

## COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

April 11, 2019

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

Dear Ambassador Lighthizer:

As our Committee prepares to consider the renegotiated trade agreement with Canada and Mexico (“the new Agreement”), we write to express our concerns regarding whether the new Agreement will lead to meaningful and lasting labor reform in Mexico.

More than 25 years ago, when Congress looked at taking up the North American Free Trade Agreement (NAFTA), House Democrats had deep and abiding concerns. They included apprehension that the elimination of duties, coupled with a lack of worker protections in Mexico, could lead to the deterioration of wages, competitiveness, and opportunities for American workers.

In response to those concerns, labor provisions were negotiated in a labor cooperation agreement memorialized outside the main body of the trade agreement, subject to a separate enforcement mechanism. Since 1998, 39 submissions have been filed alleging non-compliance with NAFTA’s labor obligations. Yet to this day, not a single one of those submissions has led to a formal arbitration between the parties or any penalty. Meanwhile, workers in Mexico continue to struggle to exercise basic rights to organize or bargain collectively. Studies have shown that in the manufacturing sector, in the first two decades of NAFTA, real wages for Mexican workers decreased nearly 20 percent, while productivity rose nearly 80 percent.

As Committee Democrats reviewing the renegotiated terms of NAFTA, we see that the new Agreement’s labor chapter generally reflects the strengthened standards developed 12 years ago in the May 10 Agreement. The chapter also provides elaborations on some of the May 10 core labor standard commitments that take into account enforcement challenges that the United States has encountered in the last 12 years. Those include instances where freedom of association, including in Mexico, has been denied through violence and threats, and the disappointing U.S. failure to prevail in a dispute over Guatemala’s compliance with the labor obligations in the Dominican Republic-Central America trade agreement (CAFTA-DR).

Nevertheless, reflecting on the history of our concerns with NAFTA, we question whether there is reason to believe that the new Agreement will lead to meaningful change and real improvements for labor standards in Mexico. Our questions relate to both the specifics of the

language of the new labor provisions and their enforceability in particular. For instance, there are particular concerns regarding the enforceability of the violence and intimidation provision in the new Agreement. In addition, while the new Agreement incorporates footnotes that attempt to address shortcomings in labor chapter language exposed by the arbitral panel in the labor dispute with Guatemala, it is difficult to say whether these will be sufficient.

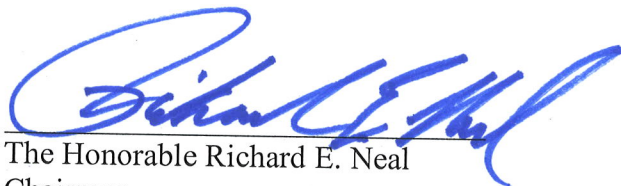
We are also concerned that the dispute settlement mechanism applicable to the new Agreement's labor – and other – obligations, are designed to be easily frustrated and will be ineffective. If and when disputes over labor obligation compliance arise, will they ever lead to resolutions that can improve worker protections or result in the satisfaction of the new Agreement's labor requirements? With respect to the known challenges in achieving labor obligation compliance, the new Agreement should be breaking new ground and incorporating more flexible and versatile enforcement tools. It should be obvious that enforcement in an improved, new NAFTA cannot rely on the broken elements of the existing NAFTA's dispute settlement procedures.

Our question also stems from the fact that Congressional Democrats concerned whether trade agreement labor provisions will be meaningful have always been required to take a leap of faith: vote first and hope to see changes later. This time needs to be different. The annex to the labor chapter spells out explicit commitments that Mexico has undertaken to accomplish in its pending labor reform legislation. Successful passage of domestic labor law reform in Mexico is a necessary first step to securing our support.

We note that Mexico has not yet passed the legislation implementing the constitutional labor reforms it adopted more than two years ago. However, we understand that important steps are being taken in Mexico City right now. We are closely following the ongoing developments related to both the substance and process of this legislation.

We look forward to engaging with you on addressing our concerns. Our interest is in replacing NAFTA with an agreement that remedies NAFTA's flaws by, among other things, providing tools to ensure that workers' rights will be effectively protected and promoted throughout North America.

