

Congress of the United States
Washington, DC 20515

August 16, 2017

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Lighthizer:

Transparency and consultation with Congress are critical to establishing support for U.S. trade policies. Yet the Administration has still not publicly stated its views on a range of issues and, to our knowledge, has not appointed a Chief Transparency Officer at USTR, as required by statute. With the North American Free Trade Agreement (NAFTA) renegotiation set to begin this month, the urgency to determine the Administration's stance has only grown. The NAFTA renegotiation will not be successful if the Administration does not consult meaningfully with Congress in an open and transparent process. We call on the Administration, in consultation with Congress, to develop and implement such a process immediately.

As you know, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA) required the United States Trade Representative (USTR) to "develop written guidelines on enhanced coordination with Congress." Guidelines published in 2015 fell short of our expectations on a number of key issues, and USTR leadership must do more to ensure a truly transparent process. Fortunately, the 2015 guidelines provide for modification, and we strongly urge you to modify, at minimum, the areas outlined below.

- **Congressional Staff Access to Text:** The guidelines allow the personal staff of Members who are on a committee of jurisdiction (the Committee on Ways & Means in the House and the Committee on Finance in the Senate) to review negotiation texts without their Member of Congress present. All other staff members can only review text with their Member present. We believe all staff members with appropriate security clearances should be able to review the negotiating proposals and the consolidated text of an agreement without their Member present.

Requiring a Member to be present has and will continue to limit the ability of personal office staff to review the text, particularly during August, when the NAFTA re-negotiation is set to begin. The start of negotiations is one of the most important stages of a negotiation as parties develop their formal positions. Beyond the practical reality that most members of Congress will be working in their districts in August and therefore unable to accompany their staff to review the materials, requiring a Member's presence during staff review of text is an unnecessary restriction. Obtaining a security clearance should sufficiently demonstrate that staff members are trustworthy and aware of the gravity and sensitivity of the documents. Furthermore, staff members are also required to sign a non-disclosure agreement, and there are penalties for violating those agreements. Given the checks already in place, requiring a Member to be present is a needless burden that impedes the ability of Members of Congress

to effectively exercise their constitutionally-protected role in regulating commerce with foreign countries.

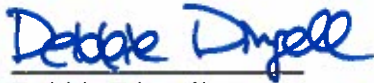
- **Advisory Committees**: The guidelines fall short of our expectations with respect to advisory committees' access to negotiating proposals and the consolidated text during negotiations. The advisory committee system was established decades ago, by Act of Congress, to ensure that the U.S. government was getting much-needed input directly from stakeholders regarding "overall negotiating objectives and positions of the United States and other parties" (Trade Act of 1974, Sec. 135(i)(2)). Without access to the full negotiating texts or the negotiating positions of the other parties, the advisory committees cannot effectively advise the Administration regarding the substance of an agreement. In our view, the advisory committees need access to the consolidated text throughout the negotiations in order to provide meaningful feedback and fulfill their statutory purpose.

Further, the membership of the advisory committee system itself is in dire need of reform. The Administration should ensure that the industry trade advisory committees system includes diverse stakeholders with a wider range of views.

- **Access to Particular Texts**: The consultation guidelines do little to clarify USTR's position regarding texts relevant to negotiations but not technically considered proposals or part of the consolidated text. These texts often contain critical information concerning the negotiations and can include labor action plans and documents related to a trading partner's non-conforming measures. We strongly believe that Congress and the advisory committees should have access to all documents related to the negotiations of a trade agreement. The Administration should clarify this issue.
- **Access to Final Text of Agreement**: The consultation guidelines do not explicitly order USTR to provide Congress or the advisory committees with the text of an agreement before the President notifies Congress of the intent to enter into an agreement. The Administration should explicitly resolve this issue and provide access prior to notification.
- **Access to U.S. Negotiating Proposals**: The Administration should strongly consider publishing U.S. proposals in trade negotiations. The European Union has brought this level of transparency to its stakeholders, with little negative effect, if any, on the negotiations. Given the significant interest and impact on domestic stakeholders and the potential benefit of the increased transparency, at a minimum, the Administration should conduct an independent study regarding the costs and benefits of such a proposal.
- **Chief Transparency Officer**: USTR does not appear to have adopted any noteworthy changes to its policies related to transparency. Created in 2015, the Chief Transparency Officer position should be filled immediately by someone whose sole function is to fulfill the position's statutory responsibilities.

Moving forward, we look forward to working with you and your staff to ensure that Members of Congress, their staff, advisory committee members, and the public are provided with the most meaningful access possible to negotiating documents. As the legitimacy of trade negotiations has come under more intense scrutiny in the United States and across the world, we believe that it is in all parties' interest to ensure that consultations and transparency provisions are as robust as possible.

Sincerely,



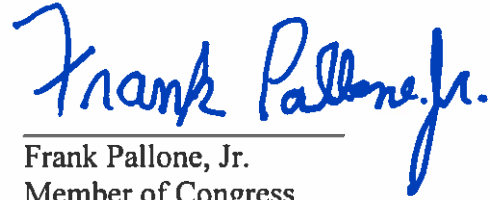
Debbie Dingell
Member of Congress



Bill Pascrell, Jr.
Member of Congress



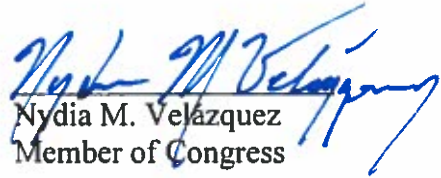
Rosa L. DeLauro
Member of Congress




Frank Pallone, Jr.
Member of Congress



Brian Higgins
Member of Congress



Nydia M. Velázquez
Member of Congress



Marcy Kaptur
Member of Congress



Tim Ryan
Member of Congress



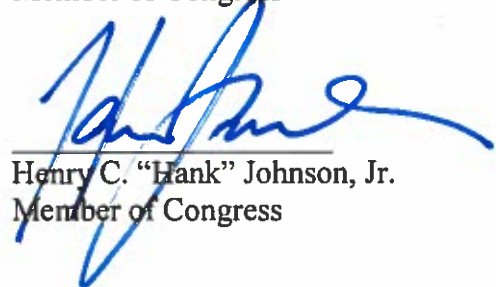
Eleanor Holmes Norton
Member of Congress



