Final Environmental Review of the The United States – Mexico – Canada Agreement (USMCA)

OFFICE OF THE U.S. TRADE REPRESENTATIVE

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EXECUTIVE SUMMARY

On May 18, 2017, President Trump notified Congress of his intent to enter into negotiations with Canada and Mexico to modernize the *North American Free Trade Agreement* (NAFTA), consistent with section 105(a)(1)(A) of the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* (Public Law 114-26, Title I; "Trade Promotion Authority" or "TPA"). The *United States – Mexico – Canada Agreement* ("USMCA" or "Agreement"), was signed on November 30, 2018.

The USMCA modernizes the 25-year-old NAFTA into a 21st century, high-standard agreement that will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. The Agreement couples economic growth with environmental protection, and includes the most comprehensive set of enforceable environmental obligations of any previous U.S. free trade agreement (FTA). The USMCA moves environmental provisions into the core of the Agreement, and provides that all environmental obligations are subject to the same dispute settlement mechanism as the rest of the Agreement. It also advances environmental protection with new, enforceable tools to protect ecologically and economically significant terrestrial and marine environments in North America and beyond from environmental challenges and threats, such as wildlife trafficking, illegal logging, illegal fishing, air pollution, and marine litter. These illicit and damaging activities do not respect borders, and threaten natural resources, legitimate businesses, and even our national security. The USMCA will play a pivotal role in addressing these and other environmental issues, while simultaneously providing for enhanced public participation, strengthened coordination among North American environment and enforcement agencies, and enhanced trilateral environmental cooperation.

The USMCA environmental review process served as an important tool to identify, evaluate and incorporate environmental issues with respect to the negotiation of the USMCA. USTR carried out the environmental review in accordance with Executive Order 13141 and its Guidelines. Over the course of the USMCA negotiation, the public, Congress, stakeholders, the Trade and Environment Policy Advisory Committee (TEPAC), non-governmental organizations (NGOs), and experts at other Federal agencies provided vital knowledge and insight that

informed the negotiations, the scope of the review, and the final Administration conclusions presented in this document.

The Final USMCA Environmental Review (Environmental Review) is the culmination of that ongoing formal and informal process to ensure that the environmental provisions of the USMCA achieve the relevant U.S. trade negotiating objectives outlined by Congress in the TPA, and by the Administration. The focus of this Environmental Review is on the potential economically-driven environmental impacts of the USMCA—both positive and negative—in the United States. However, the Environmental Review also considers the potential global and transboundary environmental impacts of the Agreement. The Administration concludes:

- The USMCA will create important new export opportunities for U.S. businesses and workers because of the significance and proximity of Canadian and Mexican markets to the United States. Based on available information, including economic modeling and analysis, and informed by the changes and impacts of previous U.S. trade agreements, the estimated increase in trade that will result from the USMCA is unlikely to cause significant adverse environmental impacts in the United States.

- No specific, significant negative environmental impacts for the United States or other USMCA countries have been identified in the course of this review.

- Regarding the key potential domestic environmental concerns identified as part of the interagency review process related to the increase in trade resulting from the USMCA—localized environmental impacts at selected U.S. maritime ports, and more broadly potential transport-related impacts, the risk of the introduction of invasive alien species into the United States, and potential environmental impacts resulting from extraction of natural gas—the risk of such impacts appears to be low and mitigated by other factors. We will continue to use a wide range of tools and existing U.S. regulatory authorities and programs to monitor and mitigate any potential or unforeseen negative environmental impacts that emerge.

- With respect to market access concerns, all tariffs on legal wildlife, timber, and fish and products thereof are already zero as a result of NAFTA. The USMCA is therefore unlikely to contribute to an additional increase in legal trade of wildlife. The conservation provisions in the USMCA are expected to help to combat wildlife trafficking and promote greater conservation of wild fauna and flora. Likewise, the continuation of the currently duty free trade in these products under USMCA is not expected to put greater pressure on forest resources or exacerbate illegal logging. Instead, the USMCA's environmental provisions are likely to have a net positive effect on conservation of forest resources in North America.

- Similarly, the USMCA's new obligations to combat illegal, unreported, and unregulated (IUU) fishing and enhance environmental cooperation will strengthen the USMCA Parties' ability to combat IUU fishing, and will provide an opportunity to reduce the levels of IUU fishing and its detrimental environmental and economic impacts. The USMCA's

groundbreaking prohibitions on harmful fisheries subsidies address one of the key drivers of overfishing, and are expected to contribute to improved fisheries management and the conservation of overfished stocks, to the benefit of legal fishers.

- The USMCA will require no changes to U.S. environmental laws or regulations, and will not adversely affect the ability of the United States to regulate under current U.S. environmental laws and regulations or impact our ability to set environmental regulations in the future.

- Based on an analysis of other USMCA obligations concerning environment-related Services, Good Regulatory Practices (GRP), Sanitary and Phytosanitary Measures (SPS), and Technical Barriers to Trade (TBT) – which included a review of the impact of comparable provisions of previous U.S. FTAs – the Agreement will not adversely affect the ability of the United States to regulate on these aspects of environmental matters. Further, the Administration does not expect the USMCA to result in increased risk for a successful challenge to existing U.S. environmental measures.

- Lastly, in addition to cooperation commitments in the USMCA, the USMCA countries have entered into the *Agreement on Environmental Cooperation among the Governments of Canada, the United Mexican States, and the United States of America*. This agreement signed by Mexico on November 30, 2018, by the United States on December 11, 2018, and by Canada on December 19, 2018, provides for a robust and modernized trilateral environmental cooperation framework, addresses environmental challenges and facilitates greater collaboration on priority environmental issues such as pollution reduction, conservation of biological diversity, and sustainable management of natural resources.

I. LEGAL & POLICY FRAMEWORK

A. The Trade Promotion Authority Context

The *Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, or Trade Promotion Authority (TPA), establishes a number of negotiating objectives and other priorities relating to the environment, and provides for enhanced consultation requirements for trade negotiations. TPA contains three sets of objectives—(1) overall trade negotiating objectives, (2) principal trade negotiating objectives, and (3) capacity building and other priorities. TPA also includes requirements relating to congressional oversight, consultations, and transparency.

TPA's overall objectives (section 102(a)) with respect to the environment are:

- to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources (section 102(a)(5));
- to seek provisions in trade agreements under which parties ensure that they do not weaken or reduce the protections afforded in domestic environmental laws as an encouragement for trade (section 102(a)(7)).

In addition, TPA establishes environment-related "principal trade negotiating objectives" (section 102(b)(10)), which include ensuring that any party to a trade agreement with the United States:

- adopts and maintains measures implementing its obligations under common multilateral environmental agreements (MEAs) as defined in the Act;
- does not waive or otherwise derogate from, or offer to waive or otherwise derogate from its environmental laws in a manner affecting trade or investment between the United States and that party; and,
- does not fail to effectively enforce its environmental laws, while recognizing that parties to a trade agreement retain the right to exercise prosecutorial discretion and to make decisions regarding the allocation of enforcement resources with respect to other environmental laws determined to have higher priorities.

TPA also includes several issue-specific negotiating objectives to:

- eliminate trade-distorting fisheries subsidies,
- pursue transparency in fisheries subsidies programs,
- address IUU fishing, and
- ensure that trade agreements do not establish obligations for the United States regarding greenhouse gas emissions measures.

Further, TPA provides for the promotion of certain environment-related priorities and associated reporting requirements, including:

- establishing consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science; and,
- reporting to the Committee on Ways and Means and the Committee on Finance ("Committees") on the content and operation of such mechanisms (section 102(c)(2)).

TPA also directs the Office of the United States Trade Representative (USTR) to:

- conduct environmental reviews of future trade and investment agreements consistent with Executive Order 13141 and its relevant guidelines;
- report to the Committees on the results of such reviews (section 105(d)(1)); and,
- continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing exceptions under Article XX of the General Agreement on Tariffs and Trade 1994 (GATT 1994) (section 102(c)(3)).

B. The Environmental Review Process and Scope of the Review

Environmental reviews are used as tools for integrating environmental information and analysis into the dynamic process of trade negotiations. USTR and the Council on Environmental Quality (CEQ) jointly oversee implementation of Executive Order 13141[1] and its relevant Implementation Guidelines for Environmental Reviews.[2] USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

The aim of environmental reviews is to inform policymakers and the public about reasonably foreseeable environmental impacts of trade agreements, both positive and negative, identify complementarities between trade and environmental objectives, and help shape appropriate responses if environmental impacts are identified.

The Environmental Review Guidelines recognize that the approach adopted in individual reviews will vary on a case-by-case basis, given the differences in trade agreements and negotiating timetables. Generally, reviews have addressed the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from a prospective agreement; and the extent to which provisions may affect U.S. environmental laws and regulations (including, as appropriate, the ability of state, local, and tribal authorities to regulate with respect to environmental matters).

The USMCA environmental review process began by determining the scope of the environmental review ("scoping"). USTR, through the TPSC, formally initiated the environmental review of the proposed negotiation between the United States, Mexico, and Canada through publication of a Federal Register Notice on September 26, 2017 (82 Fed. Reg. 44868). To determine the scope of this review, the Administration considered information

provided by the public and input from environmental, trade, and investment experts within a number of federal agencies. In addition to providing guidance on the scope of the environmental review, any information, analysis, and insights available from these sources were taken into account throughout the renegotiating process and were considered in developing U.S. negotiating positions. Potentially significant issues for in-depth analysis are included in this Environmental Review, while issues that have been adequately addressed in previous environmental reviews,[1] or were determined to be less significant, were eliminated from detailed study here.

[1] Executive Order 13141 – Environmental Review of Trade Agreements (64 Fed. Reg. 63,169 (Nov. 18, 1999).

[2]65 Fed. Reg. 79442 (Dec. 19, 2000). The Guidelines can be found at: https://ustr.gov/sites/default/files/guidelines%20for%2013141.pdf.

C. Scope of the Environmental Review

Consistent with Executive Order 13141 and its Guidelines, the focus of this Environmental Review is on potential impacts in the United States. Section V considers the potential economically-driven environmental impacts in the United States, while Section VI evaluates transboundary impacts. Section VII assesses the extent to which the USMCA might affect U.S. environmental laws, regulations, policies, or international commitments.

[1] https://ustr.gov/issue-areas/environment/environmental-reviews.

II. BACKGROUND

Section A provides a brief overview of the North American economy. Section B provides background information on the economy and environment in Canada and Mexico. Section C provides information on U.S. goods trade with USMCA countries.

A. North America

The USMCA Parties all recognize the mutual supportiveness of trade and environmental protection. Canada and Mexico are two of the United States' largest trading partners, and are key collaborating countries when it comes to conservation of resources, addressing air pollution, and other key environmental issues with impacts in the North American region.

North America boasts biodiverse and ecologically significant productive forests, marine ecosystems, and fish stocks. Collectively, the USMCA countries' exports of fish and fish products equaled $12.3 billion, or roughly 8 percent of global exports, which totaled $153 billion in 2017. The region's exports of forest products are valued at $69.8 billion, or 19 percent of global exports, which totaled $376 billion in 2017.

Recent economic analysis affirms that all three USMCA countries will benefit from the Agreement. The U.S. International Trade Commission's model estimates that the USMCA would raise U.S. real GDP by $68.2 billion (0.35 percent) and U.S. employment by 176,000 jobs (0.12 percent). The model estimates that the USMCA would likely have a positive impact on U.S. trade, both with its USMCA partners and with the rest of the world. U.S. exports to Canada and Mexico would increase by $19.1 billion (5.9 percent) and $14.2 billion (6.7 percent), respectively. The model estimates that the Agreement would likely have a positive impact on all broad industry sectors within the U.S. economy.[2]

B. Economy and Environment in USMCA Countries

Canada – Economy

Canada has a population of approximately 37 million people. Its GDP was $1.7 trillion[3] and its GDP per capita was $46,261[4] in 2018. Canada's total goods trade amounted to over $910.3 billion ($450.6 billion in exports and $459.7 billion in imports) in 2018.[7] Canada's top exports are petroleum, vehicles, and machinery. Top imports include vehicles, machinery, and electrical

[2] USITC, U.S.-Mexico-Canada Trade Agreement: Likely Impact on the U.S. economy and the Specific Industry Sectors (Pub. No. 4889, April 2019), available at: https://www.usitc.gov/publications/332/pub4889.pdf.
[3] Statistics Canada.
[4] The International Monetary Fund, World Economic Outlook Database, October 2018.
[7] Trade Data Monitor and Statistics Canada.

machinery.[5] Canada's major trading partners are the United States, China, Mexico, the United Kingdom, and Japan.

Canada is 9.98 million square kilometers in area (slightly larger than the United States) and varies in climate from temperate in the south to subarctic and arctic in the north. A land of vast distances and rich natural resources, in terms of area Canada is the second-largest country in the world (after Russia). Canada and the United States share the world's longest land border (5,500 miles) with 90 percent of Canada's population concentrated within 100 miles of the boundary with the United States.

Canada – Key Environmental Issues and Challenges

- Air Quality and Management: Canada faces challenges with high energy use and associated pollution, including managing emissions from development of oil sands.[6] The United States and Canada signed the *Agreement between the Government of the United States of America and the Government of Canada on Air Quality* in 1991 to address transboundary air pollution. The agreement contains three annexes that address emissions from acid rain, coordinate monitoring and exchange of information on air pollution, and address precursor pollutants to ground-level ozone. Both countries have met the targets of the agreement, and Canada's emissions of key pollutants contributing to smog, acid rain, and poor air quality have significantly declined since 1990. Both countries have closely collaborated on real-time air quality reporting and mapping through the EPA-initiated AIRNow program (www.airnow.gov).

- Water Quality: Canada's landmass contains about 7 percent of the world's fresh water, much of that shared with the United States. The two countries cooperate closely in the management of shared water resources. *The Great Lakes Water Quality Agreement*, negotiated in 1972 and renewed most recently in 2012, commits the United States and Canada to cooperate on restoring and maintaining the integrity of the Great Lakes. The 2012 amendments are designed to take a more comprehensive, ecosystem-wide approach to lake restoration. There have been successes under this program, but further clean-up efforts are needed.

- Fisheries Management: Canada manages a broad range of commercial, recreational, and aboriginal fisheries. Canadian fisheries and aquaculture are managed by the Department of Fisheries and Oceans Canada. Addressing the economic and resource impacts of IUU fishing on its fisheries and associated markets is a key issue in Canada, and Canada has taken an active role in international efforts to combat IUU fishing. Although Canada has recovery plans in place for many of its fish stocks and progress is being made, stock assessments remain difficult and scientific capabilities have been stretched in recent years. The United

[5] The World Bank.
[6] 2017 OECD Environmental Performance Review for Canada at 12.

