

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

April 17, 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 improvements in standards of environmental protection, particularly in Mexico.

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

In response to those concerns, environmental cooperation provisions were negotiated in a side agreement, subject to a separate enforcement mechanism. Not a single arbitral panel has ever been convened under these provisions. Meanwhile, environmental protections in Mexico continue to lag significantly behind those in the United States and Canada.

As we evaluate the terms of the new Agreement, we question whether there is reason to believe that the new Agreement will lead to meaningful improvements for environmental standards in Mexico and transboundary collaboration between the two nations. The lack of consistent environmental standards in North America promotes the exportation of pollution between nations. For example, U.S. companies have been exporting and disposing of used lead batteries to Mexico to avoid U.S. restrictions on lead pollution. This practice has led to an increased risk of lead poisoning in Mexico and U.S. border communities. Further, increased human and industrial development in Mexico created by the original NAFTA, coupled with weak Mexican environmental standards, have led to toxic sewage filled with feces, industrial chemicals and other raw waste contaminating waterways like the New River, which flows from Mexico’s Mexicali Valley through Calexico, leaving neighboring towns subject to polluted air and water.

On May 9, 2018, Committee Democrats sent you a letter identifying the basic standards a renegotiated NAFTA needs to meet in order to garner sufficient Congressional support. The new

Agreement's environment chapter commitments meet only some of the key elements we enumerated.

We are particularly disappointed that the new Agreement's environment chapter fails to incorporate the May 10 framework requiring parties to adopt, maintain, and implement all seven of the relevant multilateral environmental agreements. We are also disappointed that the environment chapter lacks any apparent provisions directed at mitigating the effects of climate change. Finally, we recall our advice to you that addressing transnational trade crime, such as smuggling, in a robust manner would bolster national security while also helping the American economy. However, the new Agreement's rules governing trade in illegally taken animals, animal products, plant, and plant products appear to be nowhere near equivalent to current U.S. law.

In addition to our disappointments and questions about the strength of the obligations incorporated in the new Agreement's environment chapter, we have serious concerns about ensuring effective implementation and the enforceability of the environmental provisions. For too long, environment-related trade enforcement needs have received less attention than other trade barrier cases. We see that the dispute settlement mechanism applicable to the new Agreement's environmental – and other – obligations, are designed to be easily frustrated. This procedural design will, we fear, doom the environment commitments in the new Agreement to be as ineffective as the provisions in the existing NAFTA. 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.

As we take on the task of considering what will replace NAFTA, we are looking for substantive provisions and enforcement mechanisms that will finally support the sustainable management of North American resources and their trade, and limit the exacerbation of existing environmental problems. We look forward to engaging with you to address our concerns to ensure that the terms of NAFTA's replacement will remedy the flaws of NAFTA that Democrats foresaw over 25 years ago.

