

**EMPIRE STATE DEVELOPMENT/
NEW YORK STATE
DEPARTMENT OF ECONOMIC DEVELOPMENT**

M E M O R A N D U M

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FROM: Dennis M. Mullen, Commissioner- NYS Department of Economic Development, and
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SUBJECT: **New York State Perspectives on the National Export Initiative (NEI)**
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On behalf of New York State Governor David A. Paterson, we enthusiastically commend President Obama's strategic focus on expanding US export capacity and trade competitiveness. The President's Executive Order 13534 launching the National Export Initiative (NEI), with its goals of doubling US merchandise and services exports and creating world class employment over the next five years, reorients the nation to respond affirmatively to global competitiveness challenges.

New York State, a global hub of commerce since the days of New Amsterdam, Alexander Hamilton's creation of the Bank of New York, and the construction of Erie Canal, will certainly answer the NEI call to bolster prosperity in the 21st century through export expansion.

We welcome the opportunity to share these trade development and policy objectives and to offer suggestions for the NEI to the Export Promotion Cabinet, and the interagency Trade Promotion Coordinating Committee (TPCC) as requested in the June 30th Federal Register notice. We hope to encourage:

- I. Strategic Action: Work on the part of the US Federal government and states toward more coordinated trade development efforts, boosting programmatic capacity and fostering more effective trade policies;
- II. Planning Advances: Improvement of federal and state processes to develop export initiatives, based on better federal-state collaboration, review of performance results, collection/analysis of data on goods/services trade and investment flows, and integration of best practices from other major exporting nations' programs;
- III. Program Implementation: Suggestions of programs, promotions and marketing efforts designed to increase the number of small and mid-sized businesses involved in exporting, the dollar value of goods and services exports, and the number of jobs created through US exports.

I. Strategic Action:

Improve Federal-State Trade Development and Policy Consultation and Collaboration

Whether in executive, legislative, or judicial branches, state and federal government entities are facing unprecedented, and often competing, public policy demands as the US adapts to the increasingly integrated and technological global economy. These challenges are exacerbated by recent financial crises, housing market upheaval, widespread unemployment and persistent recessionary conditions. Governance is impacted at state and local levels, reaching deep into Main Street concerns; far beyond the trade policy domain as understood on Wall Street, K Street, and within Washington DC beltway. As examples of arenas with both federal and state government action: financial services-insurance and real estate regulation; business assistance for SMEs; investment attraction for industry and infrastructure; downtown community revitalization; 'green economy' efforts to build new industries while combating climate change, and workforce training and adjustment.

State and local governments play a vital role in advancing America's global competitiveness. Robust federal-state cooperation is essential to crafting effective trade development policies and programs. Multilateral, bilateral and federal trade policies impact states' economic development, global competitiveness and regulatory interests.

As detailed below, New York State's strategic objectives in support of trade development and investment attraction policies include:

- strategies, consistent with core federalism principles, creating open, transparent and fair global markets;
- better collection and analysis of federal, state and local data on goods and services trade and investment flows, to better inform resource allocation to policies and programs;
- collaborative federal-state trade development assistance and program initiatives targeted to small and mid-sized firms;
- expansion of export activity, export dollar results and job creation by manufacturers and services firms;
- education and training to empower a globally competitive workforce;
- assistance to workers and communities impacted by technology and trade trends;
- attraction of international students, researchers, tourists and professionals through enlightened immigration policies;
- promotion of comparative/competitive industry cluster assets to attract international investment to NYS and the US;
- transportation corridors and border crossings with the infrastructure to support secure trade and travel growth; and
- R&D facilities, incubators, and infrastructure, supported by universities, industries and government, to foster innovative commercialization into the technologies, industries and jobs of the future.

