

April 26, 2018

The Honorable Robert Lighthizer
U.S. Trade Representative
600 17th Street N.W.
Washington, D.C. 20508

Dear Ambassador Lighthizer,

As Democrats committed to opening new markets to sell American products, we share your commitment to trade agreements that work for American workers, farmers and businesses alike. With 95% of the world's population outside our borders, expanding export opportunities abroad is a critical component of the United States' continued global leadership and economic growth.

While the North American Free Trade Agreement (NAFTA) has brought many benefits to a number of American industries, we agree with your commitment to modernize this over 20-year-old agreement and bring it into the 21st century. Since NAFTA was first implemented, the U.S. has made great strides in ensuring its trade policy works better for American workers, farmers and businesses. The May 10th Agreement between Congress and the Bush Administration created a bipartisan consensus around the importance of enforceable labor and environmental provisions in all new U.S. Free Trade Agreements (FTAs).

Stagnated Mexican wages linger as one unfulfilled promise of NAFTA – strengthening worker protections and the right to collectively organize would make American workers more competitive and raise wages not just in Mexico, but here at home as well. Unenforceable human rights provisions in the original NAFTA have allowed forced labor and other human rights violations in Mexico to fester, and have provided limited protection against goods produced by forced labor entering the United States via transshipment. Similarly, when signed NAFTA promised to secure a new paradigm of environmental protection, but due to the lack of enforceability has led the enforcement body down the path to neglect. The internet was still in its infancy when NAFTA was first negotiated and signed into law, but today, digital flows have a larger impact on global GDP than trade in traditional goods. On issues ranging from intellectual property to nontariff barriers, U.S. policy in the past decade has made great strides in formulating new agreements that better serve U.S. workers, farmers, and business, and have proven to meaningfully increase U.S. trade flows. As NAFTA negotiations continue, we write in support of modernized trade agreements that work better for American families, farmers and workers.

We are increasingly concerned, however, that in a rush to conclude an agreement, the Administration is putting its focus in the wrong places. While NAFTA has been a resounding success for U.S. agriculture, a handful of frictions still remain. But rather than aggressive consultation with the Canadians about their new trade distorting Class VII pricing program that is undercutting American market access in both Mexico and Canada, your team has focused its attention on a seasonal produce provision which is opposed by a broad range of U.S. agriculture including apple and cherry producers. Instead of focusing on Canada and Mexico's *de minimis* thresholds sixteen to forty times lower than our own which adversely impact the ability of U.S. companies to sell to our closest trading partners, the Administration is proposing government procurement restrictions which threaten \$10 billion per year in U.S. contracts with the Mexican and Canadian governments. Instead of increasing the competitiveness of auto manufacturing in the NAFTA region, auto rules of origin proposals from USTR are expected to drive American auto jobs overseas.

American workers, farmers, and businesses would be best served by increasing market access and certainty. Instead, the Administration is crafting proposals to automatically sunset the agreement after five years and undercutting enforceability, and therefore the stability of the underlying agreement. Moreover, withdrawal threats only exacerbate

the sense of uncertainty and have failed to extract concessions from our closest trading partners and will not be constructive in building support for future congressional consideration.

When Congress passed the *Bipartisan Trade Priorities and Accountability Act* in 2015, it renewed the President's delegated authority from Congress to negotiate FTAs on the behalf of the United States – in a specific and prescribed manner. This includes not only negotiating objectives, which in some cases we fear proposals tabled by the Administration disregard, but also a collaborative process under which Congress works in concert with the Administration to implement these clear Congressional enumerated powers. We feel that, to date, the Administration has failed to meet its consultation obligations under the *Bipartisan Trade Priorities and Accountability Act*.

The ability to regulate foreign commerce is clearly prescribed to Congress under the Constitution. Therefore, we stand ready and willing to work with the Administration as equal partners in the pursuit of a level playing field and new markets for American workers, farmers, and businesses. However, we are concerned that should the Administration continue to go it alone they will not craft an agreement sensitive to Congress's concerns and therefore fail to find the necessary bipartisan majority in Congress needed to implement the agreement. We hope this represents the beginning of a new chapter in Congressional consultations, and we can work with you moving forward to ensure NAFTA is modernized in a manner worthy of broad bipartisan support.

Sincerely,