



**Economic Security in North America:
Public Comments Submitted in Response to USTR Request Related to the Operation of the
Agreement Between the United States of America, the United Mexican States, and Canada**

Docket No. USTR–2025–0004

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EXECUTIVE SUMMARY

In its request for comment, the Office of the U.S. Trade Representative (USTR) solicits comments on and recommendations for “specific actions [to promote] alignment on economic security with Mexico and Canada” as well as strategies to strengthen “cooperation on issues related to non-market policies and practices of other countries.” These comments are offered in support of these objectives and in furtherance of advancing U.S. economic and national security interests through the inclusion of economic security commitments in an updated U.S.-Mexico-Canada Agreement (USMCA).

These comments include model text to provide specific, actionable guidance to negotiators on integrating economic security into USMCA, striking a balance between the opportunity of using USMCA as a vehicle to strengthen economic security alignment and the need for each government to maintain autonomy to take action under their own domestic economic security authorities. Recognizing the various concepts of economic security, we define economic security as the protection against national security risks that arise out of otherwise ordinary commercial interactions in the global economy.

These comments include analysis and recommendations on the following topics:

- **The rationale for targeted updates to USMCA to strengthen North American economic security**: Deep supply chain integration means that economic security vulnerabilities in any of the three countries could pose risks to the other two USMCA partners. Economic security alignment can build trust in integrated markets within North America, avoid unduly restricting regional trade and investment flows that pose minimal

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national security risks, and enable more effective common approaches to shared challenges from strategic competitors.

- **Investment security**: USMCA partners should commit to establish, maintain, and resource high-standard domestic investment screening authorities, enhance information sharing among relevant authorities, and establish fast track investment reviews for intra-USMCA investments.
- **Coordinated trade protection measures**: USMCA partners should establish a process to align domestic trade protection measures to address unfair trade practices of non-market economies. Where countries agree to implement coordinated protection measures on non-USMCA countries, they should exempt one another from such measures. USMCA partners should consider establishing a fund for trade enforcement and related capacity building, using funds generated from the new tariffs imposed.
- **Trade and trustworthy technologies**: USMCA partners should commit to establish, maintain, and resource high-standard domestic export control and trusted technology authorities, enhance information sharing among relevant authorities, and facilitate secure integration of North American technology stacks.
- **Dispute settlement, enforcement, and consultations**: USMCA partners should establish a new Economic Security Committee to oversee implementation of the agreement's economic security commitments, resolve disputes related to certain institutional commitments included in the agreement, and facilitate consultations in the event of diverging views on specific economic security actions (such as the decision to allow or block a particular foreign investment).
- **Managing retaliation risk**: USMCA partners should anticipate and proactively plan for retaliation from the People's Republic of China (PRC) or other third parties in response to joint economic security actions. While an overly ambitious obligation to jointly respond to retaliation could backfire, USMCA partners should include some signaling language to demonstrate their resolve to coordinate responses to any retaliation, including by tasking the Economic Security Committee with managing retaliation risks

ECONOMIC SECURITY ALIGNMENT ADVANCES U.S. INTERESTS

Overall Recommendations

- Maintain and uphold **existing USMCA commitments**; and
- Negotiate **targeted updates** to USMCA to address emerging economic security concerns and enhance North American alignment on economic security policies.

USMCA underpins the integrated North American market. Canada and Mexico both send around 75% of their exports to the United States, revealing the stake of their dependencies on this economic relationship. Likewise, Canada and Mexico are consistently the United States' top two export markets. Moreover, North American trade increasingly consists of not only finished goods but rather reflects supply chain integration across borders – an automobile, for instance, may cross borders multiple times in the production process, and incorporate inputs from all three countries. These sophisticated regional value chains allow for deeper specialization and efficiency.

What is economic security?

Economic security is the protection against **national security** risks that arise out of otherwise ordinary commercial interactions in the global economy.

Supply chain integration, however, requires that trade and investment flows are secure, resilient, and trustworthy. Deep supply chain integration means that economic security vulnerabilities in any of the three countries could pose risks to the other two trade partners. To preserve a highly integrated North American market, then, effective coordination on economic security policies is necessary.

The current geopolitical climate requires an approach to the USMCA review that integrates trade, investment, and economic security objectives. The uses of economic security tools, including export controls, investment restrictions, and tariffs, are at all-time highs. U.S. policy and strategy have moved decisively away from the non-discriminatory approach central to the old trade and investment architecture, as it seeks to manage the rise of the PRC as a strategic competitor (among other objectives). Many U.S. trading partners are also building their economic statecraft toolkit, raising the potential for an increasingly fragmented global economy.

Economic security alignment can build trust in integrated markets within North America, avoid unduly restricting regional trade and investment flows that pose minimal national security risks, and enable more effective common approaches to shared challenges from strategic competitors. Crucially, this approach requires a pivot away from global rules and institutions such as the World Trade Organization (WTO) and towards a new rules-based system among close partners that advances economic security goals alongside traditional economic objectives. The USMCA review provides an important opportunity to create a new economic security, trade, and investment regime in North America with these goals in mind.

USMCA, negotiated successfully by the first Trump administration, represents a gold standard trade agreement. It made critical updates to its outdated predecessor agreement, including in areas such as rules of origin, labor enforcement, and digital trade. The USMCA review presents

an opportunity for the second Trump administration to build on this progress by updating the agreement to reflect its economic security priorities.

Political Context for a Successful USMCA Update

The political context of a USMCA review raises three challenges for the U.S. administration: 1) how to manage deep skepticism about the credibility of U.S. trade commitments in the wake of recent tariff actions; 2) the urgent need to anticipate PRC retaliation in response to further alignment on economic security policies; and 3) the difficulty in pushing USMCA partners to advance derisking policies amidst uncertainty concerning the U.S. approach to managing the economic and technology relationship with the PRC.

