Congress of the United States
Washington, DC 20515

July 26, 2019

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi:

Six weeks ago, you named us to serve on a Working Group charged to negotiate on behalf of the House Democratic Caucus to substantively improve the U.S.-Mexico-Canada Agreement (also known as the new NAFTA or NAFTA 2.0). In that short time, our Working Group developed a host of strong, clear principles to improve upon this deal. We believe our proposals will not only garner broad, bipartisan support in Congress – a goal we share with the Trump administration – but will also address the specific areas that the Caucus has identified as falling short, including (1) labor rules; (2) environmental rules, (3) access to affordable medicines, and (4) enforcement and enforceability mechanisms.

Last weekend, certain members of the Working Group traveled to Mexico to deepen their understanding of the issues and help inform these negotiations. They met with Mexican President Andres Manuel Lopez Obrador and his cabinet, stakeholders, and experts in worker and environmental protections. These interactions with leaders and the land and people in Mexico have reinforced the importance of the Working Group's responsibilities and the proposals that we are making.

Since its inception, the Working Group has met with U.S. Trade Representative Ambassador Robert Lighthizer at every opportunity. We appreciate Ambassador Lighthizer's willingness to engage and listen to our concerns, but we would also like to remind the U.S. Trade Representative of the words of one of our nation's foremost industrialists, Henry Ford: "Coming together is a beginning, staying together is progress, and working together is success."

The members of the Working Group have honored our shared commitment to provide Ambassador Lighthizer the feedback and structure needed to improve the Trump administration's agreement. Now, it is time for the Ambassador to honor his commitment and provide responses and counter-proposals as soon as possible. We stand ready to work with his team, including through our staff, over the course of the August recess. To get this negotiation under way and broker an agreement that benefits all parties, next week we will share text that memorializes the concrete and detailed proposals that we have made.

Attached, please find a report on the status and progress of our work thus far.

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Sincerely,

Richard E. Neal
Member of Congress

Earl Blumenauer
Member of Congress

Rosa DeLauro
Member of Congress

John B. Larson
Member of Congress

Jan Schakowsky
Member of Congress

Mike Thompson
Member of Congress

Terri A. Sewell
Member of Congress

Suzanne Bonamici
Member of Congress

Jimmy Gomez
Member of Congress

Enclosure: The House Democratic Working Group on NAFTA 2.0 Status and Progress Report to the Speaker (July 26, 2019)

THE HOUSE DEMOCRATIC WORKING GROUP ON NAFTA 2.0
STATUS AND PROGRESS REPORT TO THE SPEAKER
JULY 26, 2019

1. Process

- **We have completed a series of four meetings with Amb. Lighthizer. We have laid out our negotiating principles, detailed our specific concerns, and made proposals for improving the text of the agreement and its implementation in each of the four areas in the new agreement that we have been charged to address and improve:**
    - Access to affordable medicines (Tuesday, June 25; staff follow up, Tuesday, July 2);
    - Labor rules (Wednesday, July 10);
    - Environmental rules (Tuesday, July 16); and
    - The enforceability and enforcement of all rules in the agreement, as well as enhanced labor and environment monitoring and enforcement tools (Friday, July 26).
- **Four members of the Working Group (Rep. Blumenauer, Rep. DeLauro, Rep. Sewell, Rep. Gomez), along with six other House Members, traveled to Mexico City, San Luis Potosi, and Tijuana on a bipartisan trip** to meet with Mexican government officials, including President Lopez Obrador, experts, and factory workers (July 18-22) (see section 4 below for more detail).

In addition to the meetings with Amb. Lighthizer and the July 18-22 visit to Mexico, over the past six weeks, our work has included:

- Careful scrutiny of the existing text of the new NAFTA agreement
- Intensive stakeholder consultations
- Briefing and drafting sessions with staff
- Engaging and coordinating views with our colleagues: this includes fellow Committee and caucus Members, new Members and Members who arrived in the House after 2011 who have not yet voted on a trade agreement, and Members with whom we have had similar and differing positions on trade.

