

December 16, 2020

FR: The Alliance for Trade Enforcement (AFTE)
TO: The Biden-Harris Transition Team
RE: Trade Enforcement Recommendations for the First 100 Days

As you prepare for the challenge of returning the economy to its full and equitable growth potential, the [Alliance for Trade Enforcement](#) (“AFTE”) believes that expanding U.S. access to global markets and enforcing foreign countries’ trade commitments to the United States must be important components of the economic recovery here at home.

In fact, as the U.S. Department of Commerce has noted, when U.S. companies of any size export to at least one country, “on average sales grow faster, more jobs are created, and employees earn more than in non-exporting firms.”¹ Free trade agreements have played a significant role in establishing new export opportunities for U.S. companies by opening up foreign markets to U.S. goods and services. For example, in 2019, nearly half of all U.S. manufactured goods exports were delivered to America’s free trade agreement (“FTA”) partners.² Despite this growth, U.S. exporters still face a variety of trade barriers, even in those countries with which the U.S. has negotiated trade and investment agreements. These barriers include everything from data localization and inadequate intellectual property protection to high tariffs and innovation undervaluation. Consequently, a critical element of improving market access and expanding export opportunities for U.S. companies is ensuring that our trading partners fulfill the obligations that they already have made in our existing trade agreements.

As a coalition of trade associations and business groups, AFTE is dedicated to holding our trading partners accountable and ending foreign unfair trade practices that harm American companies and workers. Our members operate in the manufacturing, services, technology, and agricultural sectors and face trade barriers that keep American-made products from competing fairly in the global marketplace.

In this memorandum, we offer recommendations for quickly taking strong trade enforcement action early in your administration that will help deliver real benefits for American workers and businesses at a time when economic growth is urgently needed.

¹ International Trade Administration, U.S. Department of Commerce. <https://www.trade.gov/why-export>

² National Association of Manufacturers. <https://www.nam.org/facts-about-manufacturing/>

TABLE OF CONTENTS

<u>INDEX OF RECOMMENDATIONS.....</u>	<u>3</u>
<u>DEDICATE NEW AND SIGNIFICANT RESOURCES TO TRADE ENFORCEMENT</u>	<u>4</u>
<u>SECURE MARKET ACCESS AND PROTECT INTELLECTUAL PROPERTY IN INDIA</u>	<u>5</u>
<u>SECURE MARKET ACCESS AND PROTECT INTELLECTUAL PROPERTY IN KOREA.....</u>	<u>7</u>
<u>PROTECT COPYRIGHT IN SOUTH AFRICA.....</u>	<u>8</u>
<u>VALUE INNOVATION, PROTECT INTELLECTUAL PROPERTY, AND SECURE MARKET ACCESS IN CANADA</u>	<u>9</u>
<u>VALUE INNOVATION AND SECURE MARKET ACCESS IN JAPAN</u>	<u>10</u>
<u>MAINTAIN BIPARTISAN OPPOSITION TO DIGITAL SERVICES TAXES (DSTs).....</u>	<u>11</u>
<u>COMBAT FTA MARKET ACCESS IMPAIRMENT BY GEOGRAPHICAL INDICATIONS FOR FOOD....</u>	<u>11</u>

INDEX OF RECOMMENDATIONS

In your **First Hundred Days**, AFTE recommends that the incoming Biden Administration:

- Initiate and **publish a review of activities supported by the Trade Enforcement Trust Fund** from FY2017 through FY2020;
- Commit to a bold goal of achieving over the next four years a **tripling of the Trade Enforcement Trust Fund** beginning with your first budget request to Congress;
- Develop and **publish a strategy to bring Korea into full compliance with KORUS** and end its discrimination against U.S. companies;
- Develop and **publish a strategy with timelines and benchmarks for Canada** to ensure that it complies with its trade obligations to respect American intellectual property, value American innovation, and provide American products full market access as required by existing trade agreements;
- Develop and **publish a strategy with timelines and benchmarks for Japan** to ensure that it complies with its trade obligations to respect American intellectual property, value American innovation, and provide American products full market access as required by existing trade agreements;
- **Conclude the GSP-focused talks with India**, restoring market access for certain U.S. sectors in India and restoring India's GSP benefits; and prepare to **launch new workstreams between USTR and India** in policy areas that the Trump Administration did not prioritize – such as intellectual property, technical barriers to trade, and ICT tariffs – which would broaden the scope of trade negotiations to include digital trade issues such as cross-border data flows;
- Make clear and public that it will **continue to review South Africa's GSP benefits** out of concern that the Copyright Amendment and Performers' Protection Amendment do not as currently written comply with South Africa's commitments under international agreements; and
- **Continue the current Section 301 investigation into digital services taxes** and make clear to our trading partners that unilateral DSTs are significant hurdles to reaching trade agreements with the United States.