First, the USMCA review will be colored by the ongoing trade disputes triggered by the Trump administration's heavy use of tariffs against Canada and Mexico. This includes imposed tariffs to address concerns around drug trafficking, imposed and pending tariffs under Section 232 national security authorities, and the potential for additional tariffs or tariff threats for unanticipated reasons. The rapidly changing nature of the U.S. tariffs has introduced significant uncertainty about whether the Trump administration views USMCA as a binding constraint on its trade policy. This concern is raised acutely by the Section 232 actions, which were contemplated in the first USMCA negotiation and resulted in a series of side letters in which the United States made commitments to Canada and Mexico regarding relief from future Section 232 actions.

These comments do not directly propose a holistic fix to this lack of trust in U.S. commitments. However, we note that affirmative signaling to Canada and Mexico about U.S. intentions to maintain the integrity of existing USMCA commitments would be important to secure any new commitments on economic security priorities. Confidence-building measures—such as a limited set of targeted exemptions for high-profile products currently subject to Section 232 tariffs and/or pausing Section 232 tariffs during the USMCA review period contingent on ongoing progress in negotiations—would be useful in creating political will and momentum in Mexico and Canada towards a successful review and update of USMCA.

Second, all three USMCA partners must contend with the risk that any further economic security alignment or actions will likely prompt retaliation from the PRC. Each country has recently been subject to retaliation from the PRC, and all three are facing the challenge of the PRC's iron grip over global rare earths and critical minerals capabilities. Retaliation should be expected and proactively planned for, rather than addressed in an ad hoc, reactive manner. The Economic Security Committee proposed in these comments offers one mechanism to do so.

Over the long term, the most effective and sustainable strategy for minimizing retaliation costs and countering economic coercion is to reduce critical dependencies on China, which create exposure that can be weaponized. Such derisking is a central objective of incorporating economic security commitments in an updated USMCA.

Third, economic security discussions within the USMCA review would benefit from clarity on U.S. objectives related to China. Signals to date from the administration have been mixed – with

the administration at times appearing intent on advancing an assertive derisking agenda, and at other times suggesting it is open to rolling back technology restrictions, including controls on advanced AI chips, for a more accommodationist approach.

Based on our engagement with stakeholders in Canada and Mexico, our assessment is that both countries would make meaningful and far-reaching economic security commitments to align with the United States on a joint agenda to derisk responsibly from China. But, neither country wants to be left isolated (and subject to PRC retaliation) if the U.S. posture softens. The Trump administration has a unique opportunity to make transformational progress in advancing a secure and resilient North American market, including one that has stronger defenses against PRC economic coercion. Indeed, in many ways this would represent a continuation of the progress made in the first Trump administration, which expanded the use of tariffs and export controls in novel ways to manage the strategic competition with the PRC. But the Trump administration must affirmatively choose this vision and maintain a consistent posture vis-à-vis the PRC or this opportunity will be lost.

INVESTMENT SECURITY

Recommendations

- Require **Mexico to implement a broad-based foreign investment screening mechanism** that could effectively address concerns about Chinese investment in the automotive and technology sectors;
- **Align on a set of high standards** for foreign investment screening authorities to address national security risks arising from foreign investments in each USMCA country;
- Strengthen **information sharing** and **early warning notifications** among USMCA partners related to foreign investment screening and the potential for outbound investment controls;
- **Provide clear benefits** to USMCA partners for strengthening alignment, including though mechanisms such as a fast-track process for screening each other's investments and capacity building to support Mexico's establishment of an effective foreign investment screening program; and
- Include a **denial of benefits** provision to ensure that the benefits provided to USMCA partners do not accrue to foreign countries of concern and consider how other USMCA provisions, namely rules of origin, may complement foreign investment screening.

North American Investment Security Risks

The screening of foreign investment is one of the more mature and widely adopted economic security tools. The United States has an established program to screen foreign investments for national security risks, Canada's investment security law adopts a broader national interest test, and Mexico is actively considering its own foreign investment screening program. Foreign investment screening can guard against national security risks that arise when foreign investments provide opportunities for strategic competitors to access sensitive technologies, data, or locations; gain leverage or control over critical supply chains; or exploit critical infrastructure, among other concerns.

Regional alignment on investment security through USMCA can be an important tool to guard against these sorts of national security risks and address emerging concerns in the North American context. For instance, there is a possibility that aggressive Chinese investment in Mexico's autos sector could allow Chinese auto and auto parts companies to circumvent the stringent rules of origin for autos in USMCA and thereby undermine U.S. efforts to strengthen the domestic manufacturing base and its supporting supply chains. Such investment could also undermine U.S. efforts to protect the security of connected vehicle supply chains, recognizing that a modern auto is essentially a computer on wheels. Similarly, as Mexico seeks to expand its electronics manufacturing and semiconductor supply chain capabilities to serve the North American market, there could be risks associated with untrusted investors seeking to leverage control in these critical sectors for illegitimate purposes.

Institutional Alignment

U.S. negotiators should require Mexico to implement a high-standards foreign investment screening mechanism. Capacity-building support, technical expertise, and analytic and intelligence support will be required from the United States and Canada to facilitate the establishment and effective utilization of a Mexican foreign investment screening program that meets the high standards that already exist within the U.S. and Canadian programs.

Each USMCA government implements foreign investment screening under domestic authorities, with coordination currently occurring on an ad hoc basis. USMCA investment screening commitments should center on strengthening each country's domestic programs and aligning the three foreign investment screening institutions with one another.

USMCA commitments should include an obligation to establish, maintain, and adequately resource foreign investment screening programs that meet an agreed set of standards, including on issues such as limiting reviews to bona fide national security concerns and enabling robust enforcement. To be clear, we do not call for any supranational USMCA body that could review or overturn individual countries' decisions on specific investment cases. Decisions to approve, mitigate, or deny particular investments should remain a sovereign right of national governments and should not be subject to challenge from foreign governments. But USMCA can productively support institutional alignment of the U.S., Canadian, and Mexican foreign investment screening authorities. It can also facilitate shared understandings of national security risks that may arise from foreign investments, for instance through incentivizing early warning notifications of pending high-profile investments in which another USMCA partner may have an interest. The proposed commitments are intended to strike a balance between fostering alignment and preserving national autonomy to address matters of national security.