States cooperates closely with Canada on many fisheries issues, including bilaterally and multilaterally on the management of shared fisheries resources, protection of endangered species, and scientific data collection.

- Protection of Marine Mammals: Canada has a vast coastline and is home to more than 40 marine mammal species, such as whales, dolphins, and seals. In 2018, Canada's Commissioner of the Environment and Sustainable Development found that many species are in decline because of human activities, such as bycatch and entanglement from commercial fishing. The Commissioner found that while some measures are underway, the federal government could do more to address the threats to marine mammals.[7]

- Protected Areas: According to the OECD, Canada could do more to enhance the percentage of marine coastal and terrestrial areas it protects. For certain ecosystems, the OECD reports that Canada protects only a very small share of land.[8]

- Wildlife trafficking: Canada has made progress to stem wildlife trafficking through enhanced enforcement actions, both domestically and in collaboration with other countries and international organizations. However, Canada still faces significant challenges, including with respect to trafficking in migratory birds and trade in bear parts. The United States maintains a close working relationship with Canada in collaborative efforts to combat wildlife trafficking. For example, the U.S. Fish and Wildlife Service (FWS) Office of Law Enforcement (OLE) and Environment and Climate Change (ECC) Canada have co-led international efforts to stem the global illegal trade in Anguilla species of eel, resulting in the interdiction of dozens of shipments worth over $30 million USD.

Mexico – Economy

Mexico has a population of approximately 124.7 million people. Its GDP was $1.2 trillion[9] and its GDP per capita was $9,807[10] in 2018. Mexico's total goods trade amounted to approximately $915.2 billion ($450.9 billion in exports and $464.3 billion in imports).[11] Mexico's top exports include vehicles, electrical machinery, and machinery.[12] Mexico's top imports consist of electrical machinery, machinery and vehicles.[13] Mexico's major trading partners are the United States, China, Canada, Japan, and Germany.

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[7] 2018 Fall Report of the Commissioner of the Environment and Sustainable Development, available at: http://www.oag-bvg.gc.ca/internet/English/att__e_43151.html

[8] 2017 OECD Environmental Performance Review for Canada at 7.

[9] International Monetary Fund, World Economic Outlook Database, October 2018.

[10] International Monetary Fund, World Economic Outlook Database, October 2018.

[11] U.S. Department of Commerce, Trade Policy Information System.

[12] The World Bank.

[13] The World Bank.

Mexico is 1.96 million square kilometers in area (nearly three times the size of Texas). It is one of the most biologically diverse countries in the world and has several major biomes, including desert, tropical rainforest, marine, and forest.

The United States and Mexico both have extensive coastlines on the Pacific Ocean and the Gulf of Mexico, airsheds and watersheds, and flora and fauna that move across the U.S.-Mexico border, sometimes migrating to distant ecosystems. The United States and Mexico work closely on environmental protection and natural conservation through many treaties, agreements, and programs.

Mexico – Key Environmental Issues and Challenges

- Pollution Control: Air pollution is a major concern in specific locations, particularly Mexico City, but also along the U.S.-Mexico border. Under its *ProAire* programs, Mexico has made significant progress in reducing air pollution, notably the amount of smog in the Mexico City area. At the federal level, Mexico's Ministry of Environment and Natural Resources (SEMARNAT) implemented the National Strategy for Air Quality (ENCA) for the 20172030 timeframe. The ENCA aims to bring air pollution within World Health Organization (WHO) standards by 2030 by promoting low-emission public transportation and applying higher fuel efficiency standards for cars and light trucks in all Mexican states.

- Water Management: Water quality and availability are two of Mexico's most pressing environmental issues. The water needs of Mexico's growing population and increasing levels of urbanization are straining outdated infrastructure and stressing the underlying aquifers. In 2017, Mexico and the United States, in coordination with their respective states and agencies, signed an innovative and flexible agreement referred to as "Minute 323" that improves the conservation and management of water in the Colorado River basin, and promotes additional protections for the environment.

- Forestry: Deforestation continues to pose environmental challenges. Mexico's *ProÁrbol* program helps protect thousands of square miles of forest, and deforestation rates have decreased in the last 10 years. In 2017, the Government of Mexico announced the goal of achieving net zero national deforestation, focusing on five key states: Jalisco, Chiapas, Yucatan, Quintana Roo, and Campeche. The World Bank and the United States have also provided funding and technical assistance to Mexico's National Forestry Commission (CONAFOR) to strengthen forest management. The National Commission for Natural Protected Areas (CONANP) and the non-profit Mexican Fund for Nature Conservation jointly operate the Fund for Natural Protected Areas. Created 20 years ago, the fund includes contributions from the Government of Mexico, the United States, and the World Bank, among others, which directly supports the conservation of 51 natural areas and at least 30 species.

- Environmental Crimes: To help combat environmental crimes, like wildlife trafficking and illegal logging, Mexico created a new branch of the Federal Police in 2016. In 2017, Mexico also amended its legal framework to include environmental crimes under the statute for criminal organizations, increasing penalties for violators.

- Fisheries: In general, Mexico faces significant challenges enforcing its fisheries laws and regulations. Its vast coastline and the fact that small vessels make up a high percentage of its fishing fleet make patrolling and monitoring expensive and difficult to carry out. Concerning totoaba, the international black market for its swim bladder makes illegal fishing and smuggling lucrative in regions faced with economic hardships. The illegal fishing of totoaba is having a secondary impact, resulting in high mortality of the endangered vaquita. The United States cooperates with Mexico on many fisheries issues, including on the management of various tuna stocks, protection of endangered species, design of fishing gear to mitigate bycatch, and scientific data collection.

C. U.S. Goods Trade with Canada and Mexico

United States – Canada Goods Trade

Canada is the world's 10th largest economy (based on purchasing-power-parity)[14] and the United States' 2nd largest goods trading partner. Two-way goods trade between the United States and Canada totaled $617.2 billion in 2018, with U.S. goods exports to Canada totaling $298.7 billion and goods imports from Canada totaling $318.5 billion.[15] Nearly all bilateral goods trade is tariff-free under the NAFTA, and will continue to be tariff-free under the USMCA.

United States – Mexico Goods Trade

Mexico is the world's 15th largest economy (based on purchasing-power-parity)[19] and the United States' 3rd largest goods trading partner. Two-way goods trade between the United States and Mexico totaled $611.5 billion in 2018, with U.S. goods exports to Mexico totaling $243.3 billion and goods imports from Mexico totaling $346.5 billion.[16] All bilateral goods trade is tariff-free under the NAFTA, and will continue to be tariff-free under the USMCA.

[14] IMF statistics.
[15] U.S. Census Bureau statistics.
[19] IMF statistics.
[16] U.S. Census Bureau statistics.

III. DESCRIPTION OF THE AGREEMENT

A. Coverage and General Commitments

The Environment Chapter represents the most advanced and comprehensive obligations ever agreed to in a trade agreement to combat trafficking in wildlife, timber, and fish, to protect fish and marine species, and to address other pressing environmental issues. It includes enforceable commitments by all USMCA Parties to effectively enforce their environmental laws and not to waive or derogate from environmental laws in order to attract trade or investment.

- ***Dispute Settlement***

Commitments in the Environment Chapter will be enforced through the same dispute settlement procedures and mechanism available for disputes arising under other USMCA chapters, including the availability of trade sanctions. The USMCA dispute settlement system has strong rules against bias and conflict of interest, is transparent and open to the public, and encourages resolution of complaints when possible through cooperation and consultation.

- ***Wildlife Trade***

All USMCA countries are parties to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), the world's preeminent agreement to protect listed species of plants and animals from overexploitation through international trade. The Environment Chapter also includes groundbreaking commitments to combat trade in wildlife, plants and fish—whether or not protected under CITES—if they have been taken or traded in violation of a domestic or foreign law. These include commitments for the USMCA Parties to strengthen law enforcement cooperation and information sharing, including by enhancing participation in law enforcement networks and sharing information relevant to the investigation of criminals engaged in wildlife trafficking. The Environment Chapter also requires the Parties to take measures to enhance the effectiveness of inspections of shipments of wild fauna and flora, such as through improved targeting at ports of entry. An important new feature of the USMCA, which is not in any other U.S. FTA, is that the Parties agreed to treat intentional, transnational trafficking of protected wildlife as a "serious crime," carrying with it a penalty of at least four years. In addition, the Environment Chapter includes commitments to protect and conserve wildlife and plants in the North America region, including through action by the Parties to conserve specially protected natural areas, such as wetlands.

- ***Marine Fisheries***

The USMCA requires significant enhanced action to protect our oceans. It includes prohibitions on some of the most harmful fisheries subsidies, including those provided to vessels and operators identified for illegal, unreported, and unregulated (IUU) fishing, creating concrete progress and momentum that can be transformed into greater international action in multilateral fora, such as the World Trade Organization (WTO). The USMCA Parties also agreed to stronger transparency requirements beyond what the WTO Subsidies and Countervailing Measures (SCM) Committee already requires, and to make best efforts to restrain new subsidy programs and enhance existing subsidy programs that contribute to overfishing or overcapacity.

The Environment Chapter also includes first-ever prohibitions on shark finning and commercial whaling, as well obligations to protect marine species, such as whales, dolphins, and sea turtles through bycatch reduction measures and mandatory species-specific and gear-specific studies. The USMCA will also be a strong tool to combat IUU fishing. It includes obligations to implement port State measures consistent with the *Agreement on* Port State Measures *to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* ("Port State Measures Agreement")*t,* to support monitoring, surveillance, and enforcement schemes to detect IUU fishing practices, and to address transshipment at sea of IUU-caught products. In addition, it outlines obligations to maintain vessel documentation schemes and publicly available fishing

The Complete Text of the USMCA Environment Chapter is available on USTR's website at: https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/24_Environment.pdf

vessel registry data to increase transparency of fleets and the traceability of vessels.

- ***Forestry Issues***

The USMCA will require action to combat illegal logging and associated trade, helping to conserve some of the world's most biodiverse and carbon-rich forest ecosystems and to eliminate distortions in international markets for forest products that unfairly disadvantage U.S. businesses. The USMCA will also promote sustainable forest management, legal trade in timber products, and strengthened government capacity and institutional frameworks to conserve threatened species, as well as the livelihoods of communities that depend on them.

- ***Environmental Goods & Services***

Although tariffs on qualifying environmental goods have already been eliminated between the United States, Canada, and Mexico under the NAFTA, the Parties agreed in the USMCA Environment Chapter to strive to facilitate and promote trade and investment in environmental goods and services, and to work together to address non-tariff barriers that affect these products and services.

- ***Multilateral Environmental Agreements***

The Environment Chapter includes general commitments for the Parties to consult and cooperate as appropriate on issues of mutual interest related to relevant multilateral environmental agreements (MEAs), including exchanging information on the implementation of MEAs and as part of ongoing negotiations of new MEAs.

TPA references seven MEAs: *Convention on International Trade in Endangered Species of Wild Flora and Fauna* (CITES); *International Convention for the Regulation of Whaling* (ICRW); *Convention for the Conservation of Antarctic Marine Living Resources* (CCAMLR); *Convention for the Establishment of an Inter-American Tropical Tuna Commission* (IATTC); *Ramsar Convention on Wetlands* (Ramsar); *Montreal Protocol on Ozone Depleting Substances*; and *International Convention on Preventing Marine Pollution from Ships* (MARPOL). While the United States is a party to all seven MEAs referenced in TPA, Canada is not a member of the ICRW and has acceded to CCAMLR, but is not a member of the Commission that oversees CCAMLR. Mexico is not a member of CCAMLR.

To ensure that all Parties take measures that meet or exceed those required by these MEAs, the USMCA's Environment Chapter requires the Parties to "adopt, maintain and implement" measures to fulfill their obligations under the MEAs referenced in TPA to which they are party. The Environment Chapter also includes a general prohibition on commercial whaling, and extensive commitments on sustainable management of fisheries, combatting IUU fishing, and promoting conservation of marine mammals.

In several cases, the USMCA goes beyond what is required by these MEAs to establish pioneering new commitments, such as those to prohibit harmful government subsidies to vessels fishing illegally, and to take enhanced actions to combat wildlife trafficking—regardless of whether the wildlife is protected under CITES. The Environment Chapter's fisheries commitments also build on the obligations of certain fisheries-related MEAs, such as CCAMLR and the IATTC, but extend their reach beyond particular geographic areas and particular species.

- ***Transparency and Public Participation***

The Environment Chapter establishes expansive obligations concerning transparency related to implementation and enforcement, including commitments by each USMCA Party to promote awareness of its environmental laws and policies and to provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of the Chapter.

The Environment Chapter also provides a framework for the modernization of the Commission for Environmental Cooperation (CEC), first established under the *North American Agreement on Environmental Cooperation* (NAAEC). The CEC Secretariat will accept

submissions from the public asserting that a USMCA Party is failing to effectively enforce its environmental laws. The submission can lead to the preparation of a factual record. The USMCA shortens the timeframe for the public submission process, and commits Parties to provide updates on final factual records, as appropriate.

- ***Access to Remedies for Environmental Harm***

The Environment Chapter includes commitments by the United States, Canada, and Mexico to ensure access to fair, equitable, and transparent administrative or judicial proceedings for enforcing their environmental laws, and to provide appropriate sanctions or remedies for violations of their environmental laws.

- ***Cooperation***

The Environment Chapter includes an article on Environmental Cooperation that sets out the Parties' commitment to expanding environmental cooperation, including to support implementation of the obligations in the Chapter. Mexico, the United States, and Canada signed an *Agreement on Environmental Cooperation* (ECA) respectively on November 30, 2018, December 11, 2018, and December 19, 2018, to provide a continued framework for cooperative activities on environmental matters.

- ***Biodiversity***

Both Mexico and the United States are considered megadiverse countries, and Canada is recognized for its diversity of ecosystems and unique and sensitive habitat. The USMCA's cooperative commitments will promote conservation and sustainable use of biological diversity.

- ***Invasive Alien Species***

The Environment Chapter includes a commitment for the USMCA Environment Committee to coordinate with the Committee on Sanitary and Phytosanitary Measures to identify cooperative opportunities to share information and management experiences on the movement, prevention, detection, control, and eradication of invasive alien species.

- ***Corporate Social Responsibility and Public-Private Partnerships***

The Environment Chapter includes commitments to encourage companies to voluntarily adopt corporate social responsibility policies, and to use mechanisms, such as public-private partnerships to help to protect the environment and natural resources, among other objectives.

