

United States Senate

WASHINGTON, DC 20510

February 2, 2018

President Donald Trump
The White House
1600 Pennsylvania Ave
Washington, DC 20500

Dear President Trump:

As negotiations on the North American Free Trade Agreement (NAFTA) continue, we are writing to underscore the importance of fundamentally rewriting NAFTA to eliminate its incentives to outsource American jobs and to level the playing field by adding strong labor and environmental provisions that meet fundamental international standards, include swift and certain enforcement and raise wages.

Millions of Americans haven't seen a pay increase in years and can't find better paying jobs due in large part to unfair trade deals like NAFTA. Instead of leveling the playing field, NAFTA makes it easier for companies to outsource jobs to Mexico so they can pay employees less and pollute more. Since NAFTA's implementation, Mexico's already low manufacturing wages are down 9 percent in real terms and U.S. wages are flat, while the price of everything from childcare to housing to a college education has risen. Unless we rewrite NAFTA, it will keep giving the green light to corporations to outsource American jobs, pushing down wages for middle class and working families.

The status quo of NAFTA helping corporations outsource more middle class jobs to Mexico every week and attack public health and environmental safeguards in secretive tribunals is not acceptable. However, unless you are able to succeed in negotiating a new deal that meets the criteria enumerated below, companies will continue to move U.S. jobs to Mexico to pay workers poverty wages and dump toxins and then import those products back for sale here in the United States. You promised to bring manufacturing jobs back to the United States and raise Americans' wages, but if you fail to get a deal to replace NAFTA that levels the playing field, more Americans will be forced into low-road jobs, pushing wages and incomes down for millions of Americans.

To date, NAFTA renegotiations have been occurring behind closed doors, just like the original NAFTA negotiations and the negotiations on the disastrous Trans-Pacific Partnership. With 500 official corporate advisors provided access to draft texts and the public locked out of the process, corporate lobbyists that oppose the needed changes to NAFTA are positioned to shape a deal that serves their special interests to the detriment of the middle class. Moving forward, the public and all members of Congress must be invited to help formulate U.S. positions and comment on draft U.S. proposals. Draft negotiating texts must also be made publicly available, with opportunity for comment, after each negotiating round.

We urge you to renegotiate NAFTA to deliver a deal that we can support. A transparent negotiating process should result in these essential changes to NAFTA:

Add strong labor and environmental standards with swift and certain enforcement to raise standards and wages in North America and stop corporations from outsourcing U.S. jobs to Mexico to take advantage of abusive labor laws, poverty wages and lax environmental rules. Under NAFTA today, corporations that move to Mexico can dump toxins and pay manufacturing workers as little as \$1.25 an hour. Labor and environmental terms in U.S. trade deals for the past decade have not improved conditions or raised wages in trade partner countries. Standards included in the core text of past agreements have proven to be ineffective.

Congress must not vote on a new NAFTA until each party adopts, maintains, implements – and enforces – domestic laws that provide the labor rights and protections included in the International Labor Organization’s Core Conventions (including but not limited to the recent constitutional changes in Mexico) and policies that fulfill the Paris climate agreement and other core multilateral environmental agreements. These measures must reduce pollution, help raise wages and put an end to existing “protection contracts” that lack majority support of the workers they cover. A revised NAFTA must address shortcomings exposed by the recent Guatemala-CAFTA labor rights case by eliminating the use of the terms “sustained or recurring course of action or inaction” and “manner affecting trade” in the pact’s labor and environmental standards provisions, as these have proven to be barriers to enforcement. And, new tools must be added to ensure that monitoring and enforcement will occur, and preferential market access must be conditioned on sustained evidence of on-the-ground improvements, with social and environmental dumping tariffs imposed for backsliding.

Eliminate NAFTA terms that promote the outsourcing of American jobs. The Investor-State Dispute Settlement (ISDS) system and the foreign investor protections it enforces that make it easier and cheaper to outsource jobs must be eliminated. The investor outsourcing protectionism at the heart of NAFTA incentivizes companies to relocate production to low wage venues by locking in preferential treatment. These terms empower multinational corporations to sue governments before tribunals of three private-sector lawyers who can award the corporations unlimited sums to be paid by America’s taxpayers, including for the loss of expected future profits, when corporations claim that our environmental and health policies undermine their NAFTA privileges. Already multinational corporations have extracted hundreds of millions from North American taxpayers using the ISDS regime. Further, NAFTA’s procurement rules that limit Buy American preferences must be eliminated so that our tax dollars are reinvested by the government to buy U.S.-made vehicles, office supplies, computers and other goods and create jobs here rather than being outsourced to buy goods made elsewhere.