DEDICATE NEW AND SIGNIFICANT RESOURCES TO TRADE ENFORCEMENT

Over the last decade, federal funding for the three primary trade policy and enforcement related agencies – the International Trade Administration (“ITA”), the United States International Trade Commission (“USITC”), and the United States Trade Representative (“USTR”) – have remained essentially flat after adjusting for inflation.³ In addition, little of this funding is dedicated to monitoring our trading partners’ compliance with their existing obligations to us under various trade agreements, seeking modifications of their non-compliant policies, and, when necessary, initiating enforcement actions or dispute settlement cases. The funding for these three agencies is predominantly dedicated to defending against unfair imports, negotiating new agreements, and conducting economic research. These, of course, are all important and valuable trade functions. Holding our trading partners accountable should not come at their expense. This is why AFTE recommends dedicating new and significant funding for monitoring and enforcing the trade commitments foreign nations have made to us.

While funding for these agencies has remained flat, U.S. exports to the world have increased by 43 percent⁴ and the United States entered into new trade agreements with Canada, Colombia, Mexico, Panama, and South Korea. In short, American trade agreements wrote new rules for a new commercial age and American goods and services surged into global markets at greater levels, yet the American government’s capacity for monitoring and enforcing the agreements that are supposed to ensure a level playing field for U.S. exports received essentially no new funding.

In 2015, Congress did take an important step towards funding trade enforcement when it passed the Trade Facilitation and Trade Enforcement Act (TFTEA).⁵ Section 611 of TFTEA established the Trade Enforcement Trust Fund (TETF), authorizing the transfer of \$15 million annually from the general fund to the TETF for the subsequent 10 years -- FY2017 through FY2026. Under the law, USTR may withdraw from the fund for specific authorized uses, such as (1) to monitor and enforce U.S. FTA and WTO commitments; (2) to support trade capacity-building assistance to help partner countries meet their FTA obligations and commitments; and (3) to investigate petitions concerning unfair trade practices under Section 301 of the Trade Act of 1974. Congress also specifically prohibited USTR from using the TETF to offset costs for conducting trade negotiations.⁶ However, the TETF provided only a small bump in funding relative to the enforcement task ahead.

In your **First Hundred Days**, AFTE recommends that you take several important steps to demonstrate a commitment to trade enforcement:

³ See budget authority tables in “Trade-Related Agencies: FY2021 Appropriations, Commerce, Justice, Science and Related Agencies (CJS)” Congressional Research Service, September 3, 2020.

<https://crsreports.congress.gov/product/pdf/R/R46512>

⁴ According to the Census Bureau, U.S. exports of goods and services to the world totaled \$145,718,000,000 in January 2010 and totaled \$210,243,000,000 in January 2020.

<https://www.census.gov/econ/currentdata/dbsearch?program=FTD&startYear=2010&endYear=2020&categories=BOPGS&dataType=EXP&geoLevel=US&adjusted=1&submit=GET+DATA&releaseScheduleId=>

⁵ Trade Facilitation and Trade Enforcement Act of 2015, P.L. 114-125

<https://www.congress.gov/114/plaws/publ125/PLAW-114publ125.pdf>

⁶ Section 611(d)(2), TFTEA

- *Initiate and publish a review of activities supported by the Trade Enforcement Trust Fund from FY2017 through FY2020.* Although Congress detailed specific limitations and allowed uses of the funding in the trust fund, the statute does not require regular reporting on the actual expenditures from the trust fund to ensure the limitations and allowed uses are followed. In order to build Congressional and public confidence in the effectiveness of the TETF, AFTE recommends that, as part of the review of previous administration's trade actions, your administration initiate and publish a review of the activities supported by the TETF from FY2017 through FY2020.
- *Commit to a bold goal of achieving over the next four years a tripling of the Trade Enforcement Trust Fund beginning with your first budget request to Congress.* In recent years, various trade barriers have proliferated around the world, presenting significant challenges to American exporters. These barriers include, among many others, data localization requirements, a failure to properly protect American intellectual property, tariffs higher than allowed by international agreement, tariff rate quotas limiting market access for American commodities, and opaque regulatory processes. AFTE recommends establishing a bold goal of significantly expanding the United States' trade enforcement capabilities by tripling the TETF from \$15 million to \$45 million over the next four years. This would only amount to an increase of \$7.5 million in each budget of the Biden-Harris Administration but could have important consequences for USTR trade enforcement capacity. According to the President's FY21 budget request, the TETF supported 36 full-time employees (FTEs) at USTR in 2019.⁷ Tripling the TETF could allow USTR to hire another roughly 70 FTEs to support an expanded and more robust trade enforcement agenda to meet the task of enforcing all of the United States' trade agreement commitments.

