

**Congress of the United States**  
**Washington, DC 20515**

August 16, 2017

The Honorable Robert Lighthizer  
United States Trade Representative  
600 17<sup>th</sup> 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.

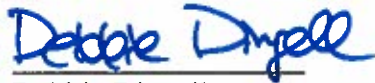
- **Advisory Committees**: The guidelines fall short of our expectations with respect to advisory committees' access to negotiating proposals and the consolidated text during negotiations. The advisory committee system was established decades ago, by Act of Congress, to ensure that the U.S. government 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,



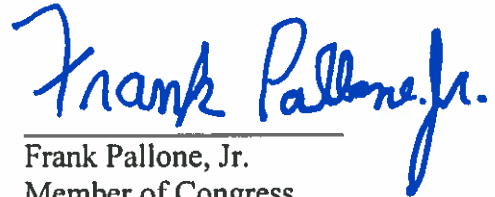
Debbie Dingell  
Member of Congress



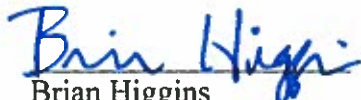
Bill Pascrell, Jr.  
Member of Congress



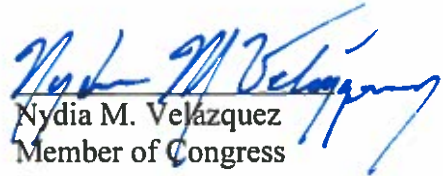
Rosa L. DeLauro  
Member of Congress



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



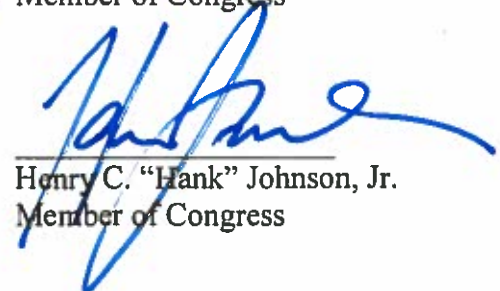
Eleanor Holmes Norton  
Member of Congress



Tom O'Halleran  
Member of Congress



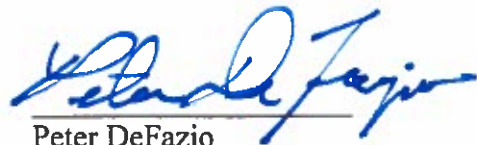
Suzan DelBene  
Member of Congress



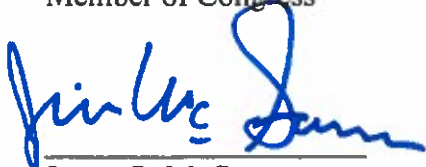
Henry C. "Hank" Johnson, Jr.  
Member of Congress



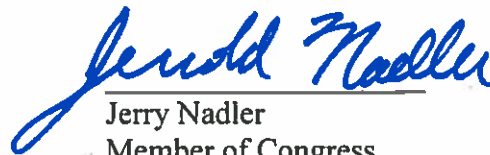
Paul Tonko  
Member of Congress



Peter DeFazio  
Member of Congress



James P. McGovern  
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Jerry Nadler  
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Terri Sewell  
Member of Congress



Daniel T. Kildee  
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Brad Sherman  
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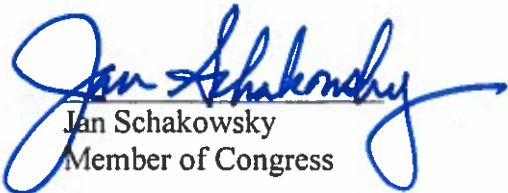
Daniel Lipinski  
Member of Congress



Mark DeSaulnier  
Member of Congress



Betty McCollum  
Member of Congress



Jan Schakowsky  
Member of Congress



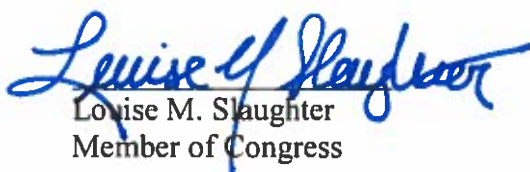
Seth Moulton  
Member of Congress



Carol Shea-Porter  
Member of Congress




Ro Khanna  
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Louise M. Slaughter  
Member of Congress




Steve Cohen  
Member of Congress

  
Donald M. Payne, Jr.  
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Richard M. Nolan  
Member of Congress

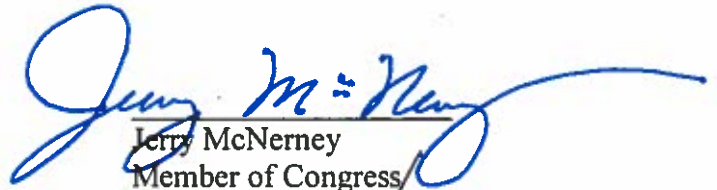
  
Linda T. Sanchez  
Member of Congress


  
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  
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Donald Norcross  
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David Cicilline  
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José E. Serrano  
Member of Congress

  
Joe Crowley  
Member of Congress

  
Colleen Hanabusa  
Member of Congress

  
Dwight Evans  
Member of Congress

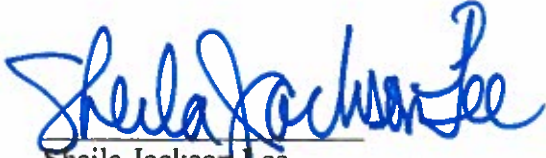




Robert C. "Bobby" Scott  
Member of Congress



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