ nearly 3 million people and indirectly support employment for two to three times as many. U.S. trade with the hemisphere—approaching \$2 trillion annually—fosters additional job creation, economic development, and rising living standards.

This positive dynamic is arguably far more important in advancing human progress than any number of international conventions on labor or environmental rights. As U.S. Chamber President and CEO Suzanne P. Clark said in her 2024 [“State of American Business”](#) address, U.S. companies and free enterprise generally have:

“served the cause of humanity around the world in astonishingly effective ways. Over the past few decades, a move to market liberalization; the establishment of a fair, rules-based trading system; and democracies choosing to foster competition in their economies have resulted in:

- *A 70% reduction in extreme global poverty;*
- *A rise in global life expectancy from 64 years to 73;*
- *A plummet in illiteracy rates from 25.7% to 13.5%; and*
- *A decrease in child labor from 16% to less than 10%.*

“Anyone not moved by those numbers might be moved by these words from another champion for capitalism—U2’s Bono. He said, ‘I’ve had an epiphany in recent years. It has upended everything for me. In dealing with poverty here and around the world, welfare and foreign aid are a Band-Aid. Free enterprise is a cure. Entrepreneurship is the most sure way of development.’”

U.S. trade agreements have traditionally included robust and enforceable labor and environmental standards as part of a broader range of commitments intended to incentivize investment and unlock the entrepreneurship and dynamism that contribute to development. Notably, USTR’s new proposed approach to trade does not appear to have resulted in any trading partner undertaking comparable enforceable commitments even in the areas of labor and environment which USTR indicates it wishes to prioritize.

To the question above about trusted networks among regional and like-minded trading partners and allies, one excellent example of a proposal to support a “race to the top” is the Medical Supply Chain Resiliency Act, which would strengthen medical supply chains with key U.S. allies, improve medical supply chain resilience, and bolster U.S. national security and public health. Medical supply chains are critical to delivering health-related goods and services swiftly, safely, and efficiently to patients.

This bill would empower the United States to negotiate Trusted Trade Partner Agreements that would eliminate barriers to trade and harmonize regulations with U.S. allies that meet high standards, including a proven track record of maintaining open trade with the United States during emergencies, complying with trade agreements, and protecting intellectual property. The Chamber urges USTR to lend its support.

In addition, please see our answer below to question no. 9.

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?

A sector-by-sector approach to these questions is appropriate given the tremendous variation in circumstances. First, however, a few general points:

First, the diversified sourcing options provided by open trade can make economies more resilient. In recent years, a wide variety of product markets where demand is almost entirely met by domestic production have been subject to disruption. Domestic production of infant formula accounted for 98% of U.S. consumption prior to the shortages that struck in 2022, but that fact provided vulnerability rather than protection against disruption; indeed, suspending import duties was part of the solution. Similar situations unfolded in connection with a 2021 shortage of nitrogenous fertilizer in the wake of a hurricane and the avian flu-related 2023 egg price spike. These examples show that autarky does not guarantee resilience.

Second, shortages caused by an unusual surge in demand cannot be mitigated through “onshoring.” To illustrate, shortages of personal protective equipment (PPE) were severe in the first year of the Covid-19 pandemic. However, the U.S. International Trade Commission (ITC) issued a report in December 2020 on [Supply Chain Challenges for COVID-19 Related Goods](#) that found U.S. production of N95 respirators accounted for “roughly 80 percent of the U.S. market” prior to the pandemic. In other words, production for this particular product was never sent “offshore.” Rather, painful shortages arose because the pandemic caused demand to rise 40-fold. Such a difficult-to-address surge in demand was foreseen in decades of pandemic preparedness plans, which advised that the only way to get ahead of a prospective shortage would be [to stockpile key products in advance](#), an endeavor that was never well funded.