SECURE MARKET ACCESS AND PROTECT INTELLECTUAL PROPERTY IN INDIA

In November 2017, Ambassador Lighthizer declined to issue a joint statement at the U.S.-India Trade Policy Forum, signaling that he would insist that India resolve, not just discuss, market access restrictions facing U.S. exporters. USTR would follow up in March 2018 by announcing a review of India's status in the Generalized System of Preferences (GSP) program, citing concern that India was failing to abide by the program's requirement that participants provide equitable market access. In June 2018, the two governments announced bilateral talks to resolve U.S. concerns, focusing on challenges faced by the medical device and certain agriculture producers. By May 2019, slow progress in the talks led USTR to revoke India's GSP benefits.

Bilateral talks would later restart and several times would appear to near, but never actually reach, agreement. India remains out of the GSP program. Meanwhile, India introduced several new market access restrictions, expanding requirements for data localization, increasing tariffs several times, and implementing a new digital services tax on revenue from foreign companies, to name a few. A Section 301 investigation into India's digital services tax, implemented in April 2020, could result in USTR proposing more tariffs in December 2020.

⁷ White House Fiscal Year 2021 Budget Request, Executive Office of the President Annex https://www.whitehouse.gov/wp-content/uploads/2020/02/eop_fy21.pdf

The Biden Administration will inherit a bilateral trade relationship much changed from 2016. Ambassador Lighthizer elevated the bilateral discussions to full-fledged, if narrowly focused, negotiations. He created an expectation of results similar to that of our bilateral security and diplomatic engagement. Yet, trade still lags far behind the security and diplomatic relationship in producing results. India responded productively in some cases to the GSP review, and again after USTR revoked GSP benefits, progressively offering more serious proposals for certain areas of the negotiations, but has cut U.S. market access in other sectors and has lagged in sufficiently responding to other areas within the focus of the GSP review. For example, ample work is still needed to provide satisfactory market access for American dairy producers and India's benefits under GSP should not be fully restored until India takes action to address barriers to U.S. dairy exports. As the Government of India responds to new challenges or crises, all too often it first restricts market access in ways that harm American exporters. The list of U.S. market access concerns continues to grow.

India has put in place a diverse and ever expanding array of limitations on whether, how, or at what price U.S. exporters can sell in the Indian market. This failure to provide equitable market access limits the potential of the bilateral relationship. For too many farmers, entrepreneurs, and innovators, their primary impression of India is of a place inhospitable to American businesses. It is critical for the overall bilateral relationship that the U.S. and India create a track record of success in trade negotiations.

Ensuring strong copyright protection in India also remains critical to promoting growth areas for U.S. companies. The ability of U.S. sound recording industry to license music on free market terms has been critical to the growth of the streaming economy worldwide, including in India. In 2016, however, India issued a memorandum on Section 31D of Copyright Act of 1957 that expanded the scope of statutory licenses to apply to all kinds of for television and radio broadcasting to cover Internet transmission, ie, streaming, in contravention of international treaty requirements as well as U.S. law, and at odds with business practices around the world. This radical shift violates fundamental freedoms of contract, and would subject streaming to rates set by an Indian administrative tribunal. The recent November 2020 Copyright Act review should result in a clear and unequivocal determination that the statutory license in Article 31D is limited to radio and television broadcasting and does not extend to internet transmissions. Such copyright concerns that threaten digital music licensing can be pursued through a variety of channels, including but not limited to the IP Working Group.

In your **First Hundred Days**, AFTE recommends that you seek to conclude the GSP-focused talks, restoring market access for certain U.S. sectors in India and restoring India's GSP benefits provided that India takes further strides in order to bring itself into compliance with GSP, particularly for the areas subject to the GSP review. Negotiators have brought the negotiations exceptionally close to conclusion, so the talks provide an opportunity for an early foreign policy win for the new administration, healing trade ties in a way that helps both countries.