As USMCA partners strengthen foreign investment screening, it will be important to prevent the emergence of new barriers to investment within USMCA. USMCA partners should commit to providing fast-track screening or defined exemptions to investors from other USMCA countries, as appropriate, to avoid unduly restricting regional investments.

Denial of Benefits

To foster secure investment flows within North America, USMCA partners should prevent non-USMCA countries of concern from taking advantage of the benefits of the agreement. For example, a Chinese-controlled firm established in Mexico should not be able to benefit from any fast-track investment screening benefits that either the United States or Canada may provide to Mexico. To prevent such scenarios, we propose a denial of benefits clause that would exclude certain foreign-controlled investments from the fast track and exemption benefits contemplated in this section.

Such a clause could be drafted to capture foreign-controlled investments from any non-USMCA country, or narrowed to focus solely on foreign countries of concern, including the PRC. There are trade-offs to both options. The former, country-agnostic approach may reduce the risk of

retaliation from the PRC and ensure the benefits of streamlined investment screening processes primarily benefit USMCA partners. However, a broader aperture significantly increases the compliance burden for firms and would undercut the objective of facilitating more regional investment. Additionally, the contemplated benefits are predominantly procedural and not substantive; nothing would preclude a USMCA country from blocking a transaction that is processed through a fast-track review. A broader denial of benefits test is therefore more likely to increase regulation and red tape without meaningfully addressing new areas of risk in the North American investment markets. For these reasons, we favor a narrower clause focused specifically on investors from countries of concern.

Moreover, though not discussed directly in this paper, we note that the rules of origin in other areas of USMCA may provide additional defenses against efforts of enterprises controlled by non-USMCA persons, including those from countries of concern, to benefit from USMCA. For example, if a Chinese-invested Mexican enterprise relies on parts and components imported from China to manufacture a final good intended for export to the United States, strict rules of origin can prevent this entity from benefitting from preferential treatment intended for Mexican and Canadian exporters. We view our proposed denial of benefits provision as complementary to, not a substitute for, effective rules of origin.

Outbound Investment

In addition to inbound investment security screening, the United States has recently created a new outbound investment program, which is intended to address the risk that outbound U.S. capital flows, when accompanied by U.S. expertise and other intangible benefits, can strengthen China's indigenous capabilities in key technology areas. The U.S. outbound program has been in effect for a short duration, is one of the first such programs internationally, and may undergo additional changes. It may be too early to push for full alignment within North America, given these dynamics, but the USMCA countries could commit to further coordination and alignment as each considers its own outbound investment program.

MODEL TEXT

Specific investment screening commitments could include:

Preamble

IS.1 Parties recognize the economic and strategic benefits of open investment flows among trusted partners, as well as the need to prevent foreign investments from threatening our joint national security, and seek to coordinate investment security policies to effectively address national security risks, promote a level economic playing field, and avoid unduly restricting investment flows among Parties.

Foreign Investment Review Authorities

IS.2.1 Parties commit² to adopt, maintain, and implement laws, regulations, and all other measures necessary to assess national security risks arising from foreign investments in their jurisdictions and to enable Parties to take appropriate measures to address such risks.

IS.2.2 Parties commit that their foreign investment review programs will include, at minimum, the ability to:

- Review foreign investment transactions, including as appropriate controlling investments, non-passive and non-controlling investments, and greenfield investments, likely to present national security risks in their jurisdiction;*
- Prohibit foreign investments that present unresolvable risks to national security;*
- Condition the Party's approval of foreign investments on mitigation terms to address national security risks arising from the foreign investment under review;*
- Identify the ultimate beneficial owner involved in any foreign investment transaction under review;*
- Impose fines or penalties or take other appropriate enforcement actions in response to non-compliance with the Party's foreign investment screening mechanism, including a failure to comply with mitigation terms that were a condition of an approval of a foreign investment.*

IS.2.3 Parties commit that foreign investment review actions will be based on a fact-based risk assessment and evidentiary record, informed by classified and unclassified sources of information as appropriate.

IS.2.4 Parties commit to provide adequate budgetary, staff, and other resources for the design, implementation, evaluation, monitoring, and enforcement of foreign investment review programs.

Foreign Investment Review Alignment and Coordination

IS.3.1 Parties commit to use foreign investment reviews only for legitimate national security and clearly defined national interest purposes, and recognize that it would be inappropriate to use such mechanisms as a disguised restriction on investment flows or for reasons other than such purposes. Parties recognize that a Party may apply a national interest test in their foreign investment review programs, which includes but is not limited to national security factors. When a Party utilizes a national interest test, they

² “Commit” is used in this paper as a generic term to reflect an action that parties agree to undertake. In a real-world negotiation, governments may use a range of terms (e.g., “shall,” “endeavor to,” “intend to,”) to reflect nuances in the level of commitment to which they are agreeing. That nuance is less important for the purposes of this paper, which instead focuses on the substantive character of the commitments, though we recognize that the relatively harder or softer nature of commitments would be a significant point of discussion in a real-world negotiation.

commit to only block [or mitigate]³ transactions involving investments of a person of another Party for national security reasons.

IS.3.2 Parties commit to follow international best practices in their foreign investment review policies, such as the [OECD Guidelines for Recipient Country Investment Policies relating to National Security](#).

IS.3.3 Parties commit to establish mechanisms to expedite review and approval of transactions involving Investors of another Party or otherwise lessen the burden of foreign investment review programs on investment flows between Parties.