For many other products, a Covid-19-era “demand surge” arose largely from U.S. government outlays to state and local governments, households, and businesses. Congressional appropriations—signed into law in the Trump and Biden Administrations—provided more than \$6 trillion in emergency supplemental funding to address the pandemic. Partly as a result, U.S. spending on durable goods was an astonishing 25% higher in 2021 than two years earlier. This was an unprecedented surge in demand, and while production of goods ranging from semiconductors to white goods actually expanded briskly, industry simply could not keep up with the breakneck expansion in demand fueled by government outlays.

As Chris Miller wrote of the semiconductor industry in *Chip War: The Fight for the World’s Most Critical Technology*: “There are few industries that sailed through the pandemic with so little disruption.... The substantial increase in chip production during both 2020 and 2021 is not a sign that multinational supply chains are broken. It’s a sign that they’ve worked.” Public policy must grapple with the challenge of devising public policies to address shortages driven by an extraordinary increase in demand that outpaces even rapidly growing supply.

As a corollary to this point, Covid-19 demonstrated that some trade measures purportedly intended to secure supply can in fact exacerbate shortages arising from demand shocks. Export restrictions unfortunately proliferated dramatically in the early days of the Covid-19 pandemic, and in some cases they ended up delaying shipment of critical goods for development and manufacturing of finished medical goods as well as final products. Global supply chains are integral to the swift manufacturing of a wide range of products in an emergency, and policies that disrupt supply chains in favor of domestic supply can backfire.

Third, supply chain resilience based on “nearshoring,” “friend-shoring,” or “ally-shoring” should not rely on a too-narrow list of countries. Just as reliance on a single foreign source for critical inputs can obviously be a vulnerability, relying on only a few may be less than optimal.

To this point, WTO Director-General Dr. Ngozi in January 2023 commented: “When people talk of friend-shoring, I get a little nervous because I don’t know who is a friend... When you say that, I never hear any countries in Africa mentioned.” The U.S. business community certainly agrees with this perspective. Given that 95% of the world’s consumers and 80% of its purchasing power lie outside the United States, American companies are keen to strengthen their trade and investment ties across Africa, the Americas, Asia, Europe, the Middle East, and Oceania. While obvious “unfriends” such as state sponsors of terrorism stand out, the list of countries where U.S. commercial and other interests are well served by strengthening these ties is long.

Swift and long-term renewal of the Generalized System of Preferences (GSP) and the African Growth and Opportunity Act (AGOA) would help in this regard, and the Chamber urges the Administration to be much more forcefully engaged on these matters with the Congress than it has been to date. As noted above, opening FTA negotiations with suitable interested partners would also show the Administration's willingness to act on its rhetoric about supply chain diversification.

Further, U.S. officials refer frequently to America's strategic competition with China—which has become the top trading partner to [more than 120 countries](#) and has [elevated](#) its diplomatic, strategic, and other ties with scores of nations. From this perspective, officials should certainly see the value in U.S. companies enhancing their commercial ties in this way.

In addition to these general comments, the specific situation in different industry sectors varies considerably and is worthy of closer scrutiny.

Biopharmaceutical Supply Chains

Public misconceptions about this sector's supply chains abound. About half of the innovative biopharmaceutical products Americans consume are manufactured domestically, and most of the rest comes from countries that are close allies. The same is true of the active pharmaceutical ingredients (API) used to produce those medicines.

According to a [report](#) by the research firm Avalere, 53% of the API used to manufacture innovative biopharmaceuticals consumed in the United States is produced domestically, and most the remainder (nearly 40% of the total) is produced in Europe, Japan, and Singapore. In other words, the API used to manufacture innovative pharmaceutical products consumed in the United States is overwhelmingly sourced domestically or “friendshored” from trusted partners.

The innovative biopharma sector has proven resilient. The FDA has approved [more than 20,000 drug products](#) for marketing in the United States. But just over 100 were in short supply before the pandemic, according to [FDA tracking](#), and that figure hardly budged in the Covid-19 pandemic. Some specific shortages have drawn public attention in recent years, but most of these have arisen from specific and idiosyncratic causes that do not lend themselves to trade-related supply chain solutions. Indeed, the resilience of the U.S. biopharma supply chain derives from its geographic diversity, and this strong public health industrial base provided a firm foundation for the industry's development of vaccines and therapeutics of great efficacy at record speed.