Further, AFTE recommends that you set high public ambition for our bilateral trade relationship. Our governments should continue to address sector-specific barriers, such as proposed price controls on digital streaming, and prepare to launch new workstreams in policy areas that the

Trump Administration did not prioritize – such as intellectual property, technical barriers to trade, and ICT tariffs – which would broaden the scope of trade negotiations.

SECURE MARKET ACCESS AND PROTECT INTELLECTUAL PROPERTY IN KOREA

On January 1, 2019, amendments to the U.S.-Korea Free Trade Agreement (“KORUS”) entered into force, making several important modifications that were intended to “improve the implementation of the trade pact,” according to a statement released by USTR at the time that the changes were published.⁸ Among the commitments made by the Republic of Korea were changes to its premium pricing policy for global innovative drugs to ensure non-discriminatory and fair treatment for U.S. pharmaceutical exports. Unfortunately, the Korean Government implemented this commitment in such a way as to completely undermine the intent of both the modifications to KORUS, as negotiated by the Trump Administration, and the original agreement itself, as negotiated by the Obama Administration.

In 2016, Korea enacted a “premium pricing” program for innovative pharmaceutical products, however certain eligibility criteria approved the following year impermissibly provided reimbursement preferences and other advantages to products developed by local companies, discriminating against U.S. and other international innovative biopharmaceutical companies. The discriminatory criteria then became the subject of negotiations between Korea and USTR in 2018, and Korea ultimately agreed to bring its program into compliance with KORUS. However, the changes it made as a result of the negotiated modifications “narrowed the program’s scope,” according to the most recent National Trade Estimate report, “in a manner that may dramatically limit the ability of any company, foreign or domestic, to qualify for premium pricing.”⁹ As a result, the program remains inconsistent with KORUS Article 18.8(3)¹⁰ limiting the exceptions to the exclusive rights conferred by a patent, KORUS Article 5.2(b)¹¹ ensuring that a Party’s reimbursement is based on competitive market-derived prices, and its broader TRIPS Agreement obligations. The revision of the premium pricing policy was intended to improve the pricing and reimbursement environment in Korea, consistent with the country’s obligations under KORUS. Instead, the revision has become the latest example of Korea’s failure to abide by a variety of KORUS commitments of pivotal importance to U.S. health and life sciences sectors.

Concerns about regulations that discriminate against U.S. companies are not limited to the reimbursement of innovative biopharmaceutical products. Regulations promulgated earlier this year making content and internet service providers responsible for supplying users with “convenient and stable telecommunications services” would put a heavy burden on disproportionately American companies.

⁸ United States Trade Representative press release, September 3, 2018. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/ustr-publishes-agreed-outcomes-us>

⁹ 2020 National Trade Estimate Report on Foreign Trade Barriers, pg 324
https://ustr.gov/sites/default/files/2020_National_Trade_Estimate_Report.pdf

¹⁰ U.S.-Korea Free Trade Agreement, Chapter Eighteen, Intellectual Property Rights
https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file273_12717.pdf

¹¹ KORUS, Chapter Five, Pharmaceutical Products and Medical Devices
https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file899_12703.pdf

In May 2020, the National Assembly passed the Telecommunications Business Act Amendments (Articles 22-7), which requires content providers to take responsibility for network stability and consumer demand. Depending on how the Enforcement Decree is ultimately structured, content providers may be obligated to be responsible for parts of the network they do not control, which would inevitably lead to requirements to pay network usage fees to an internet service provider (ISP), for which consumers are already paying and content providers are already compensating in the form of a third-party or proprietary content delivery network. As the Enforcement Decree is currently drafted to target providers with more than 1 million average users and 1% of Korea's total web traffic volume, the measure would subject U.S. suppliers to costly and burdensome requirements that will not apply to their primary Korean competitors.

Pursuant to KORUS and the General Agreement on Trade in Services (“GATS”), Korea must provide U.S. service providers and services most-favored nation treatment and national treatment under both the investment chapter¹² and the cross-border trade in services chapter¹³. In addition, KORUS prohibits the imposition of a local presence requirement, and requires that service suppliers not be treated in a discriminatory way and be allowed to “use operating protocols of their choice in the supply of any service.” Consistent with its international obligations, including under KORUS, Korea should avoid unnecessary intervention into the commercial relationship between content providers and ISPs and apply light-touch regulation to OTT services.