IS.3.4 Parties commit to enhance sharing of information on foreign investment review matters with the objective of further aligning their respective strategies and policies, as appropriate and consistent with protecting national security. This includes information on broad trends related to national security risks arising from foreign investments, as well as information on specific transactions and/or investors to facilitate coordination and joint actions in particular cases, including instances where two or more Parties are reviewing the same transaction.

IS.3.5 Parties commit to establish, through the Economic Security Committee, an early warning system to notify each other of pending investment screening determinations in which another Party may have an interest. Parties recognize the benefits of early consultations on investment transactions that may be under review in more than one USMCA country or that involve firms with operations across North America.

Denial of Benefits

IS.4.1 Parties may deny the benefits under IS.3.1 and IS.3.3 to an Investor of another Party if such Investor is an Enterprise owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country of concern.⁴

³ Governments should consider if they want to include restrictions on the use of mitigation measures in such a clause. Including the restriction on mitigation could help facilitate further investment flows among Parties, but there would also be a risk that restricting the use of mitigation measures could undermine support for foreign investment if it is not viewed as promoting the national interest.

⁴ Different U.S. regulations have adopted differing criteria for determining when an enterprise is owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country of concern. For ease of compliance, and recognizing that the denial of benefits at issue here is limited to specific benefits that a USMCA party may provide in the context of reviewing an investment transaction, we propose a stringent bright-line test of 25% ownership as a default, while also clarifying that investments under that threshold may also be denied if they convey governance rights that would enable the investor from a foreign country of concern to direct, determine, or decide important matters related to the invested enterprise, as such concepts are defined in U.S. investment screening regulations. USMCA parties may also consider supplementing a definitional approach with a list-based approach, in which specific entities are placed on a denial of benefits list.

Outbound investment

IS.5.1 Parties commit to coordinate the development of national outbound investment security programs, as appropriate, and to share information and data associated with outbound investments toward foreign adversaries.

COORDINATED TRADE PROTECTION MEASURES

Recommendations

- Create a new mechanism to **facilitate coordination on market protection measures**, such as tariffs and quotas, designed to address unfair trade practices of non-market economies;
- Where USMCA partners agree to coordinate such market protection measures, **exempt USMCA-compliant trade within North America** from these trade restrictions; and
- **Establish a fund**, using revenues generated from new and coordinated tariff actions, to invest in trade enforcement and related economic security efforts.

To preserve an integrated North American market, USMCA partners will need to consider how to use tariffs and other trade tools to protect their markets from unfair trade practices by non-market economies, particularly China. The current U.S. tariff posture – where USMCA-compliant imports from Canada and Mexico are the only U.S. imports not subject to reciprocal tariffs – creates a heightened risk of trade diversion that could distort North American markets and undermine the three countries’ efforts to protect domestic industries. This is particularly important in several key sectors critical for economic and national security, such as steel and aluminum, autos, and semiconductors, in which China has a large or growing share of the global market.

In recent years all three countries have taken some steps to shield their domestic markets from unfair Chinese competition, although with important differences in specific applications. The United States has begun using the Commerce Department’s Section 232 authorities to impose tariffs on a wide range of products and has been pushing partners to adopt similar approaches in ongoing trade talks. Canada has imposed high tariffs on certain Chinese products, such as electric vehicles, and Mexico has recently announced plans for increasing tariffs on certain goods for non-FTA partners. North American governments have also used anti-dumping policies to address risks of Chinese exports flooding markets and undercutting local production.

The USMCA review presents an opportunity to better coordinate and align on such policies.⁵ The USMCA review should introduce a new mechanism through which the three countries can nominate products for trade protection from external non-market economies, which will prompt a trilateral consultation process to assess the economic and national security merits of such protection and appropriate responses.⁶ This process should be designed to move quickly and to consider proactive market protection measures on goods where there is a specific credible threat

⁵ Under Chapter 10 of USMCA, the Parties have already agreed to cooperate to counter duty evasion of antidumping, countervailing, or safeguards duties and have also adopted certain restrictions on how such duties may be applied to other USMCA Parties.

⁶ Note, however, that the United States may use Section 232 tariffs for a range of objectives – not all of which may be amenable to coordinated action with USMCA partners. Specifically, where the objective of 232 tariffs is not to address the destabilizing impact of non-market economies on global markets but rather specifically to onshore production in the United States, such objectives will be in more direct zero-sum conflict with the interests of U.S. trade partners that export these goods to the United States.

of future trade distortions, before floods of imports arrive. Traditional AD/CVD processes are often too slow and cumbersome, only taking effect after domestic industries have suffered substantial harm. Where the partners are able to agree on coordinated responses, they will also commit to maintain open trade among each other for impacted goods.⁷

Coordination need not – and likely would not – take the form of identical mirroring tariffs. Instead, USMCA partners should ensure their trade positions relative to China and other non-market economies are complementary and coherent, such that these competitors cannot exploit USMCA trade linkages to undermine the objectives of USMCA partners’ domestic trade protection measures.

Revenues gained from coordinated tariff actions could be used to fund trilateral economic security priorities, such as strengthening border protection, upgrading port security, or mapping supply chain vulnerabilities. USMCA partners could establish a dedicated fund for such purposes, with the Economic Security Committee given a mandate to determine priorities for fund allocations.

Any efforts to strengthen protection in key strategic sectors should also contemplate how such efforts will impact regional competitiveness. If protection measures significantly raise North American input prices for goods ultimately intended for export—which will be competing for market share in third countries—this could undermine competitiveness and harm North American economic and security interests. How to weigh the need for market protection against potential competitiveness impacts will vary based on specific market and geopolitical factors, including to what extent North American production is competing for foreign markets and whether other major global producers join efforts to combat non-market policies and practices. Effective duty drawback programs, allowing exporters to recoup tariffs paid for imported inputs that are subsequently exported outside of North America, may help alleviate the risk that tariff costs undermine North American competitiveness in third markets.