For generic pharmaceuticals, which represent more than 90% of all medicines consumed in the United States, the market realities are distinct. Here, concern has focused on reliance on a single source of API (i.e., China) for many products. For generics and the API used to make them, the challenge is identifying policy fixes that will help and not hurt.

The Biden Administration in 2021 rightly rejected an initiative it inherited that would have withdrawn many medicines from coverage under the WTO Government Procurement Agreement. The ostensible aim of that proposal was to impose domestic preferences. However, the Administration withdrew the measure when it rightly perceived it would fail to incentivize onshoring manufacturing—of finished products or of API—because federal government purchases represent such a small share (approximately 3%) of the pharmaceuticals consumed in the United States.

The Association for Accessible Medicines (AAM), which represents manufacturers of generic drugs, issued [A Blueprint for Enhancing the Security of the U.S. Pharmaceutical Supply Chain](#). It found that long-term, guaranteed price contracts would be required to incentivize domestic production of API for generics in a cost competitive fashion. Establishing a facility to manufacture API for generics domestically is no small task: Billions in investment and years of planning are required for such a venture, and there do not appear to be major developments on this front. Meanwhile, official U.S. actions are far more modest (e.g., in late 2023 the Department of Health and Human Services [identified](#) “\$35 million for investments in domestic production of key starting materials for sterile injectable medicines”).

On a more hopeful note, recent research has been intriguing: According to [research](#) from Washington University’s Olin Business School in St. Louis, “currently idle U.S. generic drug manufacturing capacity could keep the nation’s drug supply chain ‘secure, robust and resilient.’” The report indicates that aggregate excess capacity at U.S. generic pharmaceutical manufacturing sites is nearly 50%. If policymakers in the U.S. are serious about diversifying sources of API for generics, tapping this underutilized capacity would be a relatively cost-effective way to ramp up domestic production. Long-term contracts would be required to give industry the assurance needed to take on the higher costs involved relative to offshore locations.

More broadly, sectoral initiatives such as the Medical Supply Chain Resiliency Act (see above) would address regulatory and other obstacles that can serve as impediments to greater manufacturing investments with allies, which would also contribute to greater supply chain resiliency.

Critical Minerals and Metals

The pressing need for more critical minerals and the precarious nature of supply is widely agreed. A growing consensus of experts warns that the world will need to increase production of minerals such as graphite, lithium, and cobalt nearly 600% by 2050 to keep up with rising demand for products prominent in the energy transition, including electric vehicles, solar panels, and wind turbines.

However, China is a dominant provider to the United States for many of our critical minerals needs. With Russia's invasion of Ukraine also underscoring critical dependencies for specific minerals and metals, a comprehensive strategy that embraces both new domestic mining, sourcing from a diverse array of other partner nations, investment in infrastructure development for regional critical minerals recycling facilities, and new technology for sourcing critical minerals is vital to any blueprint for strengthening the U.S. critical mineral supply chain.

Unfortunately, the Administration's recognition of the need to diversify U.S. sources of critical minerals—including through domestic production—has yet to translate into the kind of bold action required for substantial progress. Despite investing billions of IRA funds into EVs and battery development, the Administration continues to slow roll crucial mineral projects that will also be necessary to achieve their clean energy objectives. In February 2022, for example, the Administration cancelled two leases for the proposed Twin Metals mines in Minnesota, halting a project that would have provided a domestic source of nickel, copper, cobalt and platinum. This move came just a few months after the United States Geological Survey added nickel to its updated critical minerals list due to the current lack of domestic production.

