July 30, 2026

The Honorable Mike Crapo
Chairman
Senate Finance Committee
United States Senate
Washington, DC 20515

The Honorable Ron Wyden
Ranking Member
Senate Finance Committee
United States Senate
Washington, DC 20515

RE: The President's 2026 Trade Policy Agenda Hearing, July 22, 2026

Dear Chairman Crapo and Ranking Member Wyden,

The National Foreign Trade Council (NFTC) appreciates the opportunity to provide a written statement as part of the record for the Senate Committee on Finance's hearing on the President's 2026 Trade Agenda to review current trade priorities and goals. As Congress and the Administration continue to negotiate the United States-Mexico-Canada Agreement (USMCA) and review other trade agreements, existing trade barriers and challenges should be addressed to ensure U.S. businesses remain globally competitive.

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities. We value work that focuses on establishing and maintaining international tax norms that provide certainty to enterprises conducting cross-border operations and are attractive to businesses making choices regarding new investments.

Opening Foreign Markets

The NFTC appreciates the USTR's commitment to tackling foreign barriers that limit opportunities for U.S. exporters. The many bilateral framework agreements, Agreements on Reciprocal Trade, and other bilateral initiatives eliminate important longstanding non-tariff barriers and help to level the playing field for U.S. companies. The NFTC urges the Office of the U.S. Trade Representative (USTR) to conclude important ongoing negotiations with key trade partners and ensure that the commitments that were made in concluded agreements are fully enforced.

At the same time, several of these same trade partners continue to advance troubling, extraterritorial, overly burdensome, and impractical non-tariff trade barriers that shift costs and compliance to U.S. companies, limiting competitive opportunities. In the European Union, for example, the Deforestation Free Supply Chain Regulation and the Corporate Sustainability Due Diligence Directive are prime examples.

Globally, adopted or proposed measures that discriminate against or limit market access for U.S. digital economy providers continue to proliferate. These measures may include ex ante digital competition regulations, AI, cloud and other technology regulations; network usage fees, data center regulations, online marketplace liability requirements, online streaming levies and investment requirements, and failure to provide full access to online services such as electronic payments, continue to proliferate. A key element of sustaining open markets will be to ensure that existing trade agreement partners, including Canada, Australia, and the Republic of Korea fully implement their trade commitments and refrain from adopting or enforcing new regulatory measures that discriminate and disproportionally impact U.S. companies particularly in the digital economy.

Intellectual Property Protection

U.S. companies continue to face well-documented problems around the world with poor protection of intellectual property (IP) rights. Many of these challenges were reflected in USTR's Special 301 report, including patent delays, inadequate data protection, and inappropriate use of compulsory licensing. We urge USTR to continue to seek high-standards of intellectual property protection from trade partners in future trade agreements, including the Agreements on Reciprocal Trade, and to ensure these measures are fully enforced.

U.S.-Mexico-Canada Agreement (USMCA)

NFTC commends the Administration's efforts to resolve bilateral irritants with Mexico and Canada and to utilize the occasion of the first USMCA review to ensure that both countries are living up to their commitments. We further commend USTR for its ongoing efforts to negotiate an upgraded agreement. In doing so, any changes to USMCA's complex rules framework must safeguard U.S. manufacturing and business competitiveness. Maintaining duty-free status for USMCA-compliant products throughout the negotiations and in the final agreement remains paramount. We strongly support achieving a successful extension of USMCA that restores the certainty and predictability required to drive U.S. investment, manufacturing and export competitiveness. In addition, we note that last week the Canadian government disclosed in a court proceeding that it would remove the base contribution requirement on online streaming services. We look forward to reviewing the government's consultations to implement these changes, but this step will not fully eliminate the burdensome discrimination on U.S. companies.

Canada 338 Investigation

NFTC supports efforts to address all barriers and non-tariff barriers faced by U.S. exporters. This includes market access risks into Canada for goods, including alcohol and other manufactured goods that rely on integrated North American supply chains. At the same time, the Canada-U.S. economy is fundamentally intertwined and U.S. manufacturers rely on the two-way duty-free trade with Canada for America's integrated production base in order to compete domestically and in export markets. Given this reality, it is our hope that the United States can find a negotiated solution to address the current barriers, and renew USMCA negotiations with Canada towards upgrading and extending this important trilateral agreement. To the extent that tariffs are imposed, we urge the Administration to set clear objectives for Canada to address U.S. concerns and remove the tariffs when they are met.