Tom O'Halleran
Member of Congress



Suzan DelBene
Member of Congress



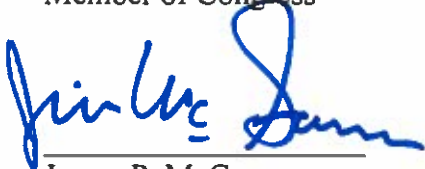
Henry C. "Hank" Johnson, Jr.
Member of Congress



Paul Tonko
Member of Congress



Peter DeFazio
Member of Congress



James P. McGovern
Member of Congress



Jerry Nadler
Member of Congress



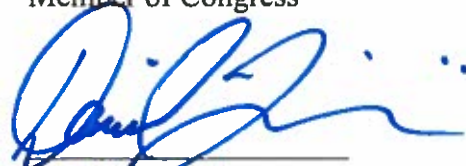
Terri Sewell
Member of Congress



Daniel T. Kildee
Member of Congress



Brad Sherman
Member of Congress



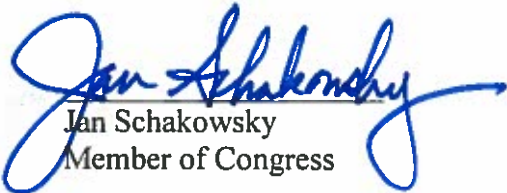
Daniel Lipinski
Member of Congress



Mark DeSaulnier
Member of Congress



Betty McCollum
Member of Congress



Jan Schakowsky
Member of Congress



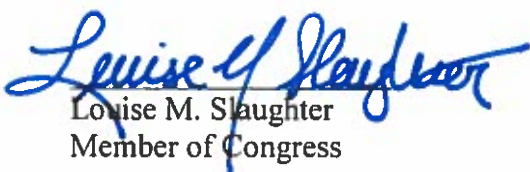
Seth Moulton
Member of Congress



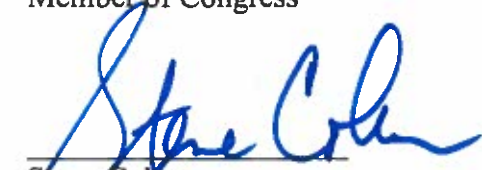
Carol Shea-Porter
Member of Congress




Ro Khanna
Member of Congress





Louise M. Slaughter
Member of Congress





Steve Cohen
Member of Congress


Donald M. Payne, Jr.
Member of Congress


Richard M. Nolan
Member of Congress

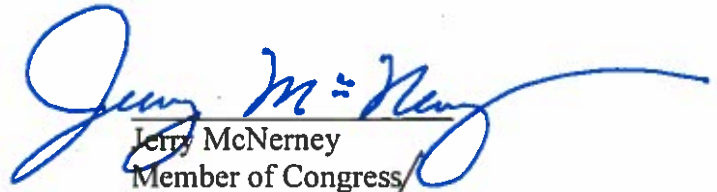

Linda T. Sanchez
Member of Congress

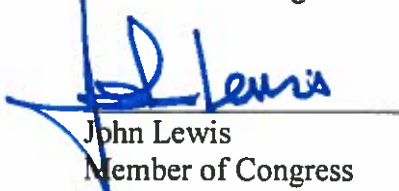

Barbara Lee
Member of Congress


Mark Pocan
Member of Congress


Raúl Grijalva
Member of Congress


Tulsi Gabbard
Member of Congress


Jerry McNerney
Member of Congress

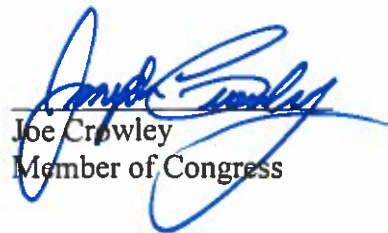

John Lewis
Member of Congress



Danny K. Davis
Member of Congress


Donald Norcross
Member of Congress


David Cicilline
Member of Congress


Jose Serrano
Member of Congress


Joe Crowley
Member of Congress


Colleen Hanabusa
Member of Congress

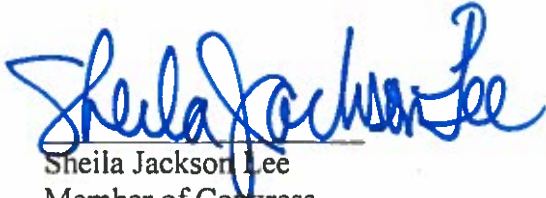

Dwight Evans
Member of Congress



Robert C. "Bobby" Scott
Member of Congress



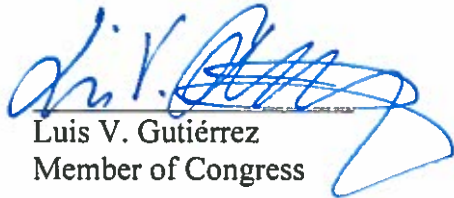
John Larson
Member of Congress



Sheila Jackson Lee
Member of Congress



Peter Welch
Member of Congress



Luis V. Gutiérrez
Member of Congress



Mike Doyle
Member of Congress



Adriano Espaillat
Member of Congress



Judy Chu
Member of Congress