That is one of many examples of the Administration imposing roadblocks on the domestic development of minerals necessary to meet its policy goals. Another is the Ambler Access Project in Alaska, which has been in regulatory limbo for more than a decade. This proposal would build a 211-mile industrial access road required to access and develop the Ambler Mining District, a rich copper-zinc mineral belt with deposits of cobalt, germanium, gallium, arsenic, palladium, lead, gold, silver, and platinum. Developing the mines within the district would provide 4,800 jobs and would be a vital asset to bolster the nation's stockpile of critical minerals. Despite support for the road in Alaska, the Interior Department announced last week that it would block the project from moving forward, striking a massive blow to not only jobs and the economy in Alaska, but also to the future security of the domestic critical mineral supply chain.

The Administration also continues to turn a blind eye to the skyrocketing global demand for copper and the massive opportunities to expand domestic production of the red metal. In 2024, the Resolution Copper Mine in Arizona entered its eleventh year of permitting. Not only would opening the mine result in 3,700 direct and indirect jobs, but it would also be the largest copper mine in North America, with the capacity to meet as much as 25% of U.S. copper demand each year. A host of energy transition projects depend on electrification depend on copper, and yet domestic production remains severely limited.

Without increased development, production, and processing of critical minerals domestically, the Administration is impeding progress toward delivering on its own clean energy promises. Electric vehicles, solar panels, battery storage and more—all which will require a steady and secure supply of critical minerals.

Nonetheless, domestic production of minerals and metals cannot meet all the needs of U.S. industry or ensure resilient supply chains. In some cases, this is a simple matter of geology: Mineral reserves are not distributed equitably among nations, and miners must go where the minerals are. The United States needs to work with allies and partners to develop additional sources of critical minerals and metals as well as processing outside of China (an area where China’s dominance is also pronounced).

One challenge in this regard is to avoid arbitrary distinctions between foreign partners. To illustrate, U.S. law today favors sourcing critical minerals from Chile, a U.S. FTA partner, but not Argentina, which is not an FTA partner but which has significant lithium reserves and has been a major non-NATO ally for 25 years. This distinction in treatment with regard to critical minerals does not reflect U.S. interests, let alone the facts of where different mineral deposits lie.

Entering into so-called “Critical Minerals Agreements” with trusted partners has proven controversial, in part because many in the Congress believe the Administration has disregarded its rights and responsibilities by deeming its own executive agreements with foreign partners as legally equivalent to an FTA for purposes of IRA benefits. The Chamber urges the Administration to work more closely with the Congress to identify possible Critical Minerals Agreements partners that can help meet America’s needs in this regard and entering into meaningful bilateral agreements—with reciprocal rights and responsibilities—and full congressional consultation.

Failure to build domestic supply also threatens U.S. defense goals. With critical minerals—including those named above but also rare earths—incorporated in nearly

every piece of technology employed by the U.S. military, domestic production of raw materials is going to be pivotal in the future U.S. ability to defend itself and its allies.

For this reason, a comprehensive approach is needed to address the entire supply chain of these materials, from mining to processing to final production. Adding to the complexity, each of these materials has its own unique challenges and presents varied supply chain risk. Working with allies will be essential in addressing these challenges, and U.S. government investment will be necessary to support viable business models for investors and businesses. In addition to trade, environmental considerations, compliance, and federal processes for mining permits and the like are all part of the challenge.

Semiconductors

A robust semiconductor ecosystem in the United States and among American allies is crucial for our economic and national security. Semiconductors are essential to the critical technologies supply chain. They are a foundational element in a vast array of products and services, ranging from automobiles, smartphones, broadband and telecommunications, financial services, healthcare, and medical devices to artificial intelligence (AI), high-performance computing, 5G, and autonomous systems.

While the United States leads in some aspects of the semiconductor industry, such as design, the U.S. share of global semiconductor manufacturing capacity has steadily declined from 37% in 1990 to 12% in 2020—despite the continued growth in U.S. manufacturing capacity during the last 30 years.