Pharmaceutical Pricing

NFTC applauds USTR's ongoing engagement to negotiate equitable pharmaceutical reimbursement rates, building on the inclusion of this issue in the 2026 Special 301 report and the precedent set by the U.S.-U.K. Arrangement on Pharmaceutical Pricing. Foreign market access frameworks must be modernized to properly value life-saving pharmaceuticals, ensure that owners have a full and fair opportunity to use and profit from their IP, and alleviate the disproportionate cost burdens currently borne by American patients and innovators. We encourage USTR to continue its efforts to ensure our trade partners establish the fair market conditions and commercial predictability required to drive continued investment, production, and global competitiveness across the American life sciences sector.

Discriminatory Digital Services Taxes

Trading partners around the globe have implemented harmful and often discriminatory digital services taxes (DSTs) levied on multinational corporations, with the overwhelming majority of revenue stemming from U.S. companies. We applaud the continued efforts of Congress and the Administration to combat discriminatory DSTs on behalf of U.S. businesses. These efforts influenced Canada’s decision to eliminate their 3 percent DST. However, we remain concerned with countries who have enacted DSTs and remain committed to upholding such discriminatory taxes, in addition to other countries seeking to impose new DSTs or other similar measures. Canada’s repeal of their DST was a major accomplishment and should serve as a signal for other countries to follow.

Australia has continued a trend of aggressive and discriminatory tax measures that have directly impacted U.S. companies and their ability to compete abroad. The News Media Bargaining Incentive legislation is a prime example of such behavior, as the bill forces companies to allocate a portion of their revenue to subsidize local news outlets or pay a punitive 2.25 percent tax on their Australian revenue. No Australian companies are subject to the measure. NFTC has called on the Australian government to rescind the legislation and asks for the U.S. government to remain vigilant in eliminating this harmful measure and other trade barriers intended to disadvantage U.S. companies.

<u>Germany Extraterritorial Taxation</u>

Section 49 of the German Income Tax Act imposes an extraterritorial taxation on certain transactions involving intellectual property registered in Germany, without regard to whether the IP holder has a permanent establishment. Prior to 2020, the tax provision had not been applied despite being on the books for nearly 100 years. Companies repatriated their IP on the heels of the Tax Cuts and Jobs Act, and its overlap with the OECD's Base Erosion and Profit Shifting initiative. The disclosures that occurred as companies began to restructure and triggered this tax. A reinvigorated German government enacted legislation in 2022 which repealed the tax for some transactions (*i.e.*, those impacting German companies), but left in place the provisions impacting U.S. companies. Additionally, in imposing the extraterritorial tax, the German government has failed to apply widely accepted transfer pricing metrics, resulting in outsized tax liabilities.

Germany's decision to maintain the provision and apply it in the manner described above has created an unlevel playing field for U.S. businesses. NFTC supports efforts by the Congress and USTR to encourage negotiations between Germany and the Department of the Treasury.

<u>Mexico Taxation and Audit Issues</u>

U.S. businesses have faced a challenging tax and investment environment in Mexico, worsened by the 2026 Economic Package enacted on November 7, 2025. The effect of these measures complicate and negate the job-creating incentives intended by the USMCA and is compounded by irregular enforcement practices undertaken by the Servicio de Administración Tributaria (the "SAT"). While NFTC appreciates Agreement 68/2026 issued in May 2026 and some of the challenges it seeks to address, the approach by the SAT has largely resulted in a tax administration regime that places growing and unprecedented burdens on many U.S. multinational companies, thereby disincentivizing the investment and job creation that Mexico has sought to attract.

Numerous U.S. multinationals operating and investing in Mexico have faced persistent audit challenges with the SAT, and these issues have escalated over the past year. While the SAT's public messaging in its "Plan Maestro 2026" highlights an intent to target high-risk, non-compliant taxpayers and streamline compliance, in practice we are continuing to see a broad scope of aggressive and dubious tax audits as discussed below.