Protect our public health, the environment and ensure a level playing field for U.S. businesses, farmers and workers by requiring that all imported food, goods and services meet U.S. standards. NAFTA requires us to deem Mexico and Canada’s food safety and

inspection systems “equivalent” to our own even though they differ in significant ways, and then import meat and poultry from all processing plants in those countries regardless of whether the products satisfy U.S. safety or inspection standards. A revised NAFTA must require that all imported food meet U.S. safety standards and must include enhanced border inspection. Further, the right to require food labeling – including mandatory country-of-origin labels for meat and dolphin-safe labels for tuna – must be explicitly affirmed and protected so consumers can make informed choices.

Indeed, a renegotiated NAFTA must require that all products imported into the United States, all cross-border services, and all service providers operating in the United States comply with U.S. health, safety, environmental, land use and zoning, licensing, professional qualification, privacy, transparency and consumer access policies. A broad “carve-out” must also be added that exempts from the revised agreement’s terms all non-discriminatory domestic policies. This will provide a strong deterrent and defense to “trade” challenges to policies that we use to protect workers, promote public health, tackle climate change and otherwise advance broadly-shared common goals.

Make medicine more affordable by eliminating NAFTA rules that increase costs. A revised NAFTA must not include terms that go beyond the existing World Trade Organization’s patent rules or that limit countries’ abilities to negotiate lower prices for government health programs like Medicare and Medicaid. Pharmaceutical firms are calling for the extreme terms found in the Trans-Pacific Partnership to be added to NAFTA, which would extend pharmaceutical firms’ monopolies and limit the generic competition needed to bring down medicine prices.

Ensure a fair playing field for American job creation by adding strong, enforceable disciplines against currency manipulation and misalignment. New binding disciplines against currency manipulation and misalignment must be added to NAFTA’s core text along with a commitment to cooperate tri-nationally to confront harmful currency manipulation and misalignment by trading partners around the world.

Create American jobs and reinforce improved labor and environmental standards by strengthening “rules of origin” and stopping transshipment. A revised NAFTA must include strengthened rules of origin and new safeguards that reduce opportunities for leakage in order to incentivize production in North America in general and the United States in particular. Stronger rules to stop “transshipment” cheating must also be added. The strengthening of rules of origin must go hand-in-hand with significantly improving labor rights, wages, environmental standards and enforcement. Absent this, stronger rules of origin could incentivize companies to ship more American jobs to Mexico rather than effectively address U.S. job loss and wage stagnation.

Boost the rural economy by overhauling NAFTA rules that harm family farmers. The right to establish domestic farm policies that ensure farmers are paid fairly for their crops and livestock must be safeguarded. NAFTA rules that forbid countries to establish and implement many farm and food policies – such as inventory management, strategic food reserves, import surge protections and other anti-dumping mechanisms – must be eliminated.

Support communities of color. Communities of color have been among the hardest hit by NAFTA, whether African-American workers enduring factory closures in Chicago, or Mexican *campesinos* forced to abandon farming and migrate to the United States. Some of the industries that have endured the worst job offshoring under NAFTA disproportionately employ people of color. To reverse the damage to communities of color, NAFTA's renegotiation must be led by input from these communities—not the very corporations responsible for NAFTA's legacy of offshoring and pollution. Any deal that replaces NAFTA must reverse this legacy—and its outsized impact on communities of color—and protect the rights of workers and migrants.

A renegotiated NAFTA that meets these criteria could end the destructive race to the bottom, protect our air and water, reduce prescription drug prices, support climate action, and lift living standards in the United States, Mexico and Canada. The corporate lobby is unified in opposing these necessary changes to NAFTA. But there is broad public support nationwide and across partisan divides to replace the current rigged U.S. trade agreement model epitomized by NAFTA. A new agreement that meets the criteria outlined above would enjoy broad support.

Sincerely,



Bernard Sanders
United States Senator



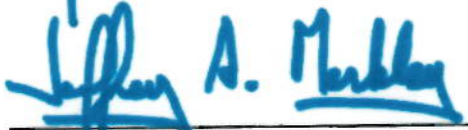
Kirsten Gillibrand
United States Senator



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator



Jeffrey A. Merkley
United States Senator



Mazie K. Hirono
United States Senator