MODEL TEXT

The following text provides an example of how a coordinated trade protection mechanism could be incorporated into a revised USMCA:

Preamble

TP.1 Parties recognize the value in cooperating to address the non-market policies and practices of non-Parties that distort markets and pose collective economic and national security risks, and seek to jointly combat such non-market policies and practices while minimizing trade restrictions among each other.

⁷ This approach echoes proposals that have been previously floated for the steel sector. The United States has imposed global tariffs on steel, primarily as a response to China’s overcapacity distorting global markets, and has signaled in some of its recent trade framework agreements that the path toward (partial) relief of such tariffs includes coordinated measures to combat global excess capacity.

Combating Unfair Trade Practices of Non-Market Economies

TP.2.1 Parties commit to coordinate market protection measures (to include tariffs, quotas, rules of origin, government procurement restrictions, and other measures as appropriate) to address unfair trade policies and practices of non-market economies that lead to distortions and vulnerabilities in domestic markets for key strategic goods.

TP.2.2 Any Party may nominate a good, through a proposal to the Economic Security Committee, for which it seeks coordinated market protection. Such nomination will include a fact-based assessment of the non-market policies and practices leading to, or likely to lead to, market distortions. All Parties commit to expeditiously review nominations from another Party and to engage in good faith consultations to consider the nomination and, as appropriate, to negotiate and agree a coordinated market protection mechanism. Such consultations will also include consideration of how proposed coordinated market protection measures will impact regional competitiveness.

TP.2.3 Where Parties agree on coordinated market protection actions related to specific products, Parties commit to create an exemption for USMCA-compliant trade from any trade restrictions covered by the coordinated actions.⁸ Parties will also consider, as appropriate, the use of duty drawbacks or other mechanisms to facilitate intra-North American manufacturing and the export of North American manufactured goods to third party markets.

TP.2.4 Revenue accruing from coordinated market protection tariffs shall be contributed to an economic security capacity building fund, to be administered by the Economic Security Committee.⁹

TP.2.5 Parties commit to regularly review, through the Economic Security Committee, the effectiveness and impact of coordinated market protection mechanisms. Such reviews shall include evaluations of the effect of such mechanisms on North American competitiveness; options to jointly mitigate any retaliatory actions targeting USMCA partners in response to coordinated market protection measures; and opportunities for aligning coordinated market protection measures with non-USMCA countries, as applicable.

⁸ Note that restricting the exemption to USMCA-compliant trade, rather than all trade between USMCA partners, helps avoid concerns related to duty evasion and transshipment which could undermine the intent of the domestic trade protection measure. To qualify for the exemption, goods would need to meet USMCA rules of origin and other requirements, which would prevent non-market economies from transshipping goods through a USMCA partner to gain preferential market access. This limitation has the practical effect of a denial of benefits provision, and thus there is not a separate stand-alone denial of benefits provisions for this section.

⁹ We note that negotiators may wish to tailor this provision further to determine an appropriate split between U.S., Canadian, and Mexican tariff revenue contributed to the central fund.

TRADE AND TRUSTWORTHY TECHNOLOGIES

Recommendations

- Align on a set of high standards for domestic **dual use export control authorities** in each country;
- Align on a set of high standards for **trustworthy technology authorities** to protect domestic markets in each country;
- Strengthen **information sharing** on relevant risk assessments to promote shared norms and understanding;
- Facilitate integration within the North American technology sector by creating **fast track licensing procedures** and **removing unnecessary restrictions** on technology trade among USMCA partners;
- Include a **denial of benefits** provision to ensure that the benefits provided to USMCA partners do not accrue to foreign countries of concern; and
- Negotiate a **North America Technology Prosperity Deal**, parallel to the USMCA review process, to advance joint R&D and coordinate on export promotion strategies.

The USMCA review presents an opportunity to strengthen North American coordination on two critical, and linked, objectives: protecting and promoting critical technologies. Technology protection includes both protecting the integrity of domestic markets from foreign threats, as well as protecting critical technologies from acquisition by foreign adversaries. Trust in the protection of technology markets is a necessary foundation for joint promotion of North American technologies, particularly the AI stack (including AI chips, data center hardware, and AI software, algorithms, and applications).

In recent years the United States has launched a series of new actions to address national security risks arising from foreign adversaries' participation in domestic technology markets, often focused on those goods or services that involve a connection to critical infrastructure or sensitive data. Examples include restrictions on Huawei operating 5G networks, bans on imports of Chinese-produced connected vehicles, and strict licensing obligations for subsea cable networks that connect to adversary-controlled jurisdictions. Canada has followed on some of these priorities, for instance banning Huawei from 5G networks and debating restrictions on connected vehicles. Mexico has fewer restrictions in place, and as a result Chinese companies play a relatively larger role in the country's technology and telecommunications sector than those of the United States or Canada.

In addition to protecting the integrity of domestic technology markets, the U.S., Canada, and Mexico have also developed programs to protect North American dual use technologies from being acquired by adversaries. All three countries have export control programs, although the

United States has more extensive authorities, including the ability to block trade with specific end users and in specific technologies beyond what is controlled by multilateral agreements.

USMCA should facilitate greater alignment on technology protection measures as a foundation for supporting technology promotion. Consider, for instance, how this could shape current efforts to rapidly build out AI data centers in North America and export the full AI stack abroad. Mexico is rapidly expanding its role as a top U.S. import source for AI data center components, such as printed circuit assemblies. Canada is well-suited to host large data centers given its abundant energy resources and cold temperatures. But a necessary condition for integrating the North American tech stack will be some degree of alignment on technology protection measures. The United States will likely seek assurances that advanced AI chips being sent to Canada or Mexico, either for assembly into servers that will then be exported or for installation in local data centers, will not be diverted to China or other adversaries, thus requiring coordination on export controls. Similarly, the United States will want to ensure that AI tech stack hardware being produced in Mexico or Canada and then exported to the United States is not compromised by hidden vulnerabilities introduced by a foreign adversary, thus requiring effective tools to protect domestic tech supply chains.