- **Retroactive VAT Reinterpretation and Credit Denials**

  The SAT has been arbitrarily reinterpreting its value-added tax to retroactively deny longstanding tax credits for VAT paid to third-party suppliers (an accepted practice since 2015). This creates double-taxation which undermines fundamental international tax principles U.S. companies are being hit with demands for repayment of tax credits fines for previously-unannounced violations, on taxes paid over the last decade and delays on refunds for VAT payments.

This reinterpretation has also extended to other routinely claimed tax deductions, further broadening the scope of retroactive liabilities.

- **Arbitrary Denial of Income Tax Deduction for Related-Party Payments**

  SAT has increasingly disallowed deductions for related-party expenditures across a range of routine transactions, including service fees, royalty payments, and other intercompany charges. Additionally, the SAT has been imposing overly burdensome documentation requirements that are very difficult for taxpayers to meet. Inability to satisfy the heightened documentation requirements results in the disallowance of the deduction. Moreover, applying domestic disallowance rules in this manner undermines taxpayers' ability to rely on treaty protections intended to prevent double taxation. This gives the appearance that Mexico is deliberately raising unprincipled adjustments in such a way as to prevent taxpayers from accessing Mutual Agreement Procedure (MAP) processes or other adjudication under applicable tax treaties.

- **Pay-to-Play Dispute Resolution**

  Amendments to the Código Fiscal de la Federación (CFF) eliminated the exemption from guaranteeing tax interest when filing an administrative appeal. This means that companies must now post a cash deposit or 'surety bond' equivalent to the full amount of the disputed tax assessment, plus surcharges and fines, in order for companies to challenge unreasonable tax assessments by the SAT. Requiring a deposit of up to 100% of the disputed tax assessment before an appeal compels companies to consider an unjust settlement rather than endure a lengthy legal process, which ties up capital. The measure thus has the effect of weakening access to fair adjudication and compromising companies' right to due process.

- **Article 30-B / Platform "Kill Switch" and Real-Time Access**

  Article 30-B of Mexico's Federal Tax Code requires foreign online platforms and e-commerce companies to grant the SAT permanent, real-time access to records related to their Mexican operations, including user activity, platform usage, and transactions. This requirement continues to create significant procedural, data security, competitiveness, and trade secret concerns, not to mention a host of data privacy concerns impacting platform users who will have their most sensitive transaction-level data shared on a permanent, real-time basis with the SAT, potentially violating requirements to protect customer data in various jurisdictions. All information necessary to calculate the VAT liability is already provided in the taxpayer's monthly VAT return, which itself can be accessed by the SAT, yet non-compliance can trigger the "kill switch" provision, allowing the government to temporarily block platforms from operating in Mexico, an extreme policy response to ensure compliance.

- **Advanced Pricing Agreements**

  Advanced Pricing Agreements (APAs) have historically played a critical role in providing transfer pricing certainty for businesses supporting compliance, investment planning, and stable integration into North American supply chains. Although the APA framework formally remains in place, in practice, maquiladoras have been unable to obtain timely APA renewals or new agreements. When APAs function effectively, they reduce disputes, limit audit exposure, and allow both taxpayers and tax authorities to allocate resources more efficiently. However, the prolonged backlog in concluding APAs has left companies operating for extended periods without the certainty these agreements are designed to provide.

- **Marketplace Tax Withholding**

  As part of the 2026 Economic Package, the Mexican government introduced a 2.5% withholding tax on the seller's gross income and an 8% IVA on sellers using marketplaces. The proposal was implemented without prior consultation and without an impact assessment. These measures disproportionately impact small and medium businesses, causing many to raise prices, reduce operations, or exit formal digital channels entirely. SAT has been slow to process refunds of over-withheld amounts, creating severe cash flow disruptions for smaller sellers.

Conclusion

NFTC applauds efforts by Congress and the Administration that push back against discriminatory actions by foreign governments intended to disadvantage U.S. businesses, and urges the U.S. government to continue working to eliminate harmful barriers targeting U.S. companies.

We thank you for the opportunity to submit this statement for the record. We welcome the opportunity to discuss these important matters further and answer any questions you may have. I can be reached at tsmith@nftc.org.

Sincerely,

Tiffany Smith

Tiffany Smith
Vice President Global Trade Policy