- ***Implementation***

The Environment Chapter establishes a senior-level Environment Committee, which will meet regularly to oversee implementation of the chapter, with opportunities for public participation in the process.

- ***New Features***

In addition to many of the new features mentioned above, the USMCA's Environment Chapter introduces additional innovative provisions in environment areas that have not previously been incorporated into U.S. FTAs, including:

  - A first ever obligation for the Parties to take measures to prevent and reduce marine litter, and to cooperate to combat marine litter from land and sea-based sources.

  - Provisions requiring each Party to make air quality data and information publicly available, and to work together in areas such as ambient air quality planning, and inventory of methodologies for air quality and emissions measurements.

  - Commitments by each Party to promote sustainable forest management and trade in legally harvested forest products.

  - An obligation that each Party maintain appropriate environmental impact assessment procedures, and that such procedures provide for the disclosure of information to the public.

B. Summary of Other Chapters

Beyond the Environment Chapter, there are a number of other USMCA Chapters that are relevant to this Environmental Review:

- ***Market Access for Goods***

The USMCA will maintain the duty free treatment from NAFTA for originating goods between the Parties, as well as the prohibition on export duties, taxes, and other charges. New commitments have been included in the Market Access chapter to reflect developments in United States trade agreements that address non-tariff barriers related to trade in remanufactured goods, import licensing, and export licensing. The new Market Access chapter will more effectively support trade in manufactured goods between the United States, Mexico, and Canada by removing provisions that are no longer relevant, updating key references, and affirming commitments that have phased in under the original agreement. In particular, the provisions

related to remanufactured goods will support remanufacturing industries, which extend the life cycle of industrial goods and reduce the use of raw material and energy resources.

- ***Market Access in the Agriculture Sector***

All food and agricultural products that have zero tariffs under NAFTA will remain at zero tariffs. Since the original NAFTA did not eliminate all tariffs on agricultural trade between the United States and Canada, the USMCA will create new market access opportunities for United States exports to Canada of dairy, poultry, and eggs, and in exchange the United States will provide new access to Canada for dairy, peanuts, processed peanut products, and a limited amount of sugar and sugar containing products.

- ***Customs Administration and Trade Facilitation***

The Customs and Trade Facilitation Chapter of the USMCA includes important new provisions that will help reduce costs and bring greater predictability to the border, while at the same time ensuring customs administrations have the tools necessary to enforce the law. New provisions will help ensure that traders have the necessary information to meet customs requirements – including commitments on Internet publication, advance rulings, and administrative guidance. The USMCA requires customs administrations to be responsive to importers and exporters, and provisions on appeals, penalties, and standards of conduct require customs administrations to follow rules to ensure fairness and integrity in customs work. It also includes forward-leaning provisions related to automation, including a mandatory single window and immediate release of goods once customs requirements are met, which are designed to reduce the burdensome red tape that can delay shipments.

- ***Sanitary and Phytosanitary Measures (SPS)***

In the SPS chapter, the United States, Mexico, and Canada have agreed to strengthen disciplines for science-based SPS measures, while ensuring Parties maintain their sovereign right to protect human, animal, and plant life or health. Provisions include increasing transparency on the development and implementation of SPS measures; advancing science-based decision making; improving processes for certification, regionalization and equivalency determinations; conducting systems-based audits; improving transparency for import checks; and working together to enhance compatibility of measures. The USMCA would establish a new mechanism for technical consultations to resolve issues between the Parties.

- ***Technical Barriers to Trade (TBT)***

The USMCA TBT chapter strengthens disciplines related to transparency, standards, technical regulations conformity assessment procedures and trade facilitation matters. Furthermore, the chapter maintains each government’s rights to regulate products and

manufacturing processes that ensure the protection of human, animal, or environmental health and safety. New provisions in the chapter enhance rights and obligations under the WTO TBT Agreement, including using the WTO TBT Committee Decision on International Standards as a basis in determining what standards are "international." In cases where there is no international standard, the chapter provides an alternative pathway for standards developed in North America to be considered in technical regulations. The chapter also prevents discriminatory treatment of the conformity assessment bodies that are located in one Party's territory and seeks to prevent testing procedures from becoming unnecessary obstacles to trade. The chapter incorporates good regulatory practices for technical regulations, and emphasizes the Parties' commitment to reduce unnecessary barriers and to provide national treatment with respect to labeling.

- ***Sectoral Annex on Energy Performance Standards (EPS)***

The USMCA includes a new EPS Annex, which aims to harmonize federally mandated energy performance standards across a wide range of product categories (household appliances, HVAC, lighting, industrial equipment, and others) within a nine-year timeframe, and establishes a mechanism for continued regulatory cooperation on EPS. This is a new area that has never been included in the Parties' previous free trade agreements, and it will benefit U.S. manufacturers by strengthening standards, reducing the need for duplicative product testing for U.S. exports, and improving energy efficiency cooperation in North America.

- ***Chemical Substances Annex***

The Chemical Substances Annex promotes enhanced regulatory compatibility and trade between the three Parties, while recognizing the regulatory authority of each Party. The sectoral commitments build on the existing, extensive regulatory cooperation on chemicals between the Parties and identify areas of focus for future cooperation. The Parties agreed to make efforts to align risk assessment methodologies and risk management measures for chemical substances. Moreover, the Parties recognized the importance of minimizing unnecessary economic barriers or impediments to technological innovation and have agreed to define and, where appropriate, use a risk-based approach to the assessment of chemicals. In a risk-based approach, the evaluation of a chemical substance or chemical mixture includes the consideration of both the hazard and exposure as well as the protection of health and the environment.

- ***Investor-State Dispute Settlement (ISDS)***

ISDS is addressed below in Section VII.

- ***Government Procurement***

The USMCA includes a chapter on government procurement between the United States and Mexico, under which both countries will continue to have market access opportunities

comparable to what is currently available under NAFTA. The chapter includes language on technical specifications to make clear that such specifications can be used to promote the conservation of natural resources or protection of the environment so long as the specifications are consistent with the rest of the obligations.

- ***Anticorruption***

The Anticorruption Chapter of the USMCA builds from the base of commitments that have been incorporated in our most recent trade agreements, but were not in the original NAFTA. Key aspects include requirements that Parties criminalize acts of corruption, commitments on combatting embezzlement, new whistleblower protections, and strong cooperation among the Parties to enforce anticorruption laws.

- ***Good Regulatory Practices***

The USMCA includes, for the first time in a U.S. trade agreement, a chapter on good regulatory practices, which refers to good governance procedures that governments apply to promote transparency and accountability when developing and implementing regulations. The chapter includes commitments relating to central coordination; publication of annual plans of expected regulations; public consultations on draft texts of regulations; evidence-based analysis and explanations of the scientific or technical basis for new regulations; other provisions concerning evidence-based decision-making (such as parameters for conducting regulatory impact assessments and retrospective reviews); and techniques for encouraging regulatory compatibility and regulatory cooperation. The chapter makes clear that no provision prevents governments from pursuing public policy objectives with respect to health, safety, or the environment.

- ***Publication and Administration (Transparency)***

The USMCA chapter on Publication and Administration requires each Party to ensure that its laws, regulations, procedures, and administrative rulings of general application are publicly available. To the extent possible, proposed measures are required to be published in advance for public comment, and be available online. It also provides for due process rights for stakeholders regarding administrative proceedings, including prompt review of any administrative action through independent and impartial judicial or administrative tribunals or procedures. The chapter also includes a new commitment to compile laws and regulations of general application at the central level of government on those freely accessible websites that are identified in an Annex to the Chapter.

- ***Rules of Origin***

The USMCA includes chapters on rules of origin and on origin procedures, including new product-specific rules for passenger vehicles, light trucks, and auto parts. These rules will help to preserve vehicle and parts production in the region and the United States, and transform supply chains to use more regional and U.S. content, especially content that is key to future automobile production and high-paying jobs. The rules will close loopholes that allowed vehicles to qualify for duty-free treatment even if vehicle content came from outside North America. The USMCA also encourages the use of high-wage North American labor by establishing a new labor value content rule for a significant portion of vehicle content. This will help ensure that U.S. producers and workers are able to compete on an even playing field and incentivize new vehicle and parts investments in the United States.

- ***Dispute Settlement***

This chapter provides a mechanism for the settlement of disputes between the Parties for matters arising under the Agreement. The chapter provides for a two-step process comprising consultations and review by a panel. The panel report is due no later than 150 days from the date of the appointment of the last panelist. If the panel finds that the responding Party has failed to comply with its obligations or caused nullification or impairment, the Parties shall attempt to agree on a resolution of the dispute. If the disputing Parties are unable to agree on resolution of the dispute, the complaining Party may suspend the application to the responding Party of benefits of equivalent effect to the non-conformity or the nullification or impairment until such time as the dispute is resolved. The panel may be convened again to determine if the suspension is excessive or if the responding Party has eliminated the non-conformity or nullification or impairment.

- ***Exceptions***

The USMCA recognizes some exceptions to the obligations set out throughout the Agreement. For example, USMCA incorporates the GATT Article XX exceptions with respect to goods-related obligation and GATS Article XIV exceptions with respect to services-related obligations.

- ***Final Provisions and Review Mechanism***

This chapter contains provisions regarding, among other things, amendments to the Agreement, the languages in which the Agreement is authentic, and entry into force. In addition, the chapter sets the term of the USMCA at 16 years, with the possibility of extensions. The Commission is required to review the operation of the Agreement every six years. At the end of each such review, each Party, through its head of government, must confirm whether it wishes to extend the term of the Agreement for another 16 years (that is, if this is done at the 6th anniversary, the Agreement term will then be 22 years). If this does not occur, the Commission will meet to review the Agreement every year until agreement to extend is reached, or the term expires. At any

point when the Parties decide to extend the Agreement for another 16-year period, the Commission will continue conducting reviews every 6 years.

IV. Public & Advisory Committee Comments

To determine the scope of this Environmental Review, the Administration considered information provided by the public in response to the Federal Register notice dated September 27, 2017 (82 Fed. Reg. 44868) and by requesting input from environmental, trade, and investment experts within federal agencies through the TPSC. In addition, information, analysis and insights from these sources were taken into account throughout the negotiations. The public comments are summarized below, in Section IV.A.

In addition to public and interagency comment, USTR engaged extensively and consulted regularly with the TEPAC, which provided policy advice on issues involving trade and the environment from the outset through the conclusion of negotiations. The TEPAC Report is summarized below, in Section IV.B.

A. Summary of Public Comments[17]

Seven submissions were received in response to the request for public comment on the Environmental Review.[18] Most commenters focused on areas to be included in the final agreement to address environmental harms, with a view to using this Environmental Review to help identify the scope of those provisions.

In particular, multiple commenters stressed the importance of establishing stronger environmental obligations subject to the same dispute settlement procedures as other chapters of the agreement. In addition, multiple commenters highlighted the need for enhanced trilateral environmental cooperation and trade capacity building, improved public participation provisions, and support for robust enforcement of environmental laws.

Multiple commenters also affirmed the importance of combatting trafficking in wildlife, timber, and fish, and the inclusion of obligations to provide for adequate penalties for such crimes, and to adopt and maintain measures to implement CITES. Three commenters expressed support for strong marine fisheries provisions, such as those to combat IUU fishing, to prohibit harmful fisheries subsidies, to promote sustainable fisheries management, and to ensure strong protections for marine species, including for example, addressing the practice of shark-finning.

One commenter stressed the need to either eliminate ISDS or vastly reform it to ensure that the Agreement does not provide a platform to challenge sovereign countries' environmental laws. Another commenter underscored the importance of the Environmental Review to reflect on the impacts of NAFTA on biodiversity conservation and loss, urging the Environmental Review include specific ways to address these issues in the United States, Canada, and Mexico,

[17] See Annex II for the list of organizations providing comments.
[18] https://www.regulations.gov/document?D=USTR-2017-0018-0001.

whether through stricter domestic and international regulation or environmental cooperation. Another commenter urged that the Agreement address the negative impacts of industrialized animal agriculture practices.

B. Summary of Advisory Committee Report

Section 135(e)(1) of the *Trade Act of 1974* (19 U.S.C. 2155(e)(1)) requires advisory committees to submit reports on trade agreements no later than 30 days after the date on which the President notifies Congress of his intention to enter into an agreement. TEPAC submitted its report on the USMCA on September 27, 2018. The composition of the TEPAC is diverse, with a range of civil society members—including NGOs, businesses, and academia—representing a range of views and experience in the environmental policy area. TEPAC's primary conclusions as to whether and to what extent the USMCA promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives set out by Congress in the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* are summarized below.

TEPAC concluded that the USMCA "as a whole will contribute to improved environmental outcomes by building on the environmental provisions of NAFTA 1994" and that it "largely meets the environmental objectives established by Congress in the Bipartisan Trade Act of 2015."[19] Specifically, TEPAC recognized that the Agreement "substantially achieves Congress' specific negotiating objectives," including by addressing all seven of the MEAs listed in TPA directly or through standalone provisions. [20] TEPAC also found that the USMCA Environment Chapter addresses Congress' negotiating objectives relating to IUU fishing and fisheries subsidies, and addresses four other important conservation issues: marine litter, marine wild capture fisheries, sustainable fisheries management, and conservation of marine species.[21] Although TEPAC would like to see additional fisheries subsidies prohibitions, it points out that the USMCA improves upon the Trans Pacific Partnership (TPP) by also including fishing vessel operators, as well as vessels, in the prohibition on subsidies for IUU Fishing.[22] TEPAC also welcomes new provisions to prohibit shark finning and commercial whaling.[23]

The full text of the advisory committee report is available at: https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canadaagreement/advisory-committee

[19] TEPAC Report at 2.
[20] TEPAC Report at 6.
[21] TEPAC Report at 8-9.
[22] TEPAC Report at 7.
[23] TEPAC Report at 9.