New York State leadership applauds the Obama Administration's priorities for improving the global competitive position of states and the nation. Given the pivotal position of New York State in the world of commerce, the State's perspectives on trade development could serve to advance NEI objectives. NYS would like the NEI to include the creation of an improved framework for federal-state trade development and trade policy dialogue and consultation. Already, the Obama Administration's actions to limit lobbyist influence on USTR Advisory Committees while expanding information transparency and access, to better coordinate secure and efficient border crossings, to deploy the ARRA to develop world class transportation infrastructure, industrial manufacturing and the 'green economy,' have all made impressive advances critical to state governments and national prosperity.

Consistent with such efforts, and in order to fully consider diverse constituent interests and public policy objectives related to opportunities and constraints in the global context, NYS recommends the following strategic actions:

- **Improving Trade Policy:** Broadening oversight of the Intergovernmental Policy Advisory Committee (IGPAC) to include co-administration by the US Department of Commerce and involvement of the TPCC, in addition to the USTR, in order to add essential resources and staff capacity to the federal-state consultation framework. Such resources would allow stakeholders to explore creating a structure for continuous bipartisan, federal-state consultation and collaboration related to about trade policy formulation and trade development strategies and programs.

Notes: the IGPAC report of January 1994 on the Uruguay Round negotiations called for a concrete action step, still not in place:

“The changes that the UR Agreements will bring in the US trade policy will require that the Federal Government enter a new partnership with state and local governments. This partnership will require establishing and funding adequate organizational capacity within the Federal Government to assist state and local governments in the implementation of the UR and other trade agreements.”

Subsequent IGPAC Reports from 2004-present on various Free Trade Agreements, procurement policy, investor-state provisions, etc. have repeated the request for such federal-state capacity; and the GAO Report of 11/07 “International Trade: An Analysis of Free Trade Agreements and Congressional and Private Sector Consultations under Trade Promotion Authority” conveys some IGPAC concerns, and makes recommendations for Congressional and Executive action.

- **Improving Trade Development:** Adding state government perspectives through representation on the President’s Export Promotion Cabinet, and on the Trade Promotion Coordinating Committee, in order to contribute significantly to NEI results and ongoing programs. The Administration could work with Governors, IGPAC members, and national associations of state elected officials, to select appropriate representation.

Background in Support of NYS Strategic Action Recommendations:

State and local government entities are at the front lines of the international marketplace: both by assisting businesses to engage in global competition through trade development assistance; and by working to mitigate the impact of technological change and trade dislocations on communities, businesses and workers through varied adjustment, training and assistance programs. States have typically been innovators in international economic development work that fosters increased export activity by SMEs. The traditional international role for most states consists of economic development agencies providing trade development assistance to SMEs, and working to attract international investment. States' executive agencies and legislators typically advocate for expanded SME access to global markets, for protection of sensitive industries in some regions (e.g. sugar, textiles, cotton), for regulatory interests (e.g. procurement, labor and environmental standards, services), and for workforce adjustment assistance.

Though SMEs may turn first to private sector contacts for trade assistance, research shows that the transaction costs associated with this type of trade development assistance generally outweigh the benefits for most private sector service providers. Hence, federal, state and local government trade development agencies play a key role in filling this need by providing information, technical assistance, referrals, and guidance to smaller firms often lacking the internal resources to develop export expertise on their own. Still, the specific export and job creation/retention benefits from informational, capacity-building trade development assistance services remain difficult to measure. Unfortunately, many state and local trade development efforts are constrained by limited resources and competition from other budgetary priorities.

Today as throughout history, the benefits of trade liberalization and its short, medium and long-term costs and benefits are being debated by academics, government leaders and the general public. Our increasing and intensifying globalization is occurring ever more rapidly, with factors of production more mobile, and international interconnections more profound, than ever before. Resulting advances in technology and productivity are having a major impact on employment trends in a variety of sectors and professions. Given the disparate trade flow and international investment impacts, those communities, businesses and workers *gaining* from greater international market access tend to be less visible, while those *losing* to global competitive challenges tend to suffer disproportionately, evoking understandable public concern and calls for greater government intervention. Some industrial and agricultural sectors facing import competition may effectively organize for protection or special treatment, while other sectors may experience comparatively greater damage, given their lack of ability or clout to gain preferential treatment. Public concern about the perceived negative consequences of trade is common. Some legislation enacted or under review by federal, state and local elected officials, notably the "Trade Reform, Accountability, Development and Employment (TRADE) Act," would aim to slow or reverse the trend toward further trade liberalization.