The revised USMCA should include commitments to adopt, maintain, and implement effective trustworthy technology and dual use export control domestic authorities. At the same time, governments will also want to ensure security restrictions and reviews do not slow down technology integration, and thus should include expedited licensing and fast track review processes for trusted trade flows within North America. As in the case of the investment security benefits discussed above, such measures should also include a denial of benefits clause to prevent enterprises controlled by countries of concern from using these channels to circumvent security assessments.

Finally, in parallel to USMCA review, the United States, Canada, and Mexico should consider negotiating a Technology Partnership Deal, modeled on similar arrangements the Trump administration has signed with the United Kingdom, Japan, and South Korea. Such a framework should focus on strengthening cooperation to advance innovation, AI exports, research security, and other shared priorities. This effort should be led by the Office of Science and Technology Policy (OSTP) in the United States and its counterparts in Canada and Mexico. This could be included as an annex/side letter to USMCA or as a stand-alone agreement. The former would helpfully underline the links between the technology protection commitments made in USMCA and the shared technology promotion agenda, although the latter may provide greater flexibility and ease to update programming workstreams as priorities evolve.

MODEL TEXT

This section includes model text on both trustworthy technology commitments and export control commitments, as well as possible hortatory language related to signing a Technology Partnership Deal.

Trustworthy Technology Authorities

Preamble

TT.1 Parties recognize the economic and strategic benefits of open and innovative domestic technology markets, as well as the need to prevent adversaries from weaponizing such openness to threaten our joint national security, and seek to coordinate policies to facilitate integrated trusted technology markets in our economies and promote a level playing field.

Trustworthy Technology Goods and Services Authorities

TT.2.1 Parties commit to adopt, maintain, and implement laws, regulations, and all other measures necessary to allow the blocking and/or mitigation of transactions that present national security risks associated with the import or use of information and communication technology (ICT) goods and services, including those related to the operation in the domestic market of subsea cables, telecommunications infrastructure, data centers, satellites, [social media platforms]¹⁰, and other ICT supply chain products, as relevant.¹¹

TT.2.2 Parties commit that any decision to block and/or mitigate the import or use of ICT goods and services will be supported by a fact-based risk assessment and evidentiary record, informed by classified and unclassified sources of information as appropriate.

TT.2.3 Parties commit to provide adequate budgetary, staff, and other resources for the design, implementation, evaluation, monitoring, and enforcement of trustworthy technology programs.

Trustworthy Technology Goods and Services Alignment and Coordination

TT.3.1 Parties commit that, where they restrict the import or use of ICT goods and services under national security authorities, such restrictions will be for legitimate national security purposes and recognize that it would be inappropriate to use such national

¹⁰ Governments should consider the benefits and drawbacks of including social media platforms among this list of services; while there are genuine national security risks associated with social media platforms, particularly where such platforms are controlled or owned by foreign adversaries, there are also free speech and other concerns related to their regulation.

¹¹ Note that a risk-based approach for protecting the integrity of domestic technology markets may have varying standards for different market segments – for instance this could include stricter requirements for government procurement and critical infrastructure technology purchases, where vulnerabilities are most significant, with less stringent requirements for general commercial purchases.

security authorities as a disguised restriction on trade or for reasons other than such purposes.

TT.3.2 Parties commit to minimize unnecessary restrictions on the cross-border provision of ICT goods and services from other Parties arising from actions to address national security risks, as appropriate and consistent with protecting national security.

TT.3.3 Parties commit to establish mechanisms to expedite review and approval of licenses and/or transactions involving Persons of another Party or otherwise lessen the burden of trusted technology programs on the integration of technology markets between Parties.

TT.3.4 Parties commit to enhance sharing of information among relevant authorities on national security risks associated with the import or use of ICT goods and services, as appropriate and consistent with protecting national security. This includes information on broad trends pertinent to ICT security matters, as well as information on specific transactions and/or foreign companies to facilitate coordination and joint actions in particular cases, and to the extent practicable to coordinate on specific actions taken to address such risks, as appropriate.

Denial of Benefits

TT.4.1 Parties may deny the benefits under TT.3.2 and TT.3.3 to a Person of another Party if such Person is an Enterprise owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country of concern.¹²

Export Controls

Preamble

EC.1 The Parties recognize the economic and strategic benefits of open trade flows among trusted partners as well as the need to prevent dual-use exports from threatening our joint national security, and seek to coordinate export control policies to effectively address national security risks, promote a level economic playing field, and avoid unduly restricting trade among Parties.

¹² Different U.S. regulations have adopted differing criteria for determining when an enterprise is owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country of concern. For ease of compliance, and recognizing that the denial of benefits at issue here is limited to specific benefits that a USMCA party may provide in the context of reviewing an investment transaction, we propose a stringent bright-line test of 25% ownership as a default, while also clarifying that investments under that threshold may also be denied if they convey governance rights that would enable the investor from a foreign country of concern to direct, determine, or decide important matters related to the invested enterprise, as such concepts are defined in U.S. investment screening regulations. USMCA parties may also consider supplementing a definitional approach with a list-based approach, in which specific entities are placed on a denial of benefits list.

Export Control Authorities

EC.2.1 Parties commit to adopt, maintain, and implement laws, regulations, and all other measures necessary to impose autonomous dual-use export control programs.

EC.2.2 Parties commit that their export control programs will include, at minimum, the ability to implement:

- *Technology-based or list-based controls;*
- *End-user controls;*
- *End-use controls;*
- *Controls on the activities of persons of their nation;*
- *Controls on the exports of services; and*
- *Controls on the re-export of goods and technologies that are produced in or re-exported from their jurisdiction.*

EC.2.3 Parties commit that dual-use export control actions will be based on a fact-based risk assessment and evidentiary record, informed by classified and unclassified sources of information as appropriate.