TEPAC was also pleased to see that the USMCA requires "enhanced shipping inspections to interdict illegal wildlife trade and requires parties to treat transnational wildlife trafficking as a serious crime."[24] TEPAC also welcomed obligations to address illegal logging and associated trade, as well as provisions that support sustainable forest management and promote trade in legally harvested products.[25] The committee also indicated its support for commitments to strengthen government capacity for conservation.[26] TEPAC noted, however, the committee would have liked to have seen additional obligations to address demand reduction efforts for wildlife, and even stronger commitments to prohibit trade and transshipment of illegally taken or traded wild fauna and flora products. [27]

TEPAC recognized some advancement on air quality and trade in environmental goods and services. [28] TEPAC acknowledged limitations set out by Congress in TPA regarding inclusion of obligations on greenhouse gas emissions in FTA, but nevertheless, the committee felt more could have been done to address clean energy, fossil fuel subsidies, and sustainable transportation vehicles, among other topics. [29]

While TEPAC members have a range of views on ISDS provisions in the Investment Chapter, and some members "would have preferred a further scaling back, or even full elimination, of ISDS, the consensus among TEPAC members is that the changes made here are positive."[30]

TEPAC acknowledged the efforts made by the U.S. Government and the other Parties to address some of the specific concerns that have arisen regarding use of ISDS procedures in the past.

[24] TEPAC Report at 9.
[25] TEPAC Report at 9-10.
[26] TEPAC Report at 9.
[27] TEPAC Report at 10.
[28] TEPAC Report at 10-12.
[29] TEPAC Report at 12.
[30] TEPAC Report at 14.

V. Potential Economically-Driven Environmental Impacts

A. Potential Impacts in the United States

North America is already a heavily integrated market and export destination for U.S. manufactured goods, agricultural products, and services suppliers. Collectively, Canada and Mexico are already the largest goods and services export market of the United States. Nearly all goods trade between the United States, Canada and Mexico is already duty-free under the NAFTA, and the United States already allows substantial market access to foreign services providers, including in environmentally sensitive areas (e.g., tourism, maritime shipping, and services incidental to energy distribution). As such, the USMCA is not expected to have significant economically-driven environmental impacts in the United States.

Although future changes in production and exports in specific environmentally-sensitive sectors may raise questions regarding the USMCA's direct environmental effects in the United States, our analysis and interagency consultations revealed no immediate concerns about possible future changes in production. Overall, the likelihood and magnitude of any increased environmental risks resulting from the USMCA are small, and in any event, will be mitigated by other factors, such as strengthened obligations in the USMCA to effectively enforce environmental laws.

Addressing non-tariff barriers in environmental goods and services, and promoting trade and investment in such services, can support environmental and natural resource stewardship goals in the United States, Canada, and Mexico (e.g., improved sanitation and pollution prevention).

As discussed below, there are no changes required to U.S. environmental laws or regulations as a result of the USMCA, nor would environmental regulations be adversely affected under the USMCA. Commitments to effectively enforce U.S. environmental laws, and not to weaken them in order to encourage trade or investment, will reinforce U.S. regulatory authorities.

Specific issues that were identified and analyzed by USTR and relevant U.S. regulatory agencies in the course of the environmental review process included the potential for increased trade to contribute to: (1) potential transport-related environmental impacts, including localized environmental impacts at selected U.S. maritime ports; (2) increased risk of introduction of invasive alien species; and (3) potential environmental impacts due to increased domestic liquefied natural gas production driven by prospective USMCA trade. These issues are addressed below, taking into account best available information.

• ***Transport-Related Environmental Issues***

Air and water pollution from the concentration and cumulative effects of emissions from ships, trucks, trains, and goods-moving equipment associated with domestic and international

trade were identified in the interagency scoping for the environmental review. Some air emissions associated with goods movement, including particulate matter, nitrogen oxides (NOx), Sulphur oxides (SOx) and black carbon, from diesel exhaust, are known to have a number of adverse effects on human health and the environment, particularly near major transportation corridors and ports. Possible cumulative environmental impacts with respect to maritime areas and ports could include, but are not limited to: (a) impacts from marine litter, both generated by ships themselves as well as from oceanic trash movement to beaches aided by ship movement; (b) increased pressure on marine mammal (e.g., seal, whale, and dolphin) populations from the presence of more ships in the trade channels, manifested mainly in the form of noise and ship strikes; (c) increased movement and release in U.S. waters of alien invasive species carried in ship ballast water and hull fouling; (d) other marine discharges (e.g., ballast water, antifoulants, deposition of sulfur oxides and nitrogen oxides) that may further alter the quality of the marine environment (temperature, turbidity, pH, *etc*.); (e) risk of collision or allision resulting from new vessel activity in areas that previously were lightly used, with commensurate risks of oil spills or other releases into areas; and (f) increased potential for emergency and weather-related back-up of containers at ports and additional burdens on U.S. port infrastructures.

All trucks, trains, and shipping vessels operating in the United States must meet all U.S. environmental and safety laws, regulations and standards, including emissions standards. While changes in trade volume associated with the USMCA could result in adjustments to total emissions associated with trade-related goods movement, there is no basis to expect that such changes will have significant environmental impacts in the United States. It is possible that there will be an increase in trade and by extension, an increase in transport-related pollution; however, if volume decreases, or efficiency of transportation mode changes, pollution may actually decrease. If maritime transport is used, it might – along coastal and inland waterway routes – decrease pollution since barges pollute less than equivalent tonnage carried by trucks. Likewise, increases in regional transportation and trade may have an overall decreasing effect on total emissions if local trade replaces trans-oceanic trade.

Potential air quality impacts can reach far inland but may arise most notably along key transportation routes, as well as in and near key gateway points of entry. However, it is difficult to associate increases at gateway ports, for example, with regional trade agreements since gateway ports will grow with global demand and are more likely to be impacted by global and trans-ocean carrier trade. The more likely impact is along coast-wise routes and marine highway systems connecting Canada, the United States, and Mexico, and the coast-wise communities that would be subject to possible increases in emissions and discharges near their shores that would newly develop or increase based on changes in vessel patterns.

Importantly, the USMCA would not affect U.S. regulatory authority and measures to monitor, measure and reduce pollution, and again, all trucks, trains, and shipping vessels operating in the United States must meet all U.S. environmental and safety laws, regulations and standards, including emissions standards. In addition, there are current Federal partnershipbased initiatives underway to address the environmental impacts associated with goods movement,

including work to address the impacts on local communities. For example, the United States successfully proposed, through efforts by the EPA, Coast Guard, the Department of Justice, and the Department of State, through work at the International Maritime Organization, amendments to Annex VI of the MARPOL Convention to establish the North American Emission Control Areas (ECA) extending 200 nautical miles off the U.S. and Canadian Atlantic and Pacific coasts and the U.S. Gulf Coast (Canada co-sponsored this proposal with the U.S.) and the U.S. Caribbean Sea ECA (around Puerto Rico and the U.S. Virgin Islands). There is also discussion about an ECA in Mexico, which would change impacts of emissions from ships moving within the entire region under the agreement.

Further, the 2020 global fuel sulfur cap will impact potential emissions for the area under the Agreement as well as areas of the high seas between them, where applicable. Under the sulfur cap, alternative technology may be used if non-compliant fuel is burned, but the technology must ensure that the resulting emissions do not exceed those emissions that would have been produced if the compliant fuel were used. Lastly, under the *Clean Air Act*, EPA has promulgated stringent national emission control measures for trucks and locomotives.

• ***Invasive Alien Species***[31]

Canada and Mexico encompass a range of climates, which share similar conditions to those found in the United States. This similarity in climatic conditions may increase the vulnerability of the United States to the establishment and spread of invasive species. To the extent that the USMCA stimulates increases in commodity trade along pathways for the introduction of invasive species, there is a risk that the USMCA could contribute to the increased movement of invasive species between the other USMCA Parties and the United States. For example, commercial marine traffic carries some risk of additional invasions from ballast water discharges or hull fouling.[32] Similarly, the extensive land borders with Canada and Mexico provide for additional pathways of introduction associated with the movement of vehicles and goods along rail lines, roads, and waterways. Therefore, an increase in goods trade, absent adequate sanitary and phytosanitary controls, could be associated with an increased risk of introducing invasive species.

The risks of increased introduction of invasive species associated with increases in the movement of commercial goods, vehicles, and passengers resulting from the USMCA is difficult to quantify, particularly as introduction of invasive species also may be the result of both intentional and unintentional introductions unrelated to USMCA.

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[31] The term "invasive species" means, with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health. *See* Executive Order 13751 "Invasive Species."

[32] Costello, Christopher, et al. "Unintended biological invasions: Does risk vary by trading partner." Journal of Environmental Economics and Management54.3 (2007): 262-276.

The USMCA will not affect U.S. regulatory authority and measures to prevent, control and eradicate invasive species. Existing policies will allow for continued monitoring and targeting of known and potential invasive species and their pathways of introduction. For example, U.S. Fish and Wildlife Service's (FWS) authority to list injurious wildlife under the *Lacey Act*[33] can be used to address high-risk vertebrate and some invertebrate species by prohibiting their import through regulation. Species may be listed as injurious if they cause harm to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States. FWS uses rapid screening to predict invasiveness of imported species. Through the FWS's Office of Law Enforcement, Wildlife Inspectors are stationed at major ports to monitor shipments of wildlife and plants and to intercept illegal shipments.

The United States Department of Agriculture Animal and Plant Health Protection Service (APHIS) safeguards U.S. agriculture and natural resources against the entry, establishment, and spread of damaging plant and animal pests and diseases into the United States; which facilitates the safe trade of agricultural products. Early identification enables APHIS to anticipate and minimize potential outbreaks and any environmental impacts from expanded trade, including the potential movement of invasive species by currently known and to-be-determined pathways. As these threats are ever changing, APHIS adjusts its strategies for identifying pests and diseases. APHIS has several approaches and tools and works closely with many partners to either eradicate the pest or disease or where eradication is not feasible, to manage the pest or disease, thereby minimizing its impact on the economy and the environment. APHIS also has regulations and authority to take action in the United States should invasive agricultural pests be detected. One important legal instrument that APHIS operates under is the *Lacey Act* "that prohibits trade in wildlife, fish, and plants that have been illegally taken, possessed, transported, or sold." The Quarantine 37 regulation addresses the import of plants intended for planting, and the Quarantine 56 regulation is meant to simplify and expedite plant protection rules for approving new imports and pest-free areas. These tools along with other early detection/rapid response efforts, such as targeting protocols developed by the Department of Homeland Security for use at ports of entry, can also be used to identify new, potentially invasive species.

Invasive species issues are also the focus of considerable international effort, including work through the International Maritime Organization, the *International Plant Protection Convention*, and a number of MEAs. Moreover, the Environment Chapter of the USMCA includes commitments by the Parties to identify cooperative opportunities to share information and management experiences on means to address movement, prevention, detection, control, and eradication of invasive alien species. This could, for instance, inform and facilitate improved horizon scanning and sentinel programs to identify new species of concern to North America and its constituent countries, the collection and analysis of location data on non-native species, as well as development of clean stock programs to ensure that products are treated prior to transboundary shipping. Thus, the USMCA has the potential to strengthen cooperation on research, monitoring, prevention, and control of invasive species in both the United States and in

[33] 18 USC 42(a) https://www.fws.gov/le/pdffiles/Lacey.pdf

the other USMCA countries. We expect those policies along with bilateral and trilateral cooperation activities to help minimize any additional risk posed by increased trade under the USMCA.

• ***Natural Gas Exports***

Some concerns have been raised by members of the public that liberalized trade in natural gas, including liquefied natural gas (LNG) under the USMCA, could potentially contribute to a significant increase in domestic natural gas production, and pose environmental risks, including those associated with unconventional gas extraction techniques, such as hydraulic fracturing. Ultimately, however, the USMCA will not require changes to the *Natural Gas Act of 1938*, U.S. environmental laws or U.S. Department of Energy (DOE), Federal Energy Regulatory Commission (FERC), or U.S. Department of Transportation's Maritime Administration (MARAD) regulations that regulate LNG (and pipeline natural gas) production and export, and safeguard against potential environmental risks. Thus, no negative environmental impacts are foreseen from the USMCA.

In response to concerns from stakeholders, DOE prepared two reports to consider any potential effects. First, DOE conducted a review of existing literature on potential environmental issues associated with unconventional natural gas production in the lower-48 states entitled *Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States*.[34] Second, DOE published the National Energy Technology Laboratory's report entitled, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States*.[35] An update to this report, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update was published on September 19, 2019. [36]

Under the *Natural Gas Act of 1938* (NGA), DOE has authority to review applications seeking authority to import or export natural gas from the United States. The NGA requires DOE to perform a public interest review of applications seeking to export natural gas to non-FTA countries. Additionally DOE must review the environmental impact of non-FTA export applications to meet its responsibilities under the *National Environmental Policy Act*. Applications to import or export natural gas, including LNG, to or from countries with which the United States has an FTA in force that requires national treatment for trade in natural gas ("FTA

[34] Dept. of Energy, Draft Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 Fed. Reg. 32,258 (June 4, 2014).

[35] Dept. of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States, 79 Fed. Reg. 32,260 (June 4, 2014).

[36] Dept. of Energy Nat'l Energy Technology Laboratory, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update* (DOE/NETL 2019/2041) 84 FR 49278 (Sept. 12, 2019), *available at*: *https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf.*

countries") are deemed by the NGA to be consistent with the U.S. public interest and are approved without modification or delay.

As of December 10, 2019, DOE has approved 55 long-term applications to export domestically produced LNG from the lower-48 states equivalent to 56.22 billion cubic feet/day (Bcf/d) of natural gas to FTA countries. DOE has also issued 38 final long-term authorizations to export lower-48 states domestically-produced LNG to non-FTA countries for a period of twenty years in a volume equivalent to 38.06 Bcf/d of natural gas. The authorized volumes for export to FTA and non-FTA countries are not additive; the Natural Gas Act requires DOE to grant applications to export natural gas to countries with which the United States has a free trade agreement requiring national treatment for trade in natural gas (FTA countries) without modification or delay. Over the past nine years, dozens of applicants proposing to build largescale liquefaction and export facilities in the United States have applied for both FTA and nonFTA authorizations from DOE. By law, DOE has promptly granted the FTA authorizations, many of which carry export terms of 25 years. The market has shown, however, that a FTA authorization alone has not been enough to support the financing and construction of large-scale LNG projects. The large-scale LNG projects currently under construction in the United States did not reach final investment decision until after they had received both: (i) an authorization from the Federal Energy Regulatory Commission (FERC) to construct and operate their LNG facility, and (ii) a non-FTA authorization from DOE to export the LNG. For these reasons DOE has focused on the volume of non-FTA authorizations as the better guide to the export capacity that may be built and utilized in the United States.

DOE also has granted a 30-year authorization to export LNG from Alaska to FTA countries in a volume equivalent to 2.55 Bcf/d of natural gas, and has issued a conditional 30-year authorization permitting LNG exports from Alaska to non-FTA countries pending a successful environmental review of the proposed project.