The Chamber strongly supported the CHIPS and Science Act of 2022, which provides significant investments in our semiconductor ecosystem through grants, loans, tax credits, and research and development. The Chamber appreciates the progress made by the Department of Commerce and other agencies to implement the legislation.

However, we continue to have concerns about some implementation decisions as well as offer additional recommendations to strengthen American semiconductor leadership:

- First, we [disagree](#) with several of the conditions and preferences included as part of the grant process, including on the promotion of union labor, stringent restrictions on stock buybacks, excess profit sharing, the childcare mandate for large projects, and other provisions which will increase costs for the private sector.

- Second, we urge the Department of the Treasury to include a broad definition of semiconductors in its implementation of the advanced manufacturing investment tax credit (i.e., 48D) to support the entire semiconductor ecosystem.
- Third, we urge policymakers to ensure a timely permitting process for CHIPS and Science Act projects. Congress should enact the Building CHIPS in America Act, and the Department of Commerce and other agencies should maximize its authorities to facilitate an efficient environmental permitting process.
- Fourth, the United States should continue collaboration with strategic allies to maintain a stable, reliable supply chain for semiconductors, including by increasing capacity for both legacy and leading-edge chips.
- Fifth, policymakers should make substantial investments in research and development to ensure the United States leads in future generations of semiconductor and semiconductor-related technologies.

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?

Investment in alternate sources of supply for printed circuit boards (PCBs) is also worthy of consideration to reduce dependencies on products originating from a limited number of sources. PCBs are critical components in nearly all electronics equipment, including servers, telecommunications systems, medical devices, and weapons systems. Nearly all the world’s PCBs are manufactured in China and Taiwan.

In recent versions of the NDAA, Congress introduced sourcing restrictions intended to reduce the Pentagon’s reliance on PCBs made in China by requiring federal contractors to phase out use of such components in USG procurements. The most immediate effect of the NDAA provisions has been to shift some planned production of PCBs essential for data processing from China to Taiwan and Vietnam and to a lesser extent Mexico, while manufacturing of PCBs not involved in processing (commodity PCBs) remains concentrated in China. Robust supply chain resilience will require building PCB capability in North America and more broadly among partner and ally nations for both essential and commodity PCBs.

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?

In manufacturing, access to capital equipment is critical. A trade and investment policy that facilitates access to equipment, technology development, and

training would enable companies of all sizes to innovate and to enhance the productivity of their systems.

Tax policy plays a key role. For nearly 70 years, American businesses were allowed to deduct their research and development (R&D) expenses in the year incurred, just like other ordinary and necessary business expenses. Due to an unfortunate change included in the 2017 Tax Cuts and Jobs Act, however, businesses are now required to amortize (deduct ratably) their domestic R&D expenses over five years, which raises costs. This compares unfavorably to the tax treatment of R&D expenses in other countries, including China. The Chamber is strongly backing bipartisan legislation to restore R&D expensing for American businesses, and we encourage the Administration to weigh in positively. In addition, R&D public/private partnerships can be helpful, as can incentives for working with universities and trade schools.

Favorable trade treatment for production of critical products such as forgings and castings that require large investments in equipment, technology, and labor could significantly help the aerospace and defense industries, among others. Such policies could enhance capacity, improve efficiency, and lead to increases in skilled labor. Policies that allow long-term access to favorable energy prices will also incentivize these industries. Relatedly, access to trusted cloud service providers for U.S. businesses operating in foreign countries is critical for supply chain resilience.

Finally, digital tools for design, testing, manufacturing execution, and product lifecycle management can support resilient supply chains in almost any sector and help support the manufacturing development of partner countries, in addition to the support for U.S. industry. Digitalization is already a trend leading the manufacturing industry towards more resilience and sustainability by reducing time to market for products and manufacturing facilities by deploying virtual commissioning, providing energy and cost savings with a constant flow of data and optimizing production output by preventing maintenance downtime. For many industries, digital tools can help provide the cost savings and efficiencies needed to establish manufacturing capacity. The U.S. can help partner countries in adopting digital tools and building their workforce by supporting the application of digitalization with partner countries.