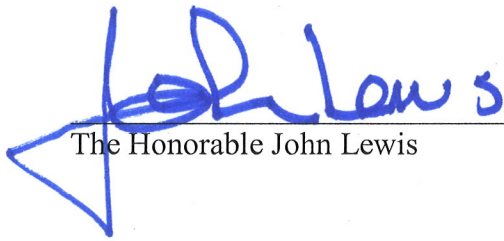
Sincerely,



The Honorable Richard E. Neal
Chairman

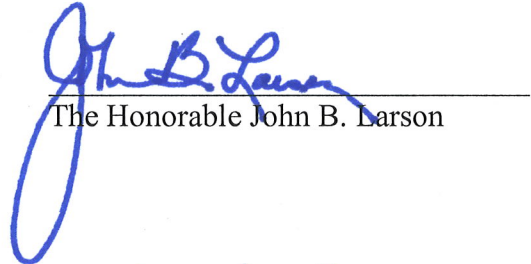


The Honorable Earl Blumenauer
Chairman, Subcommittee on Trade


The Honorable John Lewis

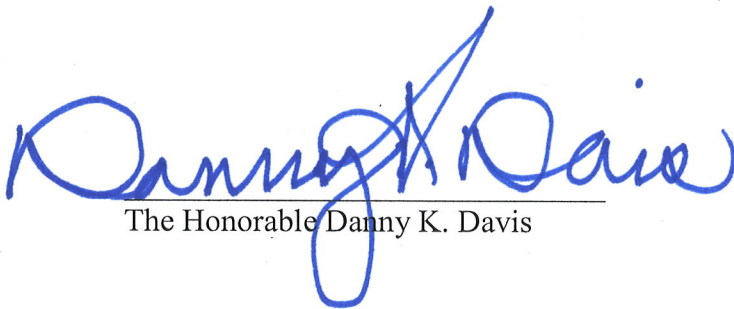

The Honorable Lloyd Doggett

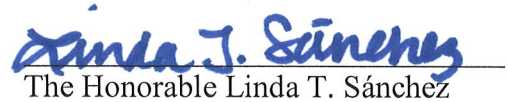

The Honorable Mike Thompson

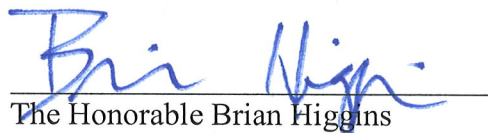

The Honorable John B. Larson


The Honorable Ron Kind

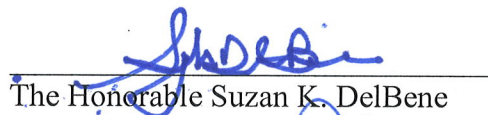

The Honorable Bill Pascrell, Jr.


The Honorable Danny K. Davis

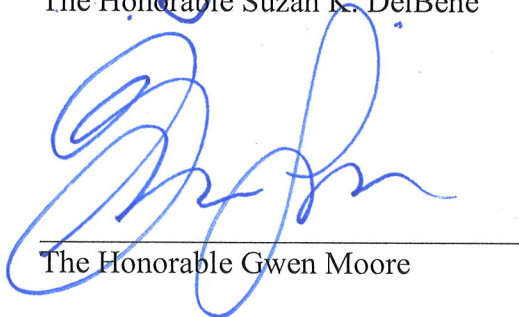

The Honorable Linda T. Sánchez


The Honorable Brian Higgins

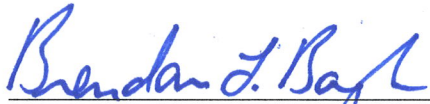

The Honorable Terri A. Sewell

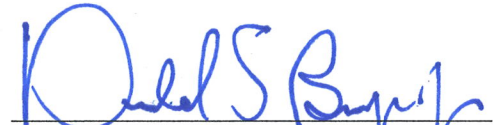

The Honorable Suzan K. DelBene



The Honorable Judy Chu



The Honorable Gwen Moore



The Honorable Daniel T. Kildee

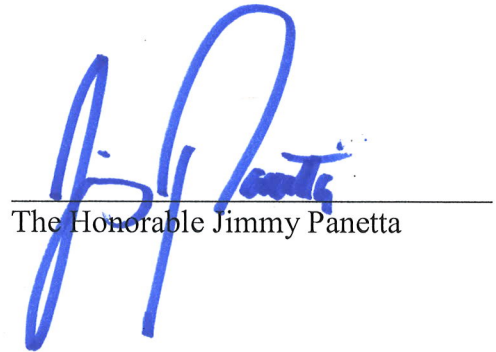

The Honorable Brendan F. Boyle

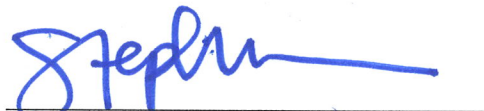

The Honorable Donald S. Beyer Jr.

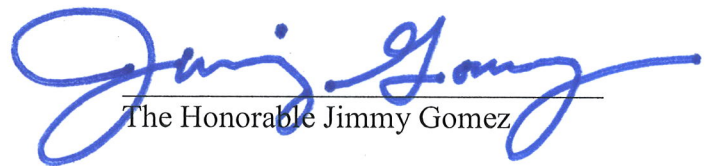

The Honorable Dwight Evans


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