State and local governments have generally supported multilateral, regional and bilateral efforts to expand market access, both for local businesses reaching out to global markets, and for international investors engaged in the local economy and creating employment. As trade liberalization efforts progressed in recent decades, however, their coverage and scope have increasingly extended beyond the federal level, increasing the impact on state and local-level laws, practices and regulations. State government focus on trade policy remains comparatively rare, but is growing. Some states have created legislative trade policy commissions and have added executive branch and attorney general staff focused on trade policy and trade dispute resolution. Despite information gaps and the absence of sufficient infrastructure for federal-state trade policy consultations, the role of state decision-makers in international trade and investment agreements has been increasing in recent decades. Still, with the comparative newness of states' involvement in the content of international trade agreement negotiations, and in their implementation and dispute resolution, states often lack a clearly defined institutional structure with experienced staff dedicated to handling requests from trading partners, federal agencies and other interested parties, and for articulating the state's position on trade issues. Yet, at the same time, the accelerating pace of reaching such agreements and their expanding scope has made them ever more salient to state and local governments.

Though the involvement of state decision-makers in international trade and investment agreements has increased over the past 20 years, the structure for federal-state trade policy consultations remains insufficient. State level involvement intensified following trade liberalization efforts launched in the early 1990s, intensifying during the WTO Uruguay Round agreements and NAFTA. These trade agreements expanded beyond a focus on “at the border” tariffs, quotas and other measures, to “non-tariff barriers” involving government regulation, taxation, procurement and economic development policies – many of which are deployed at state and local levels. These post-1994 agreements and more recent Free Trade Agreements (FTAs) also included enforcement provisions allowing lawsuits to challenge non-compliant federal and state measures. Hence, trade agreements, dispute settlement cases and negotiations have an intensified impact on federalism and on the historically established state-federal division of power and responsibility. While such challenges do not directly overturn state or federal laws, the demands on state agencies’ resources for legal preparation and barriers to comprehensive policy response remain significant.

In addition to the legal context for trade policy, state and local governments lack sufficient information to assess the economic impact of trade and investment on their jurisdictions. International trade and investment data at the state level are insufficient; data on the value of international procurement contracts are limited or unavailable, and reporting on the results of trade agreements at the state/local level is scant. The ITA is making impressive advances in its data collection and reporting, having added some zip code specificity to merchandise export data and making limited import data by state available. However, there is still virtually no information by state on services exports or imports; and limited, delayed and highly aggregated international investment information. Since the US economy is increasingly driven by the services sector and since trade and investment flows are highly correlated, it is vital that state-level *investment, services export and import data* collection be improved. Additionally, the challenges of assembling national and subcentral, information on procurement contracts render reporting on specific procurement agreement results quite problematic, for the US and other countries. All of these data gaps make it difficult to conduct an informed analysis of the specific costs or benefits of trade liberalization for a given industry or US location. Further, they imperil the market intelligence necessary for decision-making about the effective allocation of resources to trade development programs.

A number of barriers confront state and local government officials and staff – whether procurement directors, trade directors, legislators or other officials – who may endeavor to analyze trade and investment agreements with a view to determining benefits and costs from the state or local perspective. Reliable, objective, unbiased information regarding the impact of trade liberalization is not readily available, nor are there sufficient state-level data for independent analysis. Many states may not be aware of the extent of existing international trade, procurement and investment agreement commitments that might have been made under prior administrations, and that situation is surely exacerbated by the growing number of bilateral and plurilateral agreements being reached in recent years, each of which involves similar but not identical provisions and coverage.