As of December 10, 2019, eight large scale lower-48 states liquefaction facilities are in various stages of construction and operation, with approximately 7 Bcf/d of takeaway capacity online currently across four operating projects. A total of nearly 15.5 Bcf/d of export capacity is projected to be online across all seven projects by the end of 2025, which is equivalent to approximately 17.2 percent of 2018 U.S. dry natural gas production.

In addition to DOE's authority over exports of LNG, U.S. LNG import and export terminals are subject to approval by FERC or, in the case of terminals in deepwater ports, the MARAD. Both FERC and MARAD conduct environmental reviews as part of their consideration of the terminal application regardless of whether the facilities will be used for exports to or imports from FTA or non-FTA countries. DOE acts as a cooperating agency in that review to meet DOE's environmental responsibilities for exports of LNG to non-FTA countries.

Under the USMCA, the United States will be required to provide national treatment of natural gas to Canada and Mexico. Given their contiguous borders, the vast majority of natural

gas trade between the United States, Canada, and Mexico is conducted via pipeline. The United States also imports a small quantity of LNG from Canada, and exports a growing (but still small in comparison to pipeline gas) amount of LNG to Mexico. While DOE will make public interest determinations to authorize exports to FTA or non-FTA countries on a case-by-case basis, considering economic, energy security, environmental, and geopolitical impacts, among other factors, exportation of the LNG is ultimately a private commercial decision.

The United States became a net exporter of natural gas in 2017 and is projected to be a net exporter of energy overall in the coming year. Projections from the Energy Information Administration show that the United States will continue to increase natural gas production; however other countries are also rapidly developing their natural gas resources and exports.

● ***Environmental Goods & Services***

Environmental goods and services include a wide variety of services and technologies relevant to, for example, pollution control, clean energy, waste management and natural resource protection—from solar panels to wind turbines, water treatment filters, and recycling equipment. Respectively, Mexico and Canada are the top two U.S. export markets for U.S. environmental goods, with U.S. exports of those goods valued at approximately $82.7 billion in 2018. Canada and Mexico accounted for 33 percent of total U.S. exports of environmental goods in 2018. U.S. environmental goods exports to Canada and Mexico increased by 43 percent between 2009 and 2018.

Although tariffs on environmental goods are already zero among the USMCA Parties, the USMCA's environmental provisions are likely to result in increased demand for environmental technologies in these markets. More generally, addressing environmental challenges in USMCA countries could lead to increased demand for environmental infrastructure projects and related consulting, engineering, testing, and other services. Moreover, because of the global nature of some pollution problems, increased adoption of green technologies can generate transboundary benefits. For example, increased adoption of these technologies in Canada or Mexico would generate environmental benefits for the United States if they reduce air pollution emissions that affect U.S. local and regional air quality (such as ozone). The USMCA will also promote cooperation among the United States, Canada, and Mexico on issues such as energy-efficiency through its Annex on Energy Performance Standards. In this way, the USMCA provisions are expected to have a positive environmental impact in North America.

VI. Transboundary Issues

While not required under the EO 13141 or the primary focus of this environmental review, this section summarizes analysis concerning a range of potential transboundary impacts of the USMCA.

While the environmental effects of the USMCA also are likely to vary by country, the Environment Chapter sets out tools to prevent or manage economically driven impacts. It seeks to leverage trade policy to take on an array of environmental challenges, including wildlife trafficking, illegal logging and associated trade, illegal fishing, and marine pollution, which threaten human health, habitat, and biodiversity. That concern is a driving factor behind inclusion of obligations to: effectively enforce environmental laws and not weaken them to attract trade or investment; protect endangered species and combat trafficking in wildlife and timber; and ensure the long-term conservation of our marine fisheries. Moreover, promotion of the trade in environmental goods and services, along with new investment, will likely spur environmentally preferable technologies, production methods, and services as well as higher standards for private sector environmental performance.

The Administration places a high priority on the effective implementation and fulfillment of these obligations, to ensure that the Environment Chapter delivers on its promise of strengthening environmental protection across the region, while growing trade with our partner countries. A rigorous implementation process, along with monitoring and enforcement and trade capacity building efforts reaching across the entire Administration and stakeholder community, will help us to ensure that USMCA Parties are fulfilling their USMCA environmental commitments and that the benefits of the expected increase in trade resulting from the Agreement are sustainable.

• ***Wildlife Trade & CITES***

Wildlife trafficking is a serious transnational crime that threatens security, economic prosperity, the rule of law, long-standing conservation efforts, and spreads infectious diseases. The biodiversity resources of USMCA Parties include globally significant species and ecosystems. Mexico and the United States are categorized as megadiverse, meaning that they are two of a group of 17 countries[37] that are home to the majority of global biodiversity resources. Canada is also home to highly diverse, unique, and valuable ecosystems. Wildlife trafficking can push vulnerable species to extinction and destabilize ecosystems already stressed by habitat loss, including from illegal logging and associated trade. Combating wildlife trafficking and the illegal trade in plants can help protect threatened and endangered species as well as the livelihoods of communities that depend on them.

[37] Australia, Brazil, China, Colombia, Ecuador, Democratic Republic of Congo, India, Indonesia, Madagascar, Malaysia, Mexico, Papua New Guinea, Peru, Philippines, South Africa, United States, and Venezuela.

Illegal, unsustainable resource use and trade is increasingly a security issue, as well as environmental and economic issues. Legal, sustainable resource use and trade enhance stability and security, as well as environmental and economic conditions. Trade in a wide variety of wildlife and forest products occurs among the USMCA countries, and involves a broad spectrum of economic actors, ranging from subsistence users, to luxury goods consumers, and, in the case of illicit wildlife and timber trade, large-scale criminal networks. In some cases, these networks are the same or overlap with those that deal in other illicit goods such as drugs and weapons, and have been linked to insurgency groups and even terrorist organizations. Insurgency groups have benefitted substantially from poaching and trafficking of ivory and other wildlife products. The stakes and potential costs of inaction could not be higher.

Canada generates and exports significant volumes of wildlife products annually to the United States for use as food, luxury goods, traditional medicine, pets, and trophies. The United States is also a globally significant exporter of wildlife and wildlife products. In addition, Mexico has been identified as a major source and transit point for trafficked wildlife.[38]

Growing demand in developing economies represents one of the primary drivers of increased wildlife trade over the last decade. While much of this trade is legal and regulated, wildlife trafficking is one of the largest illegal markets and is having adverse impacts on the region's substantial biodiversity resources. According to TRAFFIC, a global network that monitors wildlife trade, illegal trade in wildlife and wildlife products in the region has led to dramatic declines in the populations of many endangered species with a high commercial value, exacerbating the impact of other negative trends such as increased loss of habitat and biodiversity.

A core element of the legal framework for international trade in wildlife, and recent U.S. FTAs, is CITES, a multilateral environmental agreement to which all of the USMCA countries are parties. Since CITES entered into force in 1975, countries have worked together to regulate the international trade of listed animal and plant species and ensure that such international trade is legal and not detrimental to the long-term survival of wild populations. Today, CITES regulates more than 35,000 species of animals and plants, from sea turtles to tropical hardwoods.

CITES provides a legal framework for international trade in listed species, and requires party countries to develop and enact domestic legislation to implement and enforce the Convention. Trade in most CITES-listed specimens is based on a system of permits and certificates, which are issued by the exporting country and predicated on determinations that the specimen was legally acquired and that export will not be detrimental to the survival of the species. Trade in species listed in Appendix I is subject to stricter protection under CITES and requires import permits, which are issued by the importing country and predicated on determinations that the trade will

[38] In 2017, Mexico was identified by the U.S. as a "Focus Country" under the Eliminate, Neutralize, and Disrupt (END) Wildlife Trafficking Act of 2016.

not be detrimental to the survival of the species and the specimen is not to be used for primarily commercial purposes. CITES Parties are also required to maintain records and report annually on trade in CITES specimens, and to report biannually on measures taken to enforce the provisions of CITES.

The CITES National Legislation Project categorizes countries on a scale from 1 to 3 according to their progress in enacting domestic legislation to fully implement CITES. Category 1 status is the highest ranking, and indicates that a country has adequate legislation in place to meet its CITES obligations. All of the USMCA countries are listed in Category 1.

Existing U.S. tariffs on wildlife legally imported from USMCA countries are already zero, so the USMCA is unlikely to contribute to an increase in legal trade of wildlife, while the conservation and customs cooperation provisions in the USMCA will help to combat wildlife trafficking. USMCA countries will also enhance cooperation and capacity building related to wildlife trafficking issues. Thus, the USMCA offers an opportunity to enhance ongoing efforts to protect endangered species, combat wildlife trafficking, and ensure legal and sustainable wildlife trade.

• ***Deforestation, Illegal Logging & Associated Trade***

Illegal logging activities include unauthorized logging in protected areas, exceeding timber concession limits, removal of protected timber species, and other violations of national and domestic laws. It is well recognized that illegal logging and associated trade has serious economic, environmental, and social impacts. Timber producing countries, including USMCA partners, reportedly lose substantial revenue to illegal logging. The United States, for example, is estimated to lose up to $1 billion per year due to competition with illegally harvested wood and wood products. Products from illegally harvested timber span the entire value chain, from logs and sawn timber, to wood flooring and furniture. Trade in illegally sourced wood distorts markets, undermines efforts towards sustainable forest management, and exacerbates deforestation trends. Further, illegal logging increases threats to endangered species as the resulting deforestation or forest degradation destroys habitats and reduces resilience to disaster, and unauthorized logging roads open access to remote areas for wildlife poachers.

Accurate data on the extent of illegal logging activity is limited. The estimates that exist, however, indicate that the scale of the problem is substantial. Chatham House, a British research institute, estimated that worldwide 100 million cubic meters of timber are cut illegally each year, leading to the possible destruction of five million hectares (over 12 million acres) of forest annually.

Most forest products already enter the United States duty-free as a result of NAFTA and most-favored-nation treatment, therefore, the USMCA is not likely to have a significant impact on U.S. demand for forest products from Mexico or Canada. Apart from the anticipated economic effects, the USMCA provides an opportunity to address concerns relating to

deforestation and illegal logging and associated trade. The USMCA contains enforceable obligations requiring Parties to effectively enforce their environment and conservation laws, including laws governing land use and illegal logging, and not to weaken them to encourage trade or investment. In addition, USMCA countries are committed to take measures to protect and conserve specially protected natural areas, such as wetlands, national parks and other fragile ecosystems. Moreover, the USMCA will also promote sustainable forest management, legal trade in timber products, and maintain and strengthen government capacity and institutional frameworks, including to conserve threatened species, as well as the livelihoods of communities that depend on them.

The USMCA framework for enhanced cooperation and information sharing will allow law enforcement and other authorities to continue to work together more effectively to combat trade in timber illegally harvested in non-USMCA countries that enters the USMCA market and unfairly disadvantages U.S. businesses. The United States and Mexican customs officials have already been working closely together on cross-border cooperation and strengthened information sharing networks in recent years to improve the detection and detention of illegal timber from third countries, including from other U.S. FTA partner countries. Once implemented, the USMCA obligations on forestry can be expected to result in a positive environmental impact in USMCA countries and the Western Hemisphere more broadly by helping to improve sustainable forest management and enhance measures to combat illegal timber trade.

- ***Marine Fisheries***

Fish and fish products are among the most traded food commodities. USMCA countries accounted for 7.3 million metric tons of global marine catch in 2016 (of which the United States was about two-thirds of the total), and all three countries ranked among the top 20 global producers of marine wild capture fishing. [39] The value of USMCA countries' exports in fish and seafood products was approximately $12.3 billion in 2017.[40] Because trade in the products amongst the USMCA Parties is already duty free under the NAFTA, the USMCA is not likely to have a significant effect on U.S. demand for these products. Accordingly, the USMCA is not likely to put substantially greater pressure on fisheries resources.

- ***Fishing Practices***

IUU fishing is a serious threat to legitimate fishing operations, and undermines conservation and management efforts for sustainable fisheries. While precise data is difficult to collect due to the inherent nature of IUU fishing, it is estimated to have a global cost of billions of dollars each year. It impairs the sustainability of fishing as a livelihood, and impedes food security. IUU fishing also deprives fisheries managers of information critical for accurate stock assessments

[39] FAO Fisheries Global Capture Production Database 2016: http://www.fao.org/fishery/statistics/global-captureproduction/en.
[40] IHS Markit, Global Trade Atlas Database (accessed November 2, 2018).

and estimates of impacts on protected species. It can also exacerbate the problem of discards and bycatch because vessels engaged in illegal activity are more likely to use unsustainable fishing practices and non-selective gear. A lack of adequate oversight by some flag states, as well as weak fisheries enforcement capacity facilitate the scope and extent of IUU fishing activities.

Recognizing these issues and following the development of the Food and Agriculture Organization's International Plan of Action to Prevent, Deter, and Eliminate IUU fishing, many Regional Fisheries Management Organizations (RFMOs) and arrangements have adopted IUU vessel lists and call upon member countries to deny port access and services to vessels identified on such lists. The United States already engages cooperatively with USMCA countries through the RFMOs and other mechanisms to combat IUU fishing.

The USMCA addresses these challenges with commitments to take actions to combat IUU fishing, and provides opportunities for enhanced environmental cooperation and capacity building that will strengthen USMCA countries' ability to combat IUU fishing. Thus, the USMCA provides an opportunity to reduce the levels of IUU fishing and its detrimental environmental and economic impacts.

Under the USMCA, each Party is required to promote the long-term conservation of marine species, including sharks, marine mammals, whales, sea turtles, and seabirds, through the implementation and effective enforcement of conservation measures such as fisheries bycatch mitigation measures (e.g., the use of sea turtle excluder devices), and prohibitions of certain fishing practices. This will help ensure the health of not just the world's valuable fish stocks, but of particular species that are essential to the overall health of the region's marine ecosystems.

• ***Fisheries Subsidies***

According to the Food and Agriculture Organization, "the fraction of fish stocks that are within biologically sustainable levels has exhibited a decreasing trend from 90 percent in 1974 to 66.9 percent in 2015. In contrast, the percentage of stock fished at biologically unsustainable levels increased from 10 percent in 1974 to 33.1 percent in 2015, with the largest increases in the late 1970s and 1980s. In 2015, maximally sustainable fished stocks accounted for 59.9 percent and underfished stocks for 7.0 percent of the total assessed stocks."[41]

Subsidies that contribute to overfishing and overcapacity, as well as subsidies to IUU fishing, distort free market forces and support fleets larger than what is required to fish at sustainable levels. These subsidies can contribute to the depletion of a critical natural resource, impact the livelihood of those who depend on fishing, and make it more difficult for countries to sustainably manage their own fisheries resources. The United States has long identified disciplines on fisheries subsidies as a key area in which trade agreements can contribute to environmental

[41] FAO The State of World's Fisheries and Aquaculture (SOFIA) 2018 http://www.fao.org/3/I9540EN/i9540en.pdf

conservation and sustainable development, but collective action is required to ensure that our marine fisheries resources remain stable, healthy, and productive for present and future generations.

