

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

May 18, 2017

Robert Lighthizer
U.S. Trade Representative
Office of the U.S. Trade Representative
600 Seventeenth Street
Washington, DC 20505

Dear U.S. Trade Representative Lighthizer:

We are writing to express our concern regarding the lack of clarity and specificity in your letter notifying Congress that the President intends to initiate negotiations with Canada and Mexico concerning the North American Free Trade Agreement (NAFTA). Businesses, workers, farmers, and their representatives in Congress today face a great deal of uncertainty as to what the Administration's intentions are with NAFTA. This notice provided an opportunity to finally provide some clarity. Unfortunately, it fails to do that – and may not even meet the basic consultation requirements set out in section 105 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA).

The tone and substance of the letter cannot be squared with the statements the President made describing NAFTA as a “disaster” and the “single worst trade deal” the United States ever negotiated. The letter, on the other hand, emphasizes that the Administration's goal is merely to “improve” and “modernize” NAFTA. The President also criticized Hillary Clinton for describing TPP as the “gold standard,” but Administration officials now say TPP text will serve as the starting point for many of its proposals to change NAFTA. And the notice is hardly consistent with your statement last week that you intend to “permanently reverse the dangerous trajectory” of U.S. trade policy. For those of us who believe that U.S. trade policy – and NAFTA – need fundamental reform, this notice is very disappointing.

The letter does little more than express an intention to comply with the negotiating objectives that are applicable generally to any trade agreement negotiated under TPA. But Congress expected much more specificity in the 90-day written notification. Under TPA, the notice must describe “the specific United States objectives” for a particular negotiation with a particular country. We need to know what the President intends to achieve by reopening NAFTA and what specific changes the President will propose to achieve that purpose.

Some fundamental and critically important questions remain unanswered today. That is particularly true given how different today's one-page final notice is from the eight-page draft we received in March.

For example, neither TPA nor the final notice provide any guidance as to how government procurement should be handled in a NAFTA renegotiation. Does the Administration intend to grant Canadian and Mexican suppliers reciprocal access to our government procurement market, or not? On currency manipulation, TPA leaves it to the Administration to choose between a menu of options – everything from fundamental reforms such as “enforceable rules” to weak mechanisms that have already been tried and have already failed, such as “reporting, monitoring, and cooperative mechanisms.” Which of these options does the Administration intend to pursue in a NAFTA renegotiation? TPA is silent on the objective of rules of origin – which the Administration stated in the past is a key objective. Is it still an objective, and what is the objective? And does the Administration intend to address growing concerns with how the investor-state dispute settlement mechanism affects the sovereign right to regulate in the public interest?

Perhaps most importantly, based on my discussions with Administration officials as well as the draft notice, we are concerned that the Administration may not be fully committed to addressing the single most important reason that jobs have migrated to Mexico and weakened the bargaining position of U.S. workers: the Government of Mexico’s longstanding and utter failure to respect internationally-recognized worker rights. While many of us in Congress fully expect Mexico will agree to the labor obligations from the “May 10 Agreement” of 2007, which are included in TPA, we have no confidence right now that the Government of Mexico will fully implement and honor those obligations, or that this and future Administrations will fully enforce them. That must change before we are asked to support a renegotiated NAFTA.

Finally, we are troubled by the process the Administration followed in drafting the notice. It was clear from the start that the Administration was only interested in working with the Congressional Republican leadership in drafting this notice. But Congressional Republican leadership has long opposed any changes to NAFTA, and now only reluctantly expresses a willingness to “improve” and “modernize” it. They in no way share your goal of “permanently reversing” the trajectory of U.S. trade policy. We therefore hope you will work more closely with us as this process moves forward.

Sincerely,

A handwritten signature in black ink that reads "Richard E. Neal". The signature is fluid and cursive, with the last name "Neal" being particularly prominent.

Richard E. Neal
Ranking Member,
Committee on Ways and Means

A handwritten signature in blue ink that reads "Bill Pascrell". The signature is cursive and includes a long, sweeping underline that extends to the right.

Bill Pascrell, Jr.
Ranking Member,
Subcommittee on Trade