Moreover, many states do not yet have a clearly defined set of policies or positions on such international matters. This situation may be a consequence of delicate partisan politics, and of the absence of trade policy staffing, at most state and local government levels. Finally, federal resources dedicated to assist state agencies’ implementation of relevant agreements are largely nonexistent, leaving state procurement and other officials to grapple with confusing and inconsistent information. These barriers create a disincentive for state support of trade liberalization. States that participate in international trade and investment agreements, and wish to comply with commitments, face legal, political and resource challenges – while those states that refrain from participation manage to avoid such difficulties, and to still help their resident companies benefit as “free-riders” from the international market access and other opportunities gained through such agreements.

The following elements are critical to resolving these challenges:

1. **Structured, institutional trade policy capacity with resources dedicated to addressing state level concerns** in order to accurately inform state and local officials, trade opponents, trade proponents, and the public about the impacts of trade, procurement and investment agreements. Such trade policy capacity would include legal analysis for the balanced evaluation of trade and investment agreements' impacts on state laws, regulations and practices during all phases of policy formulation, negotiation and dispute resolution. This trade policy function should be performed in a structured, responsive manner by nonpartisan, qualified staff with expertise in international trade/investment policy and law, and should offer general background and customized analysis, interpretation and guidance for state and local government officials. One basic tool for extending access to such resources and assistance would include a dedicated, interactive website.
2. **Information sharing and dialogue among the USTR, USDOC, TPCC and states**, including more timely and frequent consultations as trade policy is being formulated, as trade controversies emerge, and as trade negotiations are being initiated, allowing sufficient time for evaluation of trade and investment agreements and for effective response to challenges and concerns. Given the economic distress and employment dislocations created in certain industries and communities due to trade liberalization, and the lack of awareness of the benefits of trade and international investment in some such areas, USTR, DOC and TPCC informational efforts need to be more informed by state-level data analysis, with outreach that is more inclusive and public when feasible. The USTR should reconsider its reliance on states' Single Points of Contact and broaden its outreach to include multiple key state contacts, ensuring that communications and requests be sent to Governors, with copies to states' legislative leaders, Chief Justices, attorneys general, offices of federal affairs and IGPAC members.

II. Planning Advances:

Action Steps to Improve Federal-State Trade Development Programs and Results

Inform international export and investment program development through improved data and analysis, based on national, state, regional and zip-code level data on merchandise and services exports and imports, on international investment flows, and on international government procurement contracts awarded to US companies. Trade data applications should use mapping technologies and other tools for better analysis and planning. Trade data analysis should also compare state/federal trade performance against major trading partners and regions with successful trade development agencies (e.g. Canada, European Union member nations, Japan, China, India, Brazil) and evaluate performance measures, program outcomes, and customer satisfaction at the subnational level.

Assess the comparative costs and benefits to the federal budget and US economy, particularly in terms of employment creation/retention and export value, of **allocating resources and trade protections** to:

- Agricultural commodities (e.g. USDA Market Access Program),
- Research and development into innovative technologies and technology commercialization;
- Industrial goods and manufactured products, and
- Services sectors.

Policy recommendations resulting from such analysis could engender more effective and reasonable resource allocation related to trade development, technology policies and adjustment programs for communities and the workforce.

Prioritize federal trade development support for high technology manufactured goods and services exports, and for supporting trade and investment in high tech sectors. As part of this effort, it is critical to improve US immigration policies (esp. related to the ceiling for H1-B visas). This would build on a foundation of public and private funding for research and development in emerging sectors such as biotechnology, nanotechnology, photonics, advanced materials, and other innovative technologies. Support for high technology infrastructure, commercialization and trade, along with an educational system preparing the technology workers of the future, is crucial to the nation's global competitiveness.