The USMCA includes prohibitions on fisheries subsidies that: (1) negatively affect fish stocks that are in an overfished condition; and (2) are provided to any fishing vessel or operator (with the inclusion of operators a groundbreaking advancement) while listed by the flag State or a relevant RFMO or Arrangement for IUU fishing in accordance with the rules and procedures of that organization or arrangement and in conformity with international law. The marine capture fisheries subsidies article also sets out a commitment that each Party shall make best efforts to refrain from introducing new subsidies, or extending or enhancing existing subsidies that contribute to overfishing or overcapacity. The USMCA also mandates transparency, requiring parties to report on fisheries subsidy programs regularly.

The USMCA's prohibitions on the harmful fisheries subsidies noted above address one of the main drivers of overcapacity and unsustainable levels of fishing. Curbs on these harmful subsidies will help contribute to improved fisheries management and decreased pressure on overfished stocks. The USMCA rules also enhance transparency requirements for fisheries subsidies programs. The USMCA also establishes a framework for greater cooperation and capacity building relating to fisheries management issues. When implemented, these measures would be expected to have beneficial environmental impacts in USMCA countries and the region more broadly.

● ***Coastal & Marine Ecosystems***

Coastal and marine ecosystems contain an abundance of natural resources and are extremely important to food security, jobs, and economic development. Significant ecosystems in North America include coral reefs, Arctic ecoregions, extensive continental shelf fisheries, and temperate kelp forests. From these rich, diverse ecosystems, USMCA countries produce products for international trade and national use, including fish, kelp and other sea-plant resources, oil and minerals, aquaculture products, tourism and recreation.

Activities associated with economic growth, such as coastal urbanization, port development and navigation routes, tourism infrastructure, coastal fisheries and aquaculture practices, and land-based and ocean-based marine pollution can have significant and direct impacts on the resilience of natural coastal-marine ecosystems. Generally speaking, greater vessel activity has the potential to increase the risk of oil and ship-based pollution, to impact marine life, and to cause destruction to the marine environment.[42] North America already has a high density of shipping, fishing, and transiting vessel activity that may increase as trade increases, and greater

[42] Plastic waste is of particular concern in the Pacific Ocean, choking marine life, impairing ship transit and washing onto shores. Ships are significant contributors to marine debris globally and to "garbage patches" in the eastern and western equatorial areas of the Pacific Ocean.

trade potentially could increase transportation-related impacts on marine ecosystems. However, the magnitude of any increased risks or impacts to coastal and marine ecosystem resulting from increased trade under the USMCA are difficult to quantify.

In addition, increased coastal development can lead to coastal habitat degradation. Biological diversity may also be threatened by land-based agricultural activities that cause runoff and sedimentation of near shore waters. However, marine parks, sanctuaries, reserves, monuments, special management areas, estuaries, research areas, no-take areas, wildlife refuges, and other forms of strict or cooperative protection have been established by USMCA Parties and other countries in order to protect marine ecosystems and species. The USMCA requires Parties to take measures to protect the marine environment from ship pollution. Specifically, each Party is obligated to take measures to prevent the pollution of the marine environment from ships, in particular with respect to pollution regulated by MARPOL, and committing to transparency, including making information on its programs, and activities, including cooperative programs related to the prevention of pollution of the marine environment from ships, publicly available.

Further, the USMCA creates opportunities for knowledge-sharing, cooperation, and capacity building among USMCA Parties. Through environmental cooperation and capacity building under the USMCA, the United States can work with USMCA countries to implement critical marine pollution conventions, promote ecosystem-based management of areas of common conservation concern, encourage the establishment new marine protected areas (MPAs) and the adoption of best management practices for existing areas, and support ongoing regional initiatives.

• ***Invasive Alien Species***

The risks posed by the introduction of invasive species is a transboundary issue, namely the risk that species from one region will become invasive in another depending in part on the ecological and climatic conditions in each country. The more similar the geographic and climatic characteristics are between countries, the greater the risk that a harmful species would establish and spread if introduced.

The trade pathways for invasive species vary in degrees of risk of environmental harm. Trade-related pathways that involve a risk of invasive introductions include: the movement of vehicles and conveyances used to transport commodities (*e.g.*, ballast water in ships, shipping containers that may contain insects or other organisms), pathogens on products and pathogens on invasive species, products that may contain or carry potentially invasive organisms (*e.g.*, grains contaminated by weed seeds, insects in wooden packaging materials, or on plants and plant products), and occasionally the commodity itself (*e.g.*, certain species of ornamental plants or exotic aquarium fish). Species originating in or transferring from one or more USMCA countries may potentially have harmful effects in other USMCA countries.

The potential effect of the USMCA and these risks are difficult to quantify, particularly given the range of domestic systems and resources focused on the issue in the different USMCA countries. For example, Canada and Mexico have policies and programs designed to address incremental risks. As noted above, the USMCA will not affect USMCA countries' authority to regulate in the public interest or its implementation of measures to monitor, prevent, and combat invasive species. USMCA Parties have adopted SPS measures, which impose requirements (e.g., heat/fumigation treatments, certifications, traceability) that help reduce the risk of entry, and spread of, pests through trade.

Furthermore, the Environment Chapter includes provisions that will ensure coordination with the USMCA SPS Committee to identify opportunities to share information among USMCA countries on the movement, prevention, detection, control, and eradication of invasive species. Additionally, the SPS Chapter includes commitments to address risks to human, animal, and plant life or health, which can include invasive alien species. Effective biosecurity, including a rapid response mechanism will also help to facilitate trade without increasing the levels of risk. Thus, the USMCA is expected to strengthen cooperation on research, monitoring, prevention, and control of invasive species (see also Section VIII Environmental Cooperation).

VII. Potential Regulatory Impacts

A. Regulatory Review

Consistent with Executive Order 13141 and its Guidelines, this review includes consideration of the extent to which the USMCA might affect U.S. environmental laws, regulations, policies, or international commitments. Given that U.S. laws and regulations are already in conformity with the USMCA's Environment Chapter obligations, no statutory or other regulatory changes are required to implement the environment obligations of the Agreement.

FTA obligations related to investment, services, government procurement, SPS, TBT, and good regulatory practices can have particular significance for domestic regulatory practices concerning the environment, health, and safety. Previous environmental reviews, including the interim and final reviews for the Chile, Singapore, Dominican Republic-Central America, Peru, Colombia, and Korea FTAs, considered potential impacts on the U.S. regulatory regime with respect to such obligations and found that the respective trade agreements were not anticipated to have a negative impact on U.S. legal or regulatory authority or practices.

From the outset, preserving the U.S. Government's ability to maintain strong environmental laws and regulations, and an effective process for enforcing them, has been a non-negotiable position. As set out in the USMCA Preamble, USMCA Parties recognize their inherent right to regulate and resolve to preserve the flexibility of each Party to set legislative and regulatory priorities, and protect legitimate public welfare objectives, such as health, safety,

environmental protection, conservation of living or non-living exhaustible natural resources, integrity and stability of the financial system, and public morals.

In addition, the USMCA includes additional protections against unintended negative impacts on Parties' regulatory practices. For example, in the Investment Chapter, the obligations on "National Treatment" (Article 14.4) and "Most-Favored-Nation Treatment" (Article 14.5) are accompanied by new text clarifying that whether investors are "in like circumstances" for purposes of these obligations depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives. The Investment Chapter also includes new language confirming that an ISDS tribunal may not order a government to change its laws or regulations. These new provisions further safeguard U.S. regulators' flexibility to regulate in the public interest.

Finally, the USMCA Annex on Energy Performance Standards is expected to have beneficial environmental impacts by facilitating greater harmonization of federally mandated energy performance standards across a wide range of product categories to the highest levels regionally. The Annex is also expected to reduce costs by reducing the need for duplicative product testing for U.S. exports.

Based on previous analysis, and given that the USMCA's core obligations in these areas are either similar to or build on those undertaken in previous U.S. FTAs, the Administration concludes that the USMCA will not have a negative impact on the ability of U.S. Government authorities to enforce or maintain U.S. laws or regulations or to pass stronger environmental regulations in the future. The U.S. Government is able to fully comply with the obligations set forth in the USMCA without adversely affecting its ability to continue to regulate under current U.S. environmental laws.

B. Investment

Under the USMCA, the Parties have agreed to treat investors and investments of the other Parties in accordance with the highest international standards, which are consistent with U.S. law and practice, while also safeguarding each Party's sovereignty and promoting domestic investment. With respect to both investment protection rules and ISDS procedures, the Investment Chapter of the USMCA updates and modernizes the NAFTA to better reflect U.S. priorities related to foreign investment.

The key investment protection provisions include rules prohibiting expropriation without prompt, adequate, and effective compensation; discrimination; performance requirements (e.g., technology transfer and local content requirements); nationality-based requirements on the appointment of senior management; restrictions on the transfer of investment-related capital; and denial of justice and other breaches of the customary international law minimum standard of treatment (MST). In the event of an investment dispute, each Party can seek remedies for

breach of these rules in State-to-State dispute settlement procedures. In the alternative, U.S. and Mexican investors can themselves initiate ISDS in certain circumstances. ISDS with Canada will be phased out, but State-to-State remedies will remain.

Under the reformed approach to ISDS in the Investment Chapter, U.S. and Mexican investors in all sectors will have limited access to ISDS as a last resort to provide protection in the context of such egregious issues as discrimination and direct expropriation. In five areas – oil and gas, power generation, telecommunications, transportation, and infrastructure— investors that enter into government contracts will have broader access to ISDS to protect the long-term, capital-intensive investments in these sectors, which are subject to heightened political risks.

VIII. Environmental Cooperation

The United States, Canada, and Mexico have a long history of environmental cooperation. The *North American Agreement on Environmental Cooperation (*NAAEC) established the Commission for Environmental Cooperation (CEC) in 1994 with Canada, Mexico, and the United States as Parties to the agreement. Part of the mission of the CEC is to encourage public participation and collaboration to foster protection, conservation, and enhance the environment of North America. Through this cooperation, the CEC has addressed environmental issues ranging from conservation of the monarch butterfly, to curbing the disposal of food waste in landfills through innovative waste reduction options, undertaking conservation and restoration approaches to promote carbon sequestration in coastal and marine ecosystems, and refining methodologies and protocols for measuring and mapping blue carbon habitats with a focus on sea grass. Also, through the CEC, the three countries recently concluded a two-year project on "Supporting Sustainable Trade of CITES Species." This CEC-CITES project promotes priority actions to support sustainable CITES trade for key priority species groups (sharks, tarantulas, turtles, and timber). The CEC has also partnered with the private sector to explore ways to increase green building construction and create green workforce training.

The USMCA negotiation provided an opportunity to modernize and enhance the effectiveness of the CEC, while continuing to provide for a trilateral framework for environmental cooperation. Indeed, TPA provides that a principal negotiating objective of the United States is to strengthen the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development. In addition, TPA instructs negotiators to seek to establish consultative mechanisms among Parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science. To this end, Mexico, the United States, and Canada signed an *Agreement on Environmental Cooperation* (ECA), respectively, on November 30, 2018, December 11, 2018, and December 19, 2019.

The Environment Chapter of the USMCA and the ECA provide for the continuation of the CEC, comprising a Council, a Secretariat, and a Joint Public Advisory Committee (JPAC). The Council is the CEC governing body, and its responsibilities range from establishing strategic priorities for environmental cooperation to approving the CEC budget. The Council comprises cabinet-level or equivalent representatives. The Secretariat supports the Council, and is the body that receives submissions from the public regarding claims that a USMCA Party has failed to effectively enforce its environmental laws, as set out in the USMCA Environment Chapter. The JPAC includes members appointed from the United States, Canada, and Mexico. JPAC members act at the direction of the Council, and may provide advice on matters related to implementation of the ECA.

Key objectives of the ECA are to support implementation of the USMCA Environment Chapter through environmental cooperation, and to promote public participation in the development of environmental measures. The ECA includes a list of illustrative activities on which the Parties may decide to cooperate in the following topical areas: 1) strengthening environmental governance; 2) reducing pollution and supporting low emissions and resilient economies; 3) conserving and protecting biodiversity and habitats; 4) promoting the sustainable management and use of natural resources; and 5) supporting green growth and sustainable development.

The United States, Canada, and Mexico also work together to address environmental issues through multilateral and regional mechanisms and organizations such as the United Nations Environment Program, the World Bank, the International Tropical Timber Organization, and RFMO/Associations. In addition, several U.S. Government agencies have regional and bilateral environment programs in the USMCA countries. These agencies include the Department of State, the Department of the Interior, the Department of Commerce, the Environmental Protection Agency, and the Department of Agriculture. Annex III provides additional examples of recent environmental cooperation activities that federal agencies are undertaking with USMCA countries.

These cooperation provisions and commitments will spur new efforts and contribute to existing regional, as well as national, efforts to protect, improve, and conserve the environment and also enhance public participation in environmental activities and encourage the use of public-private partnerships. Annex III includes examples of environmental cooperation activities between U.S. Government agencies and partners in Canada and Mexico.