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

In the United States, technological progress has been facilitated by our open, transparent, and process-oriented framework for developing and deploying standards. This system helps manage risk throughout the lifecycle of a product or service. The standards it produces, which are voluntary, consensus-based, and technology-

neutral, build upon the principles established by the World Trade Organization's Technical Barriers to Trade (TBT) Agreement and similar TBT chapters in U.S. FTAs. By promoting cross-border alignment of standards and fostering innovation across industries, this framework enhances global cooperation. Notably, the private sector-led U.S. standards system offers flexibility in adopting international standards, ensuring that technical standardization remains rooted in industry-driven practices.

The development and adoption of technical standards play an important role in enhancing supply chain resilience. By adhering to these standards, companies can mitigate risk, ensure consistency, and promote best practices. Regulations based on these standards can further enforce compliance, fostering a resilient supply chain ecosystem. Interoperability, transparency, and traceability are key benefits derived from standardized practices.

Recognizing the importance of industry consortia and standards development organizations (SDOs), the U.S. government should continue to promote private-sector leadership in technical standardization. Industry-driven standards ensure that technical issues align with global practices. By bolstering U.S. standards participation and harmonizing standards across borders, we can strengthen supply chains, enhance resilience, and stimulate innovation.

International promotion of the U.S. standardization strategy should support a multiple-path approach that recognizes the importance of using global standards in support of regulatory convergence and trade. The WTO TBT principles on international standardization specify six essential elements of the process to be used; they do not prescribe, for example, the headquarters location of the SDO or the model of representation (e.g., national delegations or individual direct participation). U.S. experts participate in multiple standards development organizations that use different models of participation. Regulators, markets, and other users and developers of standards should be free to choose international standards—and international SDOs—based on merit and fit-for-purpose.

As advocates for robust standards on the international stage, we actively promote the U.S. standardization strategy, supporting U.S.-based standards developers like SAE, ASTM, ASME, and industry consortia, while recognizing that ISO/IEC/ITU-T are not the exclusive international standards developers. Fostering a diverse ecosystem, we contribute to responsible and effective global standards development.

Importantly for supply chain resilience, the National Standards Strategy for Critical and Emerging Technology (CET) will play a pivotal role in U.S. industry for two compelling reasons. First, it will help ensure that technology is safer and more

interoperable, directly benefiting consumers. Second, it will propel U.S. competitiveness, foster innovation, and position U.S. industry as leaders in critical and emerging technologies. In a December 21, 2023, [response](#) to the NIST RFI seeking public input on how best to implement the strategy, the Chamber outlined specific policy imperatives to guide U.S. implementation of the strategy and reinforce support for participation in internationally recognized standards development organizations.

The Chamber welcomes the way the National Technology Transfer and Advancement Act (NTTAA) encourages federal agencies to adopt voluntary consensus standards whenever feasible. This is a strategic approach to standards that supports inclusive growth. Similarly, the Office of Management and Budget (OMB) Circular A-119 helpfully promotes agency participation in standards development and aims to encourage federal agencies to benefit from the expertise of the private sector. By minimizing reliance on government-unique standards, the Chamber supports efficiency and practical outcomes for both government and industry stakeholders. This approach serves as the core roadmap for how governments utilize standards in regulation, leading to least trade-restrictive approaches required by U.S. trade agreements.

On a related note, the Chamber encourages the Administration to press other governments to implement good regulatory practices. Facilitating regulatory quality through greater transparency, accountability, and predictability has proven to enhance economic performance domestically while also facilitating international trade and investment worldwide. We were particularly encouraged to see recent progress within the WTO negotiations on services domestic regulation, which incorporated new disciplines to mitigate trade restrictions relating to licensing requirements and procedures, qualification requirements, and procedures and technical standards. This holds promise for U.S. companies that require business licenses in all the foreign markets in which they operate.