Collect, analyze and disseminate better data at the national, state, regional and zip-code level on merchandise and services exports and imports, and on international procurement and investment flows, deploying mapping technologies and other tools to better inform analysis and planning. Such data would make it possible to benchmark state/federal trade performance against other major trading partners and regions with successful trade development agencies by conducting regular evaluations of measured performance, program outcomes, and customer satisfaction at the sub-central level.

Improve the state-federal trade development partnership with efforts that increase resources for global market research and collaborative trade development assistance programs among federal and state agencies and their overseas offices, with active involvement of private sector partners, focused on improving SME export performance. Some indicative areas for cooperation are listed below, and specific program suggestions follow in section III:

- Increase funding support for expert staffing in USCS overseas posts located in global markets with the greatest potential for expanding SME exports;
- Prioritize USCS post support for state-led trade initiatives assisting SMEs and industry associations, ensuring that fee schedules for USCS services remain affordable for SMEs;
- Collaborate with states and SMEs on professional training programs and certification for trade and finance specialists;
- Intensify cooperation and information-sharing for domestic trade development program delivery;
- Provide challenge grants to states to spur innovative export programs;

- Increase linkage with USDA for expansion of agricultural export programs to agri-business and related non-agricultural exports by SMEs;
- Expand SME access to trade financing (details below); and
- Evaluate state, provincial and national trade development programs, and implement lessons from their best practices.

Improve SME awareness of and access to trade financing: Specific steps could involve better linkage of Ex-Im Bank and SBA trade finance and delegated authority activities with those of banks, states and the private sector. Many local bank officers often do not understand or are unaware of SME needs related to trade financing in its broadest definition. Core problems for SMEs include: banks' reluctance to trust SME business plans; banks' refusal to recognize overseas sales as real receivables assets, leaving firms to finance trade on lines of credit, and the tendency for SMEs to have an overly short-term focus, given limited time and resources. Moreover, even those banks that frequently underwrite SBA and Ex-Im Bank loans, typically indicate a lack of interest in underwriting trade deals valued at less than \$500,000. Their rationale is that the transaction and management costs of servicing such small loans create the impediment, not the actual risk.

A range of potential solutions to improve SME access to trade finance exist, including:

- Incentivizing banks or directing them to underwrite smaller international transactions, as they are critical to SME exporting activity;
- Having SBA and Ex-Im Bank consider certifying new categories of non-traditional lenders to provide access to the relevant loan guarantee programs, in order to encourage broader SME access to valuable programs that already exist;
- Instituting a collaborative process for vetting SME credit risk related to export transactions, in order to clarify and improve SME prospects for securing financing; and
- Passing the legislation now before Congress to create a Small Business Lending Fund, with its provisions supporting expanded trade development, and encouraging closer federal-state collaboration to spur SME exports.

Taking actions such as those listed above would represent significant progress toward achieving NEI objectives.

Background related to planning recommendations:

As has been indicated throughout this memo, states play an essential role to SME trade development assistance efforts, and are increasingly involved in the trade policy arena as well.

Lamentably, federal government agencies often fail to fully appreciate the role played by states in international economic development. Even the newly released July 2010 report by the US International Trade Commission, “*Small and Medium-Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms*” (Investigation No. 332-509), does not sufficiently reflect the program and policy role played by state governments in trade development and international investment attraction. Consequently, this ITC report’s recommendations lack any emphasis on the importance of improving federal-state trade policy consultation and trade development program collaboration.