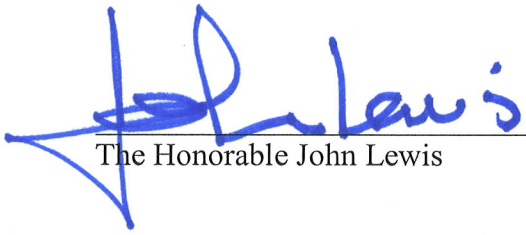
Sincerely,



The Honorable Richard E. Neal  
Chairman

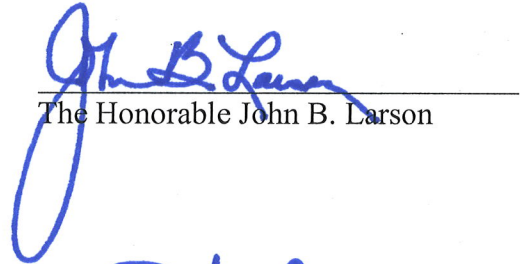


The Honorable Earl Blumenauer  
Chairman, Subcommittee on Trade

  
The Honorable John Lewis

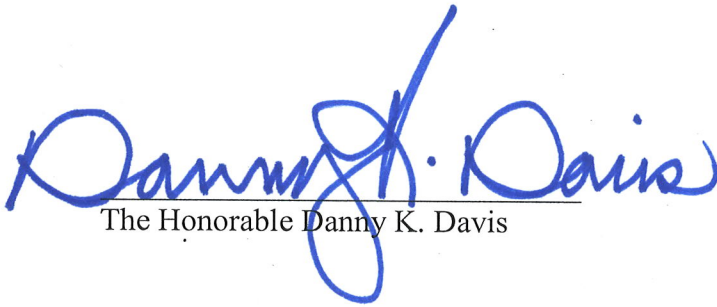
  
The Honorable Lloyd Doggett

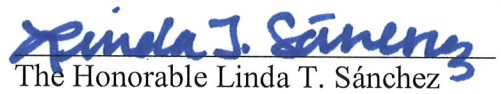
  
The Honorable Mike Thompson

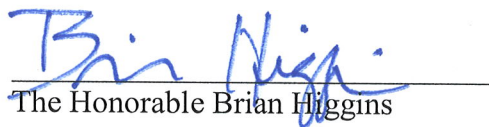
  
The Honorable John B. Larson

  
The Honorable Ron Kind

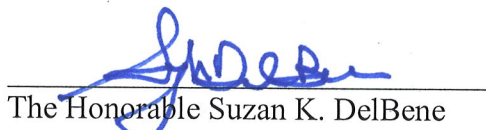
  
The Honorable Bill Pascrell, Jr.

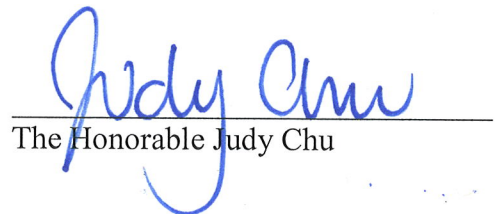
  
The Honorable Danny K. Davis

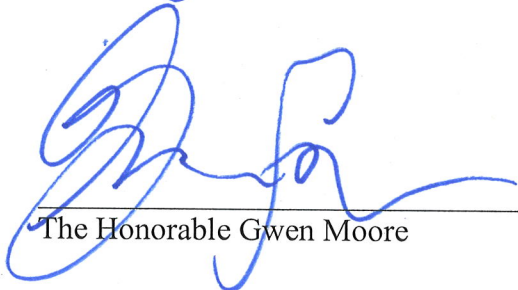
  
The Honorable Linda T. Sánchez

  
The Honorable Brian Higgins

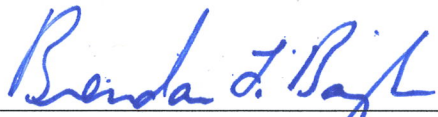
  
The Honorable Terri A. Sewell

  
The Honorable Suzan K. DelBene

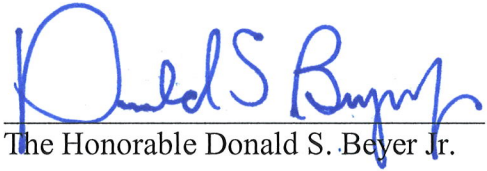
  
The Honorable Judy Chu

  
The Honorable Gwen Moore

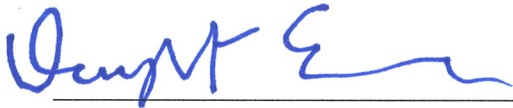
  
The Honorable Daniel T. Kildee



The Honorable Brendan F. Boyle



The Honorable Donald S. Beyer Jr.



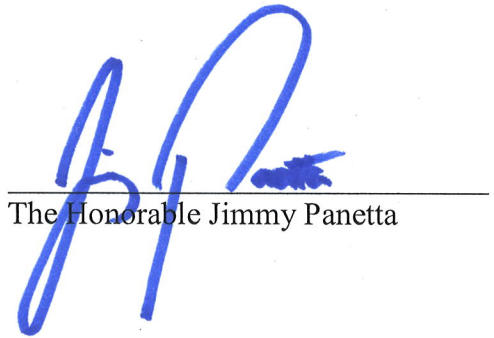
The Honorable Dwight Evans



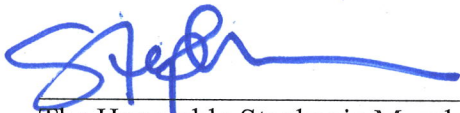
The Honorable Bradley S. Schneider



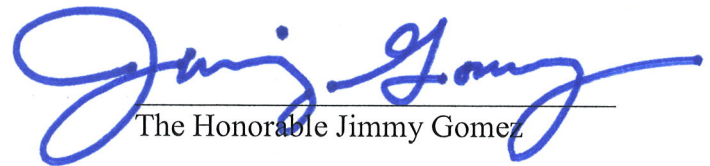
The Honorable Thomas R. Suozzi



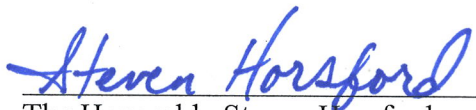
The Honorable Jimmy Panetta



The Honorable Stephanie Murphy



The Honorable Jimmy Gomez



The Honorable Steven Horsford