EC.2.4 Parties commit to provide adequate budgetary, staff, and other resources for the design, implementation, evaluation, monitoring, and enforcement of export controls.

Export Control Alignment and Cooperation

EC.3.1 Parties agree that export controls are to be used only for legitimate national security and foreign policy objectives and that it would be inappropriate to use export controls as a disguised restriction on trade between the Parties or for reasons other than such objectives.

EC.3.2 Parties commit to minimize unnecessary restrictions on trade between Parties that may arise from export controls, as appropriate and consistent with protecting national security.

EC.3.3 Parties commit to develop specific measures to facilitate trade in dual-use goods between each other, including measures such as:

- *Programs to reduce the licensing burden for trusted Persons of another Party, including mechanisms to facilitate repeat purchases;*
- *License exceptions and licensing policy reflective of the close security partnership among Parties.*

EC.3.4 Parties commit to share information on export control matters with the objective of further aligning their respective strategies and policies, as appropriate and consistent with protecting national security. This includes information on broad trends related to the transfer, development, and acquisition of sensitive technologies. It also includes

information on specific export control licensing decisions and enforcement actions, with the objective of facilitating coordination and joint actions in particular cases.

Denial of Benefits

EC.4.1 Parties may deny the benefits under EC.3.2 and EC.3.3 to a Person of another Party if such Person is an Enterprise owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country of concern.¹³

Technology Partnership Deal

TP.1.1 Seeking to advance AI innovation, accelerate research and development, align technology regulatory and standards approaches, and protect national security, Parties commit to conclude a North America Technology Partnership Deal. This effort will be headed by our respective lead agencies for science and technology.

¹³ Different U.S. regulations have adopted differing criteria for determining when an enterprise is owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country of concern. For ease of compliance, and recognizing that the denial of benefits at issue here is limited to specific benefits that a USMCA party may provide in the context of reviewing an investment transaction, we propose a stringent bright-line test of 25% ownership as a default, while also clarifying that investments under that threshold may also be denied if they convey governance rights that would enable the investor from a foreign country of concern to direct, determine, or decide important matters related to the invested enterprise, as such concepts are defined in U.S. investment screening regulations. USMCA parties may also consider supplementing a definitional approach with a list-based approach, in which specific entities are placed on a denial of benefits list.

DISPUTE SETTLEMENT, ENFORCEMENT & CONSULTATIONS

USMCA currently includes robust dispute settlement procedures, as well as the standard U.S. essential security exception. This framework provides each USMCA party flexibility to take economic security actions on a self-judging basis without risk that a challenge from another USMCA party could force it to withdraw a measure that it views as in its own national security interest.¹⁴

The incorporation of economic security issues within the agreement, however, will require fresh thinking. Rather than addressing economic security issues by excepting them, our proposal involves governments making affirmative commitments to one another on economic security issues. USMCA partners, in this context, must consider how to enforce these obligations and whether it is appropriate to retaliate for a failure to comply with obligations undertaken.

We proposed a three-tiered approach that establishes: 1) an Economic Security Committee to oversee implementation of economic security commitments in an updated USMCA; 2) a dispute resolution process and penalties for a carefully circumscribed set of economic security commitments related to establishing and maintaining domestic authorities; and 3) a consultation process for most other economic security commitments. This three-tiered approach would be the sole basis for addressing concerns related to each party's implementation of the commitments identified in this paper, and these commitments would not be subject to the existing USMCA dispute settlement process.¹⁵

First, the USMCA partners should establish an Economic Security Committee to oversee implementation of the agreement's economic security commitments and to provide a forum for handling disputes between parties. An important function of the committee will also be to ensure that commitments keep pace with rapidly evolving policy priorities on economic security. The committee should include lead negotiating agencies from each respective government, along with agencies responsible for implementing economic security programs in each party's domestic system and national security and intelligence officials to facilitate information sharing on economic and national security risks.

While the committee's mandate should cover several functions, a primary responsibility will be to manage disputes that arise between parties. Economic security commitments in trade agreements should not be subject to traditional independent arbitration or binding dispute settlement procedures, consistent with governments' interest in maintaining sovereign rights over

¹⁴ Recognizing that economic and national security-based actions can impose costs on other countries and reduce the value of commitments made under a trade agreement, the United States previously proposed a [rebalancing scheme](#) at the WTO that would compensate the harmed country. Crucially, the validity of the offending measure would not be considered. Instead, a country could make a non-violation nullification claim, arguing not that a measure was a violation of a trade rule, but instead that it nullified the benefits that country was entitled to receive under WTO rules. The dispute would then proceed to consideration of appropriate compensation (or, retaliation). Without opining on the merits of the rebalancing proposal, we offer an alternative way to address economic security issues in the context of affirmative economic security commitments made, rather than the context of when economic security actions undermine the value of concessions made in other areas.

¹⁵ To clarify, nothing in this section is intended to diminish or supersede any existing rights Parties may hold under current USMCA dispute settlement procedures related to other, existing USMCA obligations.

economic security measures. Instead, the Economic Security Committee is intended to serve as a state-to-state model with clear limits and centered on political consultation, which we view as a more appropriate way to balance the benefits of establishing a process for resolving disputes with the need for national autonomy.

Second, the dispute settlement system should distinguish between disputes involving institutional commitments made under the agreement and those involving concerns over particular decisions made under a domestic economic security authority. If a party believes that another party is failing to uphold an institutional commitment contained in the agreement itself (e.g., the party has not enacted and properly resourced an investment review mechanism), it may request consultations under the Economic Security Committee and has the right to suspend certain of its own obligations as a remedial measure, if necessary. The obligations suspended could take the form of economic benefits proffered as part of the same chapter (e.g., a party could suspend fast-track options for investment screening of investments coming from a delinquent party) or could also include other economic concessions (e.g., preferential tariff rates). Parties should not suspend obligations that would have the effect of harming national security.