As indications of the report’s fairly glaring omissions of states’ activity:

- The ITC report fails to reflect the significance of trade development activity currently undertaken by most states’ economic development agencies.
- For decades, many states have actively engaged with federal agency partners on export promotion for SMEs; many states have co-located their trade assistance teams with federal agencies (e.g. USDOC, SBA, Ex-Im Bank), and many states directly fund international offices overseas to assist SME exporters and to attract international investment.
- Moreover, the report fails to mention an array of well known state players in international economic development, most notably: SIDO (State International Development Organizations - www.sidoamerica.org), an affiliate of the Council of State Government and the only nationwide association of state trade and export promotion agencies in the US. SIDO and represents the interests of state international economic development programs. Collectively, SIDO members boast a domestic staff of 400 with a budget of \$70 million dollars for international development. SIDO is also providing input into the NEI.
- Other state and regional entities focused on trade development and trade policy also neglected in the ITC report include the Eastern Trade Council, the Council of Great Lakes Governors; and various national associations of state officials, such as the National Association of State Procurement Officials, the National Association of Attorneys General, the National League of Cities and the National Conference of State Legislatures.
- Most perplexing of all considering the input from the USTR to the report, it does not reference the trade policy and program recommendations of the USTR’s Intergovernmental Policy Advisory Committee. For decades, IGPAC members have issued reports which detail the contribution of states to assisting SME exporters, highlight the need to improve trade data and analysis, encourage intensified federal-state trade development collaboration and trade policy consultation.
- While the report details EU member countries’ efforts to attract foreign direct investment, it paradoxically neglects to reference the major role played by states related to international investment attraction, or to credit the USDOC ‘Invest in America’ initiative, also conducted collaboratively with states.

III. Program Implementation:

Trade Development Program Suggestions for 21st Century Global Economic Conditions

Trade Finance for SMEs:

- link Ex-Im Bank and SBA trade finance and delegated authority activities with those of banks, states and the private sector;
- implement a collaborative public-private process for vetting SME credit risk related to export transactions to ensure broader availability of credit;
- increase federal recognition of wider spectrum of non-traditional lenders to advance access to SBA and Ex-Im Bank financing programs.

International Procurement Program for SMEs:

Focus SMEs on expanding exports through **international procurement market opportunities** afforded by the WTO Government Procurement Agreement, various Free Trade Agreements, UN purchases, etc.:

- detail and clarify background information on agreements' provisions and implementation guidance for state procurement and trade officials, including estimates of procurement market value and major projects for contractors and sub-contractors;
- provide assistance to state trade and economic development officials with front-line contact with SMEs, such as a user-friendly website with links to a 'helpline' for rapid response needs; key resource documents for identifying procurement deals and projects, and conditions and exceptions for participation;
- implement technical assistance programs for SMEs' pursuit of procurement export markets through technical seminars, trade missions, hosting buying delegations, etc.

Customized and Streamlined Trade Development Programs for SMEs:

- encourage programmatic collaboration and co-location among federal and state agencies;
- customize market research, agent-distributor searches, show/mission participation and other products and technical assistance services to SME needs;
- ensure SMEs' awareness of available federal-state trade development support;
- explore shifting program focus toward assistance for groups of SMEs, working with trade associations, industry organizations and flexible networks;
- adjust the nature of trade development support to reflect level of risk in targeted global market.

Public-Private Partnerships to Support SME Exporters:

- develop marketing campaigns and promotional materials, including digital and/or virtual approaches, to highlight and profile US SME exporters, via international chamber of commerce, industry association publications, government publications, etc.;
- enroll US corporate support for expatriate business professionals to volunteer and be certified as "Export Manager Mentors," deploying corporate training, international expertise and global contacts to assist SME exporters. Such mentors could champion US SMEs exporters, and some could be encouraged to remain overseas and develop a business importing US goods and services.
- consider creation of "Export Managers for Hire" program as a commission-based service, supported by public and private funding and SME customer match, to provide intensive export consulting services to SMEs (commission would be based on customer's export sales, ensuring focus on results);
- encourage public and private technology institutions to compete to provide fee-based trade and technology consulting services to SMEs, going beyond basic consulting to problem-solving and risk-sharing with business customers;
- link SMEs to business networks including USCS posts, chambers and industry associations, sharing information about targeted markets and sectors.