On September 1, 2020, the Ministry of Culture, Sports and Tourism's proposed numerous concerning revisions to South Korea's Copyright Law. These troubling proposals threaten to introduce over-broad exceptions to the scope of copyright protection in South Korea and to impose numerous restrictions on creators, including the U.S. music and film industries, that would weaken critical protections, undermine the freedom of contract, and diminish enforcement standards. Korea should ensure greater transparency around these proposed amendments and ensure meaningful engagement with all stakeholders, including from the creative sector, to address the numerous concerns raised by these proposals.

In your **First Hundred Days**, AFTE recommends that the administration develop and publish a strategy with timelines and benchmarks to bring Korea into compliance with KORUS and end its discrimination against U.S. companies.

PROTECT COPYRIGHT IN SOUTH AFRICA

Two bills – the Copyright Amendment bill, first introduced in July 2015, and the Performers' Protection Amendment bill, first introduced in July 2016 – threaten to impose a number of damaging provisions that would curb incentives for creators, including movies and music, in South Africa and violate international copyright norms. The bills contain numerous, vast, and overlapping copyright exceptions that would deprive creators of the economic value of their work by permitting extensive use of copyright-protected creative content without authorization or remuneration. AFTE is concerned that these exceptions would be incompatible with South

¹² KORUS, Chapter 11, Investment

https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/Chapter_Eleven_Investment.pdf

¹³ KORUS, Chapter 12, Cross-Border Trade in Services

https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file315_12711.pdf

Africa's international treaty obligations, including the TRIPS Agreement, the Berne Convention, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty.

The bills, which were approved by the Parliament and Council of Provinces, but referred back to the Parliament by the President in June 2020 due to constitutional concerns, also fail to provide adequate criminal and civil remedies for infringement, including online piracy.

In response to a petition from the International Intellectual Property Alliance, USTR opened a country review of South Africa's benefits under the Generalized System of Preferences (GSP) in November 2019 and held a public hearing on the matter in January 2020. South Africa's GSP country review remains ongoing as of this day and is an important point of leverage in the United States' position that South Africa's copyright and performers' protection bills do not adequately or effectively protect the copyright of U.S. copyrighted works.

In your **First Hundred Days**, AFTE recommends that new political appointees to USTR should make clear and public that the Biden administration will continue to review South Africa's GSP benefits out of concern that these bills do not as currently written comply with South Africa's commitments under international agreements.

VALUE INNOVATION, PROTECT INTELLECTUAL PROPERTY, AND SECURE MARKET ACCESS IN CANADA

Besides having serious consequences for the development of new life-saving medicines and treatments, a failure to reimburse and price innovative products protected by patents in a transparent and market-based manner also can constitute a breach of existing trade agreements with the United States. Canada employs reimbursement and pricing regimes that do not adequately value American innovation or respect American intellectual property.

For example, in Canada, the Patented Medicines Prices Review Board ("PMPRB") sets maximum prices for patented medicines. These prices are not the prices that are actually paid—they are instead a maximum ceiling, and American companies must then negotiate with government payers province-by-province and generally obtain even lower reimbursement. In August 2019, the Canadian government published final regulations that would greatly exacerbate the problem by (1) removing the United States from the basket of comparator countries that the PMPRB uses to set drug prices; (2) imposing additional "economic factors" to substantially regulate prices further; and (3) requiring patentees to report price and revenues, net of all price adjustments (e.g., confidential rebates). The regulations are scheduled to be implemented on January 1, 2021 and are estimated to devastate the market for innovative medicines in Canada. AFTE strongly encourages USTR to engage the Canadian government through USMCA, WTO, and other mechanisms to ensure that Canada is sufficiently respecting the rights of American IP owners through its domestic pricing policies.

Additionally, Canada committed as part of the USMCA to extend the term of copyright protection for all works and sound recordings. In compliance with Article 20.63 of the USMCA, Canada is committed to extend the protection for sound recordings from 70 to 75 years, and the duration for other works from 50 to 70 years. While Canada did extend the term for sound recordings by five years as it is obligated to do, which is commendable, it has not yet extended the term for works. Under the USMCA, Canada has a transition period with respect to term

extension and has until the end of 2022 to implement that obligation. AFTE urges USTR to continue to engage with Canada to ensure that this trade agreement commitment with the United States is fully implemented in advance of the expiration of the transition period. Moreover, any extension of the term of copyright protection should not be accompanied by formalities prohibited under the Berne Convention or measures that undermine contractual certainty.