We also encourage the Administration to pursue the negotiation of additional mutual recognition agreements (MRAs). MRAs are helpful trade-facilitating measures that employed more frequently can ease the burden of manufacturers, especially with trusted trading partners. By implementing conformity assessment processes for technical standards and requirements, governments can ensure that products reaching the market in foreign countries remain compliant while saving companies both time and costs. USTR and other agencies should consult with industry on whether there are products, product categories, or sectors that would particularly benefit from MRAs.

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?

Rules of origin aim to preserve the benefits of duty-free trade for companies operating in the territories of FTA parties themselves. However, there are diminishing returns to what can be achieved through onerous rules of origin, which in some cases impose substantial administrative burdens. The resulting costs at times lead firms to disregard the potential benefits of duty-free trade and reject nearshoring opportunities to which U.S. officials have recently lent rhetorical support.

These burdens can be substantial. As Ed Gresser, Vice President and Director for Trade and Global Markets at the Progressive Policy Institute, has [written](#), the height of a stack of papers required to qualify a T-shirt as “CAFTA duty-free” is about four inches. Similar garments imported from other markets may face duties but need not contemplate such costly administrative burdens.

While U.S. FTAs afford a number of Latin American and Caribbean countries a sizeable tariff advantage over most Asian alternatives, there is evidence that restrictive rules of origin in U.S. FTAs make such benefits difficult for industry to realize. To illustrate, a [recent report](#) on “Patterns of US Apparel Imports in 2023 and Critical Sourcing Trends to Watch in 2024” by Sheng Lu found that Western Hemisphere nations failed to gain new market share in the U.S. apparel market in 2010-2023 even as China lost ground. Developments such as implementation of the UFLPA should have helped Caribbean Basin countries to chip away at Asia’s advantages, and yet this has not happened.

Duty-free U.S. apparel imports under NAFTA/USMCA (overwhelmingly from Mexico) declined sharply from 24.3% in 2015 to 19.7% in 2023, according to the analysis cited above. The USMCA largely retained the NAFTA’s rules of origin for textiles and apparel, with some modest changes in various areas to make the rules alternately more restrictive or more liberal. Other factors, such as wage rates in Mexico, may play a bigger role here.

Duty-free U.S. apparel imports under DR-CAFTA held generally steady from 2015 (45.9%) to 2023 (45.4%). The American Apparel and Footwear Association has flagged some areas where DR-CAFTA’s yarn forward rule may impose some counterproductive limits. For example, spandex is not available in sufficient quantity to manufacture athleisure products currently popular. The difficulty in adding fabrics

to the agreement's short supply list is also costly and slow; amending this could make Central America more attractive as a location for apparel manufacturing and enhance employment opportunities in the region.

Indeed, the fact that growth in Central America's light industry such as apparel manufacturing would help disincentivize emigration to the United States is an obvious potential benefit of enhanced flexibility on rules of origin and the short supply list. This is widely noted, and yet there is little real policy action to translate this potential into reality. The fact that the region remains the top export destination for the U.S. textile sector (i.e., production of fiber, yarn, thread, and textiles as opposed to garments) shows the commercial imperative of maintaining a successful apparel industry in Central America.

It is difficult to report on how the USMCA's strict new rules of origin for the automotive sector are operating. USMCA allowed automakers to request an alternative staging regime that would grant them five years or longer to implement the new rules of origin; USTR approved such plans for 13 automakers. As USMCA's fourth anniversary approaches, these alternative staging regimes are still in place.

Further, automakers are understandably focusing on the transition to EVs and the related challenge of compliance with EPA regulations. While adhering USMCA's rules of origin is imperative, these other factors add to the complexity of North American auto supply chains, and industry would benefit from flexibility on all these issues where feasible.

Finally, it's important for USTR to bear in mind that the benefit to industry—and to the workers companies employ—of a free-trade agreement like USMCA is duty-free trade. This positive incentive drives compliance with rules of origin, and responding to market signals in this manner makes North America's auto industry more efficient—which is to say, globally competitive. While this FRN cites "short-term cost-efficiency" disapprovingly, the alternative of *inefficiency* is a recipe for industrial decline.