We are doing the critical work needed to build broad support in our Caucus through the improvements we are proposing to the deal.

2. Substance

In each of the four areas for improvement, we have spelled out clear principles for the offers we have made:

- Access to Affordable Medicines: our House majority is founded on a promise to our constituents that we will work in Congress to ensure they have access to affordable health care and prescription drugs. We are proposing improvements to the provisions in the new NAFTA that:
    - Preserve Congress's freedom to legislate to improve access to affordable medicines, particularly for some of the most expensive drugs on the market;
    - Maintain and refine the standards for access to affordable medicines established in 2007 as part of the bipartisan trade deal between Congressional Democrats and a Republican President (the "May 10 Agreement"); and
    - Enhance opportunities for competition to improve access to affordable medicines: that is, keeping the Waxman in Hatch-Waxman.
- Worker Protections: the renegotiation of the NAFTA is premised on the recognition that the NAFTA failed to raise wages and working conditions in Mexico, hurting American workers, especially in our industrial manufacturing sector. We are seeking:
    - High-standard rules that are strong and clear enough to be enforceable;
    - Mechanisms and resources to monitor whether internationally recognized core labor rights are being afforded to workers; and
    - Mechanisms, resources, and commitment to hold partners and actors accountable to commitments and rules in the agreement.

Because the labor provisions in NAFTA were ineffective in raising standards for workers across the NAFTA region, we must make sure they are meaningful this time.

- Environmental Protections: our experience with NAFTA also shows that a failure to comply with and enforce environmental standards in Mexico has had negative economic consequences and undermined American competitiveness. It has resulted in environmental externalities, infrastructural degradation, and health hazards that do not recognize borders. Our proposals are seeking:
    - High-standard rules that are strong and clear enough to be enforceable;

- Mechanisms and resources to monitor whether environmental protections are being applied; and

- Mechanisms, resources, and commitment to hold partners and actors accountable to commitments and rules in the agreement.

Because the provisions in NAFTA were ineffective in raising environmental standards across the NAFTA region, we must make sure they are meaningful this time.

- Enforcement: without enforceability and enforcement, any agreement is just words on a page. When a new and improved, more modern trade agreement with Canada and Mexico is approved and enters into force, there must be enforcement mechanisms to provide everyone with confidence that the rules are meaningful. Given the lacking enforcement record in the NAFTA, we are demanding that a new NAFTA:

    - Fix the procedures in the NAFTA's state-to-state dispute settlement mechanism that have allowed parties to block the formation of an arbitral panel and frustrate formal enforcement for all obligations, across the agreement.

    - Establish enhanced enforcement mechanisms to secure compliance with the labor rules in the new agreement.

    - Establish enhanced enforcement mechanisms to secure compliance with the environmental rules in the new agreement.

3. CODEL Blumenauer to Mexico

Last week, from July 18 to 22, four of us traveled to Mexico along with six other House Members on a bipartisan Congressional delegation to further our understanding of opportunities and challenges presented in Mexico for a new NAFTA arrangement.

Findings:

- **Mexico's government has the political will to carry through on real labor reforms. However, resources are a question.** Given the strict austerity measures the President is imposing as part of an aggressive anti-corruption reform effort, the government will likely not have the resources to successfully deliver on the changes.

    - **The Lopez Obrador administration will make its budget proposals in September, soon after the Mexican Congress reconvenes.**

    - **The Mexican Congress's lower house, the Chamber of Deputies, approves a budget in November. This will be a critical measure of Mexico's commitment to provide the resources needed for labor reform.**

- **In Mexico City, San Luis Potosi, and Tijuana, there are people and institutions with expertise on how to fix existing problems, especially in Mexico's labor relations and in the environment and infrastructure at our borders.** They are eager to work with the United States and Canada to strengthen the agreement.

- **In San Luis Potosi, we were reminded that there are other people and institutions who are equally eager to work to preserve the status quo and avoid making the changes that will be required by a new agreement and by Mexico's own labor reforms.** We were deeply troubled by the confirmation that over 400 challenges (*amparos*) have been filed in Mexico's courts by the largest protection unions, to undermine the recent labor justice reform legislation.