Annex I:

Data Tables

Table 1.1: U.S. Total Exports, General Imports, and Merchandise Trade Balance, by Major Industry/Commodity sectors, 2013-17[43]

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	157,633	164,429	146,644	148,683	153,116	4,433	3
Forest products	40,839	41,169	39,059	37,707	39,698	1,991	5.3
Chemicals and related products	231,422	235,020	227,676	218,089	227,270	9,181	4.2
Energy-related products	154,463	161,755	110,225	98,418	143,236	44,818	45.5
Textiles and apparel	23,318	23,985	23,272	21,656	22,082	426	2
Footwear	1,391	1,456	1,464	1,368	1,430	62	4.5
Minerals and metals	160,510	152,910	135,667	128,684	136,452	7,769	6
Machinery	139,616	145,981	138,765	128,097	135,945	7,848	6.1
Transportation equipment	322,152	336,439	327,401	320,022	325,434	5,412	1.7
Electronic products	261,190	267,833	264,119	260,407	268,278	7,870	3
Miscellaneous manufactures	43,842	47,636	47,366	47,754	49,138	1,383	2.9
Special provisions	42,140	43,260	41,444	40,125	44,655	4,530	11.3
Total	1,578,517	1,621,874	1,503,101	1,451,011	1,546,733	95,722	6.6
U.S. general imports:							
Agricultural products	126,657	136,341	136,947	139,153	147,406	8,253	5.9
Forest products	39,984	42,213	42,383	43,118	44,856	1,738	4
Chemicals and related products	236,678	251,529	260,293	259,846	268,112	8,266	3.2
Energy-related products	384,142	351,626	194,132	157,826	198,096	40,270	25.5
Textiles and apparel	118,003	121,688	126,538	120,265	121,423	1,158	1
Footwear	24,811	26,018	27,650	25,634	25,654	20	0.1
Minerals and metals	190,442	205,500	189,230	183,522	200,714	17,192	9.4
Machinery	170,227	185,529	185,884	179,537	196,414	16,878	9.4
Transportation equipment	375,526	404,024	426,225	418,286	434,894	16,608	4
Electronic products	421,656	439,109	449,793	449,951	484,271	34,321	7.6

[43] Source: Compiled from official statistics of the U.S Department of Commerce. Note: Import values are based on customs value; export values are based on free along ship value, U.S. port of export. Calculations based on unrounded data. Sectors are ordered by the level of processing of the products classified therein.

Miscellaneous manufactures	109,936	114,391	124,817	124,973	130,453	5,481	4.4
Special provisions	69,925	78,388	84,291	85,695	90,610	4,915	5.7
Total	2,267,987	2,356,356	2,248,183	2,187,805	2,342,905	155,100	7.1
U.S. merchandise trade balance:							
Agricultural products	30,976	28,088	9,697	9,530	5,710	-3,820	-40.1
Forest products	856	-1,044	-3,324	-5,411	-5,158	253	4.7
Chemicals and related products	-5,256	-16,509	-32,617	-41,757	-40,843	915	2.2
Energy-related products	-229,679	-189,871	-83,907	-59,408	-54,860	4,548	7.7
Textiles and apparel	-94,685	-97,702	-103,265	-98,609	-99,341	-733	-0.7
Footwear	-23,420	-24,562	-26,186	-24,266	-24,225	41	0.2
Minerals and metals	-29,933	-52,591	-53,563	-54,838	-64,262	-9,424	-17.2
Machinery	-30,610	-39,549	-47,119	-51,440	-60,470	-9,030	-17.6
Transportation equipment	-53,374	-67,584	-98,824	-98,264	-109,460	-11,196	-11.4
Electronic products	-160,466	-171,276	-185,674	-189,543	-215,994	-26,450	-14
Miscellaneous manufactures	-66,094	-66,755	-77,452	-77,218	-81,316	-4,098	-5.3
Special provisions	-27,785	-35,128	-42,847	-45,570	-45,955	-385	-0.8
Total	-689,470	-734,482	-745,082	-736,794	-796,172	-59,378	-8.1

Table 1.2: Canada: U.S. Total Exports and General Imports, by Major Industry/Commodity Sectors, 2013-17

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	26,568	27,373	26,124	25,884	26,196	312	1.2
Forest products	11,008	10,788	10,199	9,710	9,890	181	1.9
Chemicals and related products	40,537	41,283	38,198	36,511	38,342	1,832	5
Energy-related products	25,837	34,040	22,256	17,462	19,664	2,202	12.6
Textiles and apparel	5,423	5,531	5,205	5,076	5,215	139	2.7
Footwear	459	497	500	509	498	-11	-2.2
Minerals and metals	31,002	30,597	26,459	24,907	26,274	1,367	5.5
Machinery	30,651	32,107	29,164	26,254	27,468	1,214	4.6
Transportation equipment	77,507	78,094	74,345	73,560	78,092	4,532	6.2
Electronic products	35,152	35,172	32,447	31,451	32,542	1,092	3.5
Miscellaneous manufactures	9,432	9,903	8,847	8,454	8,806	352	4.2
Special provisions	7,179	7,431	7,110	7,020	9,483	2,464	35.1
Total	300,755	312,817	280,855	266,797	282,472	15,674	5.9
U.S. general imports:							
Agricultural products	24,941	26,437	25,286	25,246	26,106	860	3.4
Forest products	18,088	18,971	18,069	18,704	19,116	412	2.2
Chemicals and related products	33,299	33,518	32,211	29,680	29,449	-231	-0.8
Energy-related products	110,230	117,928	70,837	54,755	74,241	19,486	35.6
Textiles and apparel	2,323	2,303	2,243	2,181	2,231	50	2.3

Footwear	47	59	73	50	52	2	4.1
Minerals and metals	32,671	33,324	29,762	28,778	31,585	2,807	9.8
Machinery	13,592	13,696	12,918	12,164	13,535	1,371	11.3
Transportation equipment	71,548	74,542	73,911	73,639	71,873	-1,766	-2.4
Electronic products	9,101	9,114	8,932	8,929	9,342	413	4.6
Miscellaneous manufactures	4,402	4,528	5,250	5,537	5,250	-287	-5.2
Special provisions	12,262	14,867	16,738	18,095	17,195	-899	-5
Total	332,504	349,286	296,230	277,756	299,975	22,220	8

Table 1.3: Mexico: U.S. Total Exports, General Imports, and Merchandise Trade Balance, by Major Industry/Commodity Sectors, 2013-17

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	18,868	20,086	18,296	18,503	19,276	774	4.2
Forest products	5,747	5,839	5,858	5,754	6,066	312	5.4
Chemicals and related products	33,714	35,758	34,113	32,932	35,126	2,194	6.7
Energy-related products	23,507	24,696	18,944	19,577	26,585	7,007	35.8
Textiles and apparel	5,359	5,732	5,996	5,442	5,554	111	2
Footwear	121	120	134	97	95	-2	-1.8
Minerals and metals	20,893	23,061	22,748	20,981	21,995	1,013	4.8
Machinery	21,197	23,299	23,472	23,108	24,070	963	4.2
Transportation equipment	39,088	41,358	42,254	39,951	41,148	1,197	3
Electronic products	47,915	50,645	54,174	53,554	53,051	-503	-0.9
Miscellaneous manufactures	2,654	3,018	3,080	3,041	2,973	-68	-2.2
Special provisions	6,892	7,394	7,134	6,761	7,048	287	4.2
Total	225,954	241,007	236,204	229,702	242,989	13,287	5.8
U.S. general imports:							
Agricultural products	19,296	21,218	23,008	24,887	26,703	1,816	7.3
Forest products	1,652	1,817	1,950	1,910	1,981	71	3.7
Chemicals and related products	9,652	10,657	10,759	10,608	11,534	926	8.7
Energy-related products	34,813	30,282	13,674	8,724	11,128	2,405	27.6

Textiles and apparel	5,830	5,976	5,902	5,804	6,104	300	5.2
Footwear	549	499	493	413	427	14	3.5
Minerals and metals	19,278	19,503	18,104	18,099	19,377	1,279	7.1
Machinery	26,357	29,054	30,098	29,918	31,408	1,490	5
Transportation equipment	85,152	96,659	104,402	105,192	114,156	8,964	8.5
Electronic products	65,188	65,064	72,485	73,558	75,772	2,214	3
Miscellaneous manufactures	5,382	6,109	6,547	6,782	6,699	-84	-1.2
Special provisions	7,408	8,891	8,980	8,161	8,756	595	7.3
Total	280,556	295,730	296,401	294,056	314,045	19,989	6.8

Table 1.4: USMCA Partners (Canada and Mexico): U.S. Total Exports, General Imports, and Merchandise Trade Balance, by Major Industry/Commodity Sectors, 2013-17

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	45,436	47,459	44,420	44,387	45,472	1,085	2.4%
Forest products	16,755	16,627	16,057	15,464	15,956	492	3.2%
Chemicals and related products	74,251	77,041	72,311	69,443	73,468	4,025	5.8%
Energy-related products	49,344	58,736	41,200	37,039	46,249	9,210	24.9%
Textiles and apparel	10,782	11,263	11,201	10,518	10,769	251	2.4%
Footwear	580	617	634	606	593	-13	-2.1%
Minerals and metals	51,895	53,658	49,207	45,888	48,269	2,381	5.2%
Machinery	51,848	55,406	52,636	49,362	51,538	2,176	4.4%
Transportation equipment	116,595	119,452	116,599	113,511	119,240	5,729	5.0%
Electronic products	83,067	85,817	86,621	85,005	85,593	588	0.7%
Miscellaneous manufactures	12,086	12,921	11,927	11,495	11,779	284	2.5%
Special provisions	14,071	14,825	14,244	13,781	16,531	2,750	20.0%
Total	526,709	553,824	517,059	496,499	525,461	28,962	5.8%
U.S. general imports:							
Agricultural products	44,237	47,655	48,294	50,133	52,809	2,676	5.3%

Forest products	19,740	20,788	20,019	20,614	21,097	483	2.3%
Chemicals and related products	42,951	44,175	42,970	40,288	40,983	695	1.7%
Energy-related products	145,043	148,210	84,511	63,479	85,369	21,890	34.5%
Textiles and apparel	8,153	8,279	8,145	7,985	8,335	350	4.4%
Footwear	596	558	566	463	479	16	3.5%
Minerals and metals	51,949	52,827	47,866	46,877	50,962	4,085	8.7%
Machinery	39,949	42,750	43,016	42,082	44,943	2,861	6.8%
Transportation equipment	156,700	171,201	178,313	178,831	186,029	7,198	4.0%
Electronic products	74,289	74,178	81,417	82,487	85,114	2,627	3.2%
Miscellaneous manufactures	9,784	10,637	11,797	12,319	11,949	-370	-3.0%
Special provisions	19,670	23,758	25,718	26,256	25,951	-305	-1.2%
Total	613,060	645,016	592,631	571,812	614,020	42,208	7.4%

TABLE 1.5: NAFTA: Selected U.S. imports, by major industry/commodity sectors, 2017[44]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars		*Percent*	
Agricultural products	52,571,440	321,365	21,640	0.6	6.7
Forest products	21,066,054	25,388	1,241	0.1	4.9
Chemicals and related products	41,039,910	1,101,329	52,322	2.7	4.8
Energy-related products	84,262,219	42,284,250	68,213	50.2	0.2
Textiles and apparel	8,322,454	756,774	48,719	9.1	6.4
Footwear	467,265	14,000	1,272	3.0	9.1
Minerals and metals	50,704,120	683,081	27,152	1.3	4.0
Machinery	44,822,955	3,554,426	81,848	7.9	2.3
Transportation equipment	185,305,965	5,511,359	149,490	3.0	2.7
Electronic products	85,027,122	4,461,627	105,958	5.2	2.4
Miscellaneous manufactures	11,973,891	426,792	26,472	3.6	6.2
Special provisions	25,963,200	6,361,552	19,378	24.5	0.3
Total	611,526,595	65,501,942	603,707	10.7	0.9

[44] *Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

TABLE 1.6: All countries: Selected U.S. imports, by major industry/commodity sectors, 2017[45]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars		*Percent*	
Agricultural products	146,485,495	28,435,680	1,008,192	19.4	3.5
Forest products	44,771,946	4,479,295	212,810	10.0	4.8
Chemicals and related products	271,669,297	67,843,972	3,040,169	25.0	4.5
Energy-related products	187,514,163	113,054,622	276,093	60.3	0.2
Textiles and apparel	120,961,713	91,563,347	13,095,390	75.7	14.3
Footwear	25,471,351	24,276,451	2,875,602	95.3	11.8
Minerals and metals	1([a]),446[50]	43,543,962	2,010,887	21.8	4.6
Machinery	195,611,617	71,518,172	2,037,698	36.6	2.8
Transportation equipment	432,840,976	148,746,429	4,017,315	34.4	2.7

[45] *Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

[50] [a] Less than $500.

Electronic products	482,234,157	54,615,126	1,396,194	11.3	2.6
Miscellaneous manufactures	130,119,972	41,302,931	2,993,996	31.7	7.2
Special provisions	90,632,421	19,699,469	77,011	21.7	0.4
Total	2,328,312,554	709,079,455	33,041,357	30.5	4.7

value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

TABLE 1.7: Canada: Selected U.S. imports, by major industry/commodity sectors, 2017[46]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars		*Percent*	
Agricultural products	26,042,767	287,382	20,581	1.1	7.2
Forest products	19,088,826	17,439	839	0.1	4.8
Chemicals and related products	29,606,259	339,266	16,464	1.1	4.9
Energy-related products	73,221,787	40,898,065	65,401	55.9	0.2
Textiles and apparel	2,229,872	109,231	9,328	4.9	8.5
Footwear	51,583	3,618	499	7.0	13.8
Minerals and metals	31,333,896	265,367	9,460	0.8	3.6
Machinery	13,534,454	666,333	17,733	4.9	2.7
Transportation equipment	71,510,186	1,711,742	45,052	2.4	2.6
Electronic products	9,266,524	768,108	16,725	8.3	2.2
Miscellaneous manufactures	5,258,142	87,610	6,577	1.7	7.5
Special provisions	17,206,275	3,780,458	17,484	22.0	0.5
Total	298,350,571	48,934,620	226,141	16.4	0.5

[46] *Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

TABLE 1.8: Mexico: Selected U.S. imports, by major industry/commodity sectors, 2017[47]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars		*Percent*	
Agricultural products	26,528,673	33,983	1,059	0.1	3.1
Forest products	1,977,228	7,949	402	0.4	5.1
Chemicals and related products	11,433,651	762,063	35,858	6.7	4.7
Energy-related products	11,040,432	1,386,184	2,813	12.6	0.2
Textiles and apparel	6,092,582	647,543	39,391	10.6	6.1
Footwear	415,682	10,381	773	2.5	7.4
Minerals and metals	19,370,224	417,714	17,692	2.2	4.2
Machinery	31,288,501	2,888,093	64,116	9.2	2.2
Transportation equipment	113,795,779	3,799,617	104,439	3.3	2.7
Electronic products	75,760,598	3,693,518	89,233	4.9	2.4
Miscellaneous manufactures	6,715,749	339,182	19,895	5.1	5.9
Special provisions	8,756,925	2,581,093	1,895	29.5	0.1
Total	313,176,024	16,567,322	377,565	5.3	2.3

[47] *Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

Annex II:

Commenters

1. Center for Biological Diversity (November, 27, 2017)
2. Humane Society International (November, 27, 2017)
3. Oceana (November, 27, 2017)
4. Wildlife Conservation Society (November, 27, 2017)
5. David Ortman (November 27, 2017)
6. Gay Timmons, (November 27, 2017)
7. Mercedes Angela Horak (November 27, 2017)

Annex III:

Existing Environmental Cooperation Activities with USMCA Countries

This annex provides examples of environmental cooperation activities between U.S. Government agencies and partners in USMCA countries. Although illustrative of the number and variety of cooperative activities, the list is not exhaustive. Further information on these activities is available from the respective agencies responsible for such work.