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?

After the U.S. Chamber of Commerce hosted the 2022 CEO Summit of the Americas in Los Angeles, it conducted research into supply chain decision-making with a particular focus on nearshoring to the Americas. In late 2023 the Chamber

published [Supply Chain Strategies and Nearshoring Opportunities in the Americas](#), which provides a roadmap for policy reform in key Latin American and Caribbean markets that may facilitate nearshoring investments.

As the report indicates, the chief factors shaping supply chain and sourcing decisions—and specifically outcomes that may favor nearshoring as opposed to sourcing from China—vary by location. Key factors often involve policy questions that governments can address without substantial expenditures. Among these are the imperatives of upskilling the local workforce, shoring up governance, enhancing the rule of law, and combating criminal groups. The survey behind the report found that the specific challenges vary from market to market, with different priorities identified for Mexico as opposed to the Dominican Republic or Costa Rica.

The most important factor highlighted by the report was the unique role of logistics in driving supply chain and sourcing decisions. In fact, the survey identified logistics as “the most important factor when deciding both where to source materials and where to make direct investments (e.g., shipping costs, lead time for deliveries). For sourcing goods, logistics was an important factor for 99% of mid-sized and small companies and 93% of large companies.” U.S. companies are global leaders in the logistics services sectors. Their experience shows that U.S. businesses—whether they are U.S. exporters seeking new markets or U.S. companies looking to nearshore their own supply chains—benefit greatly from more efficient borders.

For these reasons, we encourage the Administration to link trade facilitation (e.g., digitizing customs procedures through trade negotiations) to promoting supply chain resilience. This aligns with work already underway. Last year, the President’s Export Council transmitted a [recommendation](#) to President Biden calling for a new interagency strategy “to prioritize and coordinate trade facilitation efforts, including relevant supply chain initiatives, across all federal agencies.” Trade facilitation must be seen as a vital component of any effort to enhance supply chains.

On the question of how companies factor geopolitical risk into their manufacturing and sourcing decisions, some service providers offer risk analysis frameworks based on quantitative, data-driven analysis. These frameworks endeavor to forecast the risk of conflict, election outcome possibilities, and economic trends based on internet mentions and other data. However, most businesses rely more on qualitative analysis and assessments based on their own input, distribution, and sales mapping. The most obvious way that firms responded to the Covid-19 pandemic and related supply chain challenges was by increasing inventory, a simple approach with specific and easy to identify costs. Several years on, most firms have responded to today’s more “normal” supply chains by reducing those stocks. As for geographic

diversification of supply, some firms have done a great deal, but the variation by sector and company is immense and beyond the scope of these comments.

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

Supply chain management and capital allocations are central to business strategy and management practices, and firms generally do not disclose such information in detailed form. However, USTR is no doubt generally familiar with the broad trends showing that U.S. industry is sourcing less from China and more from Southeast Asia and Mexico, with great variability between sectors and for different stages of production. To some degree, Russia’s invasion of Ukraine—and the signal it sent about geopolitical risk—appears to have resonated with corporate boards more than some other developments in the global economy in recent years. Firms have increased inventory as the simplest way to mitigate risk, though this has tended to vary over time and between industries.

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?

The Chamber explored some of these issues at length in our [January 2022 comments](#) to the U.S. International Trade Commission in its investigation into “Distributional Effects of Trade and Trade Policy on U.S. Workers,” the [final report](#) of which was issued in October 2022. Among other points, the Chamber’s analysis shows how U.S. trade barriers—which in many areas have risen in recent years, not fallen—have inflicted heavy costs on American workers, including people of color and women. A pro-worker trade policy must address this complex inheritance.

Please do not hesitate to contact us with any questions or comments.

Sincerely,



John Murphy
Senior Vice President and Head of
International
U.S. Chamber of Commerce