Canada's implementation of its USMCA commitments to open its dairy market, which is characterized by a vast and complex web of tariff and nontariff policies, also continue to fall short. Outstanding concerns with Canada center upon: (1) the announced dairy tariff-rate quota ("TRQ") administration procedures which discourage full utilization and value of the market access provided to the United States; and (2) ensuring that new dairy policies put in place by Canada do not effectively recreate the harmful impacts of its Class 7 dairy product pricing program. It is critical for American dairy exporters that the Administration closely monitor the continued implementation of Canada's dairy trade commitments under the USMCA and enforce the benefits secured under the agreement. Already, it is clear that Canada's TRQ administration regulations run counter to USMCA commitments and require continued action.

In your **First Hundred Days**, AFTE recommends that the Administration develop and publish a strategy with timelines and benchmarks to ensure that Canada is in compliance with its trade obligations to value American innovation and respect American intellectual property, and that the recently launched enforcement action against Canada regarding dairy is continued.

VALUE INNOVATION AND SECURE MARKET ACCESS IN JAPAN

Japan has announced a number of new policy proposals as part of a drug-pricing policy package that appears to significantly reduce the number of innovative products that qualify for the Price Maintenance Premium ("PMP"). AFTE is concerned that, under the new requirements, fewer U.S. biopharmaceutical companies will qualify for the full benefit of the PMP System. Moreover, revised eligibility criteria appear to favor Japanese companies at the expense of U.S. companies, in violation of Japan's WTO obligation to provide national treatment to American firms.

In addition to these pricing changes, the Japanese government implemented a new Health Technology Assessment ("HTA") system in April 2019 that is inconsistent with international norms. The new HTA system, which revises the price premium granted at the launch of innovative products, was developed without meaningful opportunities for the public to provide comments. AFTE remains concerned that this new assessment system could deny producers fair value for innovation. At the very least, USTR should engage with the Japanese government to ensure that, consistent with its WTO obligations, Japan implements regulations through transparent and open processes that guarantee interested parties the opportunity to participate.

In your **First Hundred Days**, AFTE recommends that the Administration also develop and publish a strategy with timelines and benchmarks to ensure that Japan is in compliance with its respective trade obligations to value American innovation and provide full market access to American products.

MAINTAIN BIPARTISAN OPPOSITION TO DIGITAL SERVICES TAXES (DSTs)

Over the last several years, foreign governments across the globe have developed, proposed, and implemented discriminatory taxes targeted at American technology companies that provide critical digital services. In the face of this discrimination, Congress and the President have been united across party lines. On April 10, 2019, the bipartisan leaders of the Senate Finance and House Ways and Means Committees issued a joint [statement](#) opposing unilateral DSTs, even “interim” DSTs, to make clear to trading partners that unilateral DSTs should be avoided. On June 2, 2020, USTR launched an investigation under Section 301 into the DSTs put forward by AFTE priority markets Brazil and Indonesia in addition to DSTs from Austria, the Czech Republic, the EU, Italy, Spain, Turkey, and the UK.

In your **First Hundred Days**, AFTE recommends that the Administration maintain the bipartisan opposition to digital services taxes by continuing the current Section 301 investigation and make clear to our trading partners like the UK that unilateral DSTs are significant hurdles to reaching trade agreements with the United States.

COMBAT FTA MARKET ACCESS IMPAIRMENT BY GEOGRAPHICAL INDICATIONS FOR FOOD

American dairy producers face growing impairment to their market access in U.S. FTA partner countries as those countries reach new agreements with other countries or regions, particularly the EU, that include geographical indications for commonly used food terms. This is a pervasive problem across multiple U.S. FTA partner markets and threatens to impair the value of the market access concessions the U.S. successfully negotiated for in those agreements including: Australia, CAFTA-DR, Chile, Korea, Morocco, and USMCA, among others.

The USMCA took a step to try to limit this damage in part by including a commitment by Mexico not to restrict the generic use of a non-exhaustive list of cheese terms. We urge the strong enforcement of these provisions with Mexico, and encourage USTR to ensure that the prior users letter exchanged between the U.S. and Mexico regarding use of certain generic terms is adhered to fully. In addition, we urge steps with our FTA partners to build on this precedent with Mexico in order to defend U.S. market access rights in those markets against growing trade restrictions.

When President-elect Biden and Vice President-elect Harris take their oaths of office this January, they will face historic public health and economic challenges. Finding policies that garner bipartisan support and contribute to economic growth can setup the new administration – and American workers and businesses – for future success. Trade enforcement, ensuring that our trading partners fulfill the obligations they have already made to us, is one of those broad policy areas, and the Alliance for Trade Enforcement looks forward to partnering with the Biden-Harris Administration on a strong trade enforcement agenda.