NORTH AMERICA

- *Invasive Species*

The United States has worked with Canada and Mexico on sanitary and phytosanitary issues related to the development and conduct of risk assessment procedures for aquatic invasive species under the CEC. Guidance and regional standards developed by the North American Plant Protection Organization are particularly relevant to invasive species. Furthermore, through its Mexico Program, the U.S. Fish and Wildlife Service has supported the efforts by Mexico's biodiversity commission, La Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (CONABIO), to implement its National Strategy on Invasive Species. Activities included the delivery of an online training workshop aimed at decision makers and field personnel working for the government of Mexico on how to prevent, control, manage, and eradicate biological invasions. The Trilateral Committee for Wildlife and Ecosystem Conservation and Management (Trilateral Committee) has addressed a range of invasive species issues, and is currently working with the Trilateral Islands Initiative to focus on invasive species threats to North American islands. Discussions across the three countries have also identified ongoing regional projects, as well as priorities that could be considered under a North American Invasive Alien Species Strategy and Action Plan.

- *Wildlife Conservation*

Under the auspices of the Trilateral Committee for Wildlife and Ecosystem Conservation and Management and the Mexico Program, the Department of the Interior's U.S. Fish and Wildlife Service (FWS) is working with the Governments of Mexico and Canada to address priorities of mutual concern including implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), wildlife trafficking and law enforcement cooperation; Monarch butterfly conservation; landscape and seascape conservation connectivity and area based conservation partnerships;

integrating human dimensions of conservation; using technology innovations for conservation; and adapting to ecosystem changes.

- *Fisheries, Marine Conservation and Scientific Cooperation*

  - The North America Marine Protected Area Network (NAMPAN) was implemented through the Commission for Environmental Cooperation (CEC) as an interagency partnership to promote and support collaboration among the North American Marine Protected Areas. In 2018 NOAA, Mexico's National Commission for Natural Protected Areas (CONAMP), Parks Canada, and the CEC developed a 5-year Strategic Plan to provide guidance for the development of NAMPAN as an independent network.

  - Through the CEC, the U.S., Canada and Mexico have cooperated on scientific guidelines and tools for Marine Protected Areas (MPAs) to plan for and manage climate impacts. In 2013, the CEC published Scientific Guidelines for Designing Resilient Marine Protected Areas in a Changing Climate. In 2017, CEC developed and field tested a rapid vulnerability assessment methodology in two shared seascapes on the Pacific coast, and published the Rapid Vulnerability Assessment Tool in English and Spanish. A coastal and marine adaptation toolkit was published in early 2019.

- *Extreme Events*

  - NOAA cooperates with Canada and Mexico through the North American Climate Services Partnership to provide accessible and timely information for decisionmakers on issues that include drought, wildfires and other extreme events.

(1) CANADA

- *Fisheries, Marine Conservation and Scientific Cooperation*

  - The United States cooperates with Canada to sustainably manage shared fisheries resources in both the Atlantic and Pacific Oceans (including Pacific halibut, Pacific hake/whiting, North Pacific salmon, North Atlantic salmon, and tuna stocks in both oceans) through several bilateral treaties, annual bilateral consultations, RFMOs (including the Inter-American Tropical Tuna Commission, the North Pacific Fisheries Commission, the North Pacific Anadromous Fish Commission, the Northwest Atlantic Fisheries Organization, the North Atlantic Salmon Conservation Organization, and the International Commission for the Conservation of Atlantic Tunas), and other multilateral fora. NOAA and the U.S. Coast Guard also collaborate with Canada on at-sea enforcement issues.

- NOAA and Canada also collaborate extensively with regards to North Atlantic right whale conservation, including the use of various protection measures, including speed restrictions, increased surveillance and closures of fishing areas where right whales are spotted.

- The United States and Canada cooperate extensively with regards to Atlantic salmon. This cooperation includes a sampling program for the mixed stock, interceptory Atlantic salmon fishery off West Greenland that provides essential scientific information on salmon harvested in that fishery, including stock origin, and a multi-year marine tracking program to track and monitor the dynamics of their marine migration from the coast of Greenland back to natal rivers in North America and Europe.

- The United States and Canada cooperate broadly and deeply with regard to Pacific salmon, including management of salmon in the Yukon River, the largest transboundary river in North America, and other important transboundary salmon stocks. The bilateral cooperation includes sampling programs and stock assessments that are essential for defining and understanding the population dynamics of U.S. and Canadian origin salmon.

- NOAA and the United States Coast Guard work closely with Canada through joint patrols and aerial surveillance to enforce the prohibition on directed fishing for anadromous stocks in the high seas areas of the North Pacific Ocean.

- The United States and Canada are collaborating through the International Year of the Salmon (IYS), which has to date included several scientific workshops and joint enforcement activities across the Northern Hemisphere. The IYS is a project launched by the North Pacific Anadromous Fish Commission (NPAFC) and the North Atlantic Salmon Conservation Organization (NASCO) and other partners. The IYS focal year was 2019, with projects and activities starting in 2018 and continuing into 2022.

- The United States and Canada are recent signatories to the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean. The agreement aims to prevent unregulated fishing in the high seas portion of the central Arctic Ocean through the application of precautionary conservation and management measures as part of a long-term strategy to safeguard healthy marine ecosystems and to ensure the conservation and sustainable use of fish stocks.

- The U.S. Integrated Ocean Observing System, led by NOAA, collaborates with Canada on ocean observations and modeling.

- The United States and Canada cooperate to manage the shared fisheries of the Great Lakes through the Great Lakes Fisheries Commission, including extensive joint work to combat the spread of invasive species that affect these fisheries, particularly parasitic sea lamprey.

- *Wildlife Conservation, Water Issues, Arctic Matters and Protected Areas Management*

  - The United States Department of the Interior cooperates with Canada on the conservation and management of polar bears, greater sage grouse, black footed ferret, and porcupine caribou; protection of migratory birds under the *Migratory Bird Treaty Act*; the Arctic Council; water issues, including restoration, water quality, and invasive species in the Great Lakes and other boundary waters, including through the International Joint Commission under the *Boundary Waters Treaty of 1909*; the grasslands initiative; and management of transboundary parks and landscapes, including two jointly-designated World Heritage sites.

- *General Environmental Cooperation*

  - NOAA and Canada renewed a ten-year cooperative partnership on collaboration on weather, climate, ocean, and other earth systems for the enhancement of health, safety and economic prosperity. NOAA cooperates with Canada through the Great Lakes International Joint Commission.

(2) MEXICO

The United States and Mexico work closely on environmental protection and natural conservation through many treaties, agreements, and programs.

- *Environmental Enforcement Capacity Building*

  - Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training in Mexico and Mexican partners conducted a "train-the-trainers" in 2014, and a subsequent one-week course on the Transition to the Accusatorial System for 20 federal environmental crimes investigators and 10 state judges in Mexico City. Graduates of the train–the-trainers course worked with program to draft the course curriculum and were the primary instructors of the course. The curriculum focused on subjects such as discovery, investigative authority, and exclusionary guidelines in the context of environmental crimes under the new accusatorial system, and was part of Justice Department's three-year Transition to the Accusatorial System program under the Merida Initiative.

  - The Department of State has provided support for environmental law enforcement training and strengthening linkages among regional enforcement bodies.

- Since 2014, the Mexico Program of the U.S. Fish and Wildlife Service has supported the efforts of PROFEPA (Office of the Federal Attorney for Environmental Protection) to address the root causes of illegal trade of wildlife in Mexico via capacity building activities that strengthen the technical skills of law enforcement inspectors and civil society to protect biodiversity from illegal trafficking and overexploitation.

- In 2016-2018, the U.S. Fish and Wildlife Service supported the efforts of the Center of Judiciary and Environmental Studies (CEJA) and PROFEPA to implement a series of online certificate courses and hands-on training workshops aimed at strengthening the technical capacities of more than 120 federal and 150 state wildlife inspectors in Mexico to prevent, control and address the illicit trade and traffic of wildlife across the country.

- The U.S. Fish and Wildlife Service has a Law Enforcement Attaché based at the U.S. Embassy in Mexico City, who covers Mexico, Central America, and the Caribbean. The International Attaché program provides ongoing support to regional efforts to combat wildlife and timber trafficking by coordinating investigations, providing training, strengthening relationships with host country law enforcement, and building capacity in range countries in their regions.

• *Wildlife Conservation*

- The Mexico Program of the U.S. Fish and Wildlife Service continues to support the efforts of CONANP (Commission of Natural Protected Areas) and Mexican civil society groups to conserve species of binational concern such as the California condor, the jaguar, and the monarch butterfly. Funds provided have delivered specialized training for natural resources professionals, improved rural and indigenous communities abilities to sustainably manage natural resources, and the implementation of environmental education activities, among others.

- The U.S. Department of the Interior continues to cooperate with the Government of Mexico to promote and implement transboundary conservation activities in the Big Bend Rio Bravo region along the U.S.-Mexico border. It also continues to cooperate with Mexico on Colorado River water management and conservation under the 1944 Water Treaty and the Colorado River Basin Salinity Control Forum as well as on management, conservation, and restoration of the environment; monarch butterfly conservation; and the safe and responsible development of energy resources. Under its Mexico grants program, the U.S. Fish and Wildlife Service is working with the Government of Mexico, academic institutions, and local NGOs to protect priority species, habitats and ecological processes across landscapes with high biodiversity value in Mexico.

- *Protected Area Management*

    - The U.S. Department of Interior's National Park Service supports joint inventory and monitoring activities and park management exchanges and training through 11 sister parks arrangements between U.S. national parks and national parks in Mexico.

    - The U.S. Fish and Wildlife Service supports the training of CONANP's park rangers, as a way to strengthen Mexico's ability to effectively manage its 182 natural protected areas, restore ecosystems, and carry out monitoring and species management actions, while working with communities to resolve human-wildlife and land tenure conflicts.

Fisheries, Marine Conservation and Scientific Cooperation

- The United States cooperates with Mexico to sustainably manage shared fisheries resources in both the Atlantic and Pacific Oceans (especially with regards to sea turtles and various tuna stocks) through various mechanisms, including annual bilateral consultations, RFMOs (including the Inter-American Tropical Tuna Commission and the International Commission for the Conservation of Atlantic Tunas), and other multilateral fora. NOAA and the U.S. Coast Guard also collaborate with Mexico on at-sea enforcement issues.

- Beginning in 2009, NOAA's collaboration with Mexico's National Fisheries Institute (INAPESCA), has led to increased sampling of Atlantic Bluefin Tuna larva into the Southwest Gulf of Mexico and along the East Yucatan coast.

- NOAA is working in cooperation with INAPESCA to conduct a series of evaluations of commercial shrimp trawling gear and alternative fishing gear to gillnets. The objective is to evaluate the configuration and performance of new alternative fishing gear design developed by the INP for use in the Gulf of California. The prototype trawl design was developed to mitigate vaquita porpoise bycatch in the shrimp grill net fishery.

- NOAA is working with Mexico to reverse the decline of the world's most endangered cetacean species – the tiny vaquita porpoise of the northern Gulf of California, Mexico. Vaquitas die from entanglement in fishing gear, and a resurgence in illegal fishing for totoaba (a large, endangered, and CITES Appendix I-listed fish species that is in high demand in Asia for its swim bladders) that uses gear that is exceptionally lethal for vaquitas. NOAA is assisting Mexico to assess the status and trends of vaquita and to develop, test, and put into use alternative fishing gear to replace entangling fishing gear. NOAA and U.S. Fish and Wildlife Service agents cooperate with Mexican agencies to strengthen cross-border enforcement to combat the illegal trade in totoaba, which is often trans-shipped through the United States,

investigate smuggling cases, and are working with the U.S. Department of Justice to prosecute these cases.

- NOAA and Mexico conduct extensive fisheries cooperation on scientific matters in both the Atlantic and Pacific through MEXUS-Gulf and MEXUS-Pacifico. Bilateral projects have included fisheries management, enforcement, seafood trade, endangered species conservation, and aquaculture. Periodic meetings provide a forum to exchange views and plan cooperative projects. The achievements in dolphin, sea turtle, and Atlantic highly migratory species conservation, and cooperative scientific research have been particularly notable.

- NOAA recently completed a three-year program in the Gulf of California to enhance management effectiveness for 12 MPAs. Sites included Mexico's Parque Nacional Sistema Arrecifal Veracruzano, Parque Nacional Arrecife Alacranes, Parque Nacional Isla Contoy, and Reserva de la Biosfera Tiburon Ballena. The U.S. and Mexico are also working to establish sister sanctuary relationships between Florida Keys and
  Flower Garden Banks National Marine Sanctuaries and Mexican sites in the Gulf of Mexico.

- In 2018 the Department of State launched a two-year project, implemented by The Nature Conservancy in collaboration with NOAA, to improve science-based management and governance of data- and capacity-limited fisheries in Mexico. This project will strengthen capacity for the scientific assessment of fisheries and promote the integration of stock assessment science into policy.

REGIONAL

- *Forest Management*

  - The State Department supports a multi-year project between the International Tropical Timber Organization, CITES, the European Union and several other donors that provides assistance to countries throughout the North America region to design forest management plans, conduct forest inventories, provide guidelines and case studies for making Non-Detriment Findings for CITES listed tree species, and develop and disseminate tools for timber identification.

- *Wildlife Conservation*

  - The State Department plans to hold USMCA regional training workshops on CITES implementation and investigations, sharing information, and prosecuting wildlife trafficking and illegal logging cases. The activity will facilitate stronger linkages among regional enforcement bodies.

A two-year project on “Supporting Sustainable Trade of CITES Species,” funded by the Commission for Environmental Cooperation (CEC), was initiated in 2017. CITES authorities from Canada, Mexico, and the United States are involved in this project, which promotes priority actions to support sustainable trade for key priority North American CITES-listed species groups (turtles, sharks, tarantulas, and timber). Tri-national workshops to support legal, sustainable, and traceable trade in these taxa have already been held for turtles, sharks, and tarantulas and a final workshop on timber was held in November 2018. A website has been developed to explain to the public, experts, and stakeholders, including local people involved in international trade, the goals of the project and to report on implementation of priority actions (http://www3.cec.org/cites/).