Third, remedies for disputes arising from particular decisions made under a domestic economic security authority should be more limited. If a party believes that another party's specific action (e.g., a particular export control licensing determination or a decision to block a particular investment) is a disguised restriction on trade/investment or otherwise unjustified, it may request consultations on the specific case to better understand the rationale. The responding party would have an obligation to participate in the consultations including by providing an unclassified summary of the factual record and risk assessment in the case. However, the USMCA economic security dispute settlement function should not provide a right to take remedial measures beyond consultations, reflecting that governments should retain significant discretion in taking actions that they judge to be necessary to protect their own national security interests. While the remedy on specific actions is limited to consultations, this could still have a modest disciplining effect and, as importantly, the back-and-forth process of providing justifications and explanations should over time contribute to building shared norms, understandings, and expectations among parties.

The dispute settlement process would not create a right for a person of a party to request consultations or otherwise challenge an economic security decision of a party. Instead, the state-to-state structure is intended to bound the use of dispute settlement proceedings, by limiting cases brought to the economic security committee to only those in which the complaining state sees a legitimate national interest.

MODEL TEXT

Commitments to address these issues could include:

Economic Security Committee

DS.1.1 Parties hereby establish an Economic Security Committee to implement and monitor the commitments of the agreement, as well as share information on each Party's economic security strategy. The committee will meet regularly to review progress in implementation, consider any new topics for potential inclusion in the agreement, and assess capacity-building needs of the Parties as they seek to fully implement the agreement. Each Party will ensure that it includes appropriate representatives from across its government, including lead agencies from each respective government, agencies responsible for implementing economic security programs in each Party's domestic system, and national security and intelligence officials.

DS.1.2 Functions of the Economic Security Committee include:

- Reviewing progress made by each Party in implementing its economic security commitments;*
- Coordinating trade protection measures described in TP.2.1 – TP.2.5;*
- Assessing capacity-building needs of any Party and administering the capacity-building fund referenced in TP.2.4;*
- Providing a forum for the dispute settlement processes described in DS.2.1 – DS.2.5;*
- Coordinating joint responses to instances of retaliation against any Party for its compliance with the economic security commitments.*

Dispute Settlement

DS.2.1 The Economic Security Committee shall establish a dispute settlement function to address economic security commitments.

DS.2.2 Nothing in this agreement provides a right for one Party to challenge an action that another Party takes in accordance with its domestic economic security authorities, other than through the dispute settlement provisions identified in this chapter.

DS.2.3 Nothing in this agreement provides a right for a Person of a Party to request consultations with a Party or to otherwise challenge the findings, determinations, or actions taken by a Party pursuant to its domestic economic security authorities.

DS.2.4 If a Party believes another Party has failed to meet an economic security commitment included in the agreement in parts IS.2.1, IS.2.2, TP.2.3, TT.2.1, EC.2.1, EC.2.2, the complaining Party shall have a right to request consultations under the dispute resolution function of the Economic Security Committee. If consultations fail to adequately resolve the dispute, the complaining Party reserves the right to adopt a proportionate remedial measure, which may include suspension of obligations included

in the agreement, provided such suspension does not threaten either Party's national security.

DS.2.5 If a Party believes another Party has implemented its domestic economic security authorities in a manner that is inconsistent with the commitments of this agreement, it may request consultations with that Party. This may include, for example, consultations to discuss particular findings, determinations, or actions taken under a Party's, investment security, market protection, trusted technology, or export control authorities. The respondent Party agrees to participate in the consultation process in good faith, including by providing an unclassified summary of the factual record and risk assessment that provides the basis for the action.

MANAGING RETALIATION RISK

Furthering economic security coordination may create new risks of retaliation from the PRC. Indeed, the PRC has already criticized initial efforts to bring economic security priorities into trade agreements and might seek to punish USMCA partners for implementing the measures outlined in this paper – either when the agreement itself is signed, or when the countries took specific action on a trade, investment, export control, or other economic security issue. Given that the PRC often seeks to pressure less geopolitically powerful countries, Canada and Mexico might rightly worry that they would bear a disproportionate share of any PRC retaliation, and look to the United States to share this burden.

There are two possible approaches USMCA partners could take to coordinate and cooperate in alleviating retaliation risk. First, they could update the USMCA text to include a new commitment to jointly respond to any act of retaliation or economic coercion against any of three partners, which theoretically may serve as a deterrent. In other contexts some analysts have previously called for similar arrangements, namely an “Economic Article 5” modeled on NATO’s Article 5 collective defense commitment, where treaty signatories would commit to joint retaliation against coercion imposed on any other member.¹⁶ Yet such an approach could backfire, inviting the PRC to test the true strength of such commitment, which may be found wanting. Additionally, in the context of intense U.S. tariff pressure on Mexico and Canada, U.S. efforts to formalize anti-coercion cooperation may not be viewed as credible.

Alternatively, USMCA partners could instead opt for quieter, private diplomacy, combined with clear but non-antagonistic signaling. This could include, for instance, using the Economic Security Committee mentioned above as a forum to anticipate and develop joint responses to instances of retaliation from any non-USMCA partner when the three governments jointly take an economic security action (see proposed text in the dispute resolution section of these comments). In the context of increased trade tensions between the United States and its USMCA partners, such signaling would be important to convey that the United States intends to coordinate with Canada and Mexico to push back against Chinese retaliation.

Over the long term, the most effective strategy for minimizing retaliation costs and countering economic coercion is to reduce critical dependencies on China which create exposure for coercion. Such de-risking is a central objective of incorporating economic security commitments in an updated USMCA.

¹⁶ See Anders Fogh Rasmussen and Ivo Daalder, “[Memo on an ‘Economic Article 5’ to counter authoritarian coercion](#),” Chicago Council on Global Affairs, 2022.