- **In Tijuana and San Diego, we observed the sights, sounds, and smells of two vibrant border communities whose economic potential is being stunted by a lack of binational cooperation, decision-making, and resources.**

Trip Summary:

- In Mexico City, we met with:

    - President Lopez Obrador, who painted an ambitious and inspiring vision for reform in Mexico. **The President assured us of his commitment to democratizing Mexico's industrial relations and implementing Mexico's recently completed labor justice reform legislation.**

    - The Secretaries of Economy, Labor, Environment, and Foreign Affairs and Mexico's chief negotiator for the new NAFTA. **Of particular note, Labor Secretary Alcalde provided us with an impressively detailed and substantive briefing on the Lopez Obrador administration's timeline and strategic plan for implementing the labor justice reforms.**

- In San Luis Potosi:

    - We saw gleaming, massive new manufacturing facilities. Most of them play the familiar game of concluding an agreement with a "protection" union before starting operations or hiring any workers. **We saw very clearly why Mexico's labor market, built on the backs of powerless workers, has been such a boon for some of the richest companies in the world, including American companies.**

    - We met with workers at the Goodyear plant who were terminated a year ago for exercising their rights to organize and seek better working conditions. Those workers have yet to find redress.

    - We met organizers who are working tirelessly to increase democratization in Mexico's industrial relations, who candidly shared with us their hopes and

frustrations with Mexico's existing system and the new reforms, which have a long road to taking effect.

- In Tijuana, at the San Diego border:
    - **We learned that land use decisions, rapid development, poor management, and crumbling infrastructure in Tijuana all have direct economic, environmental, and public health impacts on San Diego.**
    - **We were surprised to learn that Mexico's water laws, and environmental laws in general, are pretty good on the books. The challenge in Mexico is that the laws are not enforced.**
    - We met with water management experts to understand the challenges presented by the geography of Tijuana and its watershed and river, which flows north to San Diego, often carrying water contaminated with raw sewage across the border to San Diego's beaches.

Our trip reinforced our understanding that as neighbors and trade partners, a trade agreement tightly binds the United States and Mexico to each other's failures and successes. Our prospects and our future are intertwined. The stakes are high for improving NAFTA.

4. Assessment of Progress

In a few short weeks, through intensive work, we have made substantial progress. We have significantly deepened our understanding of the agreement and its implications. We have built a structure for consultation and coordination with our colleagues and stakeholders, and with USTR.

As described above, we have laid out clear and specific objectives and proposals designed to fix flaws in the new agreement affecting all stakeholders, especially American workers and regular people who need affordable access to quality healthcare and medicines.

5. Next Steps

It is now USTR's turn to respond. It is time for the administration to present its proposals and to show its commitment to passing the new NAFTA and delivering on its own promises.

Over the next weeks of the August recess, we stand ready to work with USTR, including through our staff, to build on the progress we have achieved over the past several weeks. We will share text next week with USTR, memorializing the concrete and detailed proposals that we have made.

The improvements we achieve must be substantial and real. There can be no more pretending that cosmetic or incidental changes will make a meaningful difference. A new, improved trade agreement between the United States, Canada, and Mexico must actually be improved.

Chairman Neal and Chairman Blumenauer have also instructed the Ways and Means trade staff to continue technical and legal work with counterparts on the Hill and with USTR to make further progress in completing a full draft of the implementing bill for the new agreement.

6. Conclusion

Finalizing a trade agreement and securing approval of a trade bill are never easy tasks, technically or politically.

This administration has made big promises to the American people. They promised that the renegotiation of NAFTA would not only modernize the agreement and make it relevant to 21st century trade, but also fix the flaws of the agreement. That means making the agreement substantially better for workers and for the environment. The President also continues to make promise after promise to lower drug prices for the American people. None of his promises have been fulfilled. In fact, the agreement the administration has negotiated would actually hinder Congress' ability to lower prescription drug prices.

We are committed to helping you make sure we keep the administration honest, and that any promises made by this administration that we support can be delivered to the American people.