

United States Senate

WASHINGTON, DC 20510

January 14, 2025

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear President Biden:

We write to express significant concerns with the United States Trade Representative's (USTR) lack of transparency and consultation regarding its efforts to negotiate binding interpretations of congressionally approved trade agreements. Trade policy works best for all Americans when all Americans—and their elected representatives in Congress—have a say in its development. We urge your administration to engage in meaningful and comprehensive consultations with Congress and stakeholders prior to moving forward on these negotiations with foreign trading partners. We also strongly urge USTR to push for the resolution of offensive trade concerns that are in the U.S. interest as part of any negotiations.

As has been reported, USTR is seeking binding interpretations of certain investment obligations in the United States-Mexico-Canada Agreement (USMCA) and the United States-Colombia Trade Promotion Agreement. These interpretations would govern the legal rights of stakeholders under the agreements and specify how disputes should be adjudicated. Given Congress's constitutional authority over trade and the legally binding nature of these interpretations, it is critical that USTR meaningfully consult with Congress and stakeholders in a timely manner, prior to and during any efforts to negotiate legal text with trading partners.

Unfortunately, USTR is pursuing substantive changes to congressionally approved trade agreements on an abbreviated timeline, out of the view of the public, and without meaningful congressional consultation. USTR did not consult with, or even notify, Congress before drafting these interpretations and seeking approval by the Executive Branch agencies. Member offices' access to the text has been limited because of USTR's confidentiality designations for trade documents, which have been unclear, inconsistent, and potentially inappropriate. The agency has failed to establish a process for taking or considering Member feedback, and it does not seem that USTR has consulted with the U.S. stakeholders who would be directly affected by these actions. Despite these concerns, USTR has since shared text with trading partners and is forging ahead with multiple initiatives in this space. Without adequately consulting on the USMCA text, USTR has moved forward with new text under the Colombia trade agreement, and we have recently heard that USTR may be seeking to propose similar text with respect to the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR).

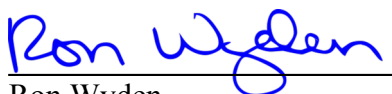
Robust consultations with Congress and stakeholders are critical to ensuring that affected companies and their workers understand what is being proposed and how it may impact operations at home and abroad. Additionally, proper consultations would help ensure that USTR

considers the broader context in which any of these negotiations would be undertaken. Given that USTR's proposed interpretations would have the most significant impact on U.S. companies, which have brought the most investment-related claims under these agreements, our trading partners may view these proposed interpretations as a benefit to them. We question why USTR has not attempted to leverage this dynamic to secure wins for the United States on our offensive trade issues with the countries in question. For example, USTR should use any available leverage in USMCA conversations to address Mexico's illegal fishing practices and discriminatory energy measures, as well as Canada's unfair dairy policies and digital services taxes. Similarly, with respect to Colombia, the United States has a litany of outstanding trade concerns, including labor standards and worker rights, dairy and corn market access, and auto regulations. Robust consultations with Congress and stakeholders would help USTR ensure that its engagements help Americans get what they were promised under U.S. trade agreements.

To put it simply, trade policy is too important to keep Americans in the dark. We urge you to direct USTR to refrain from further negotiating text proposals with foreign trading partners unless and until meaningful consultations with Congress and stakeholders have occurred. To be clear, that has not happened.

We thank you for your attention to this important matter.

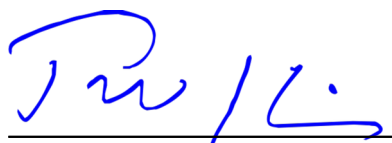
Sincerely,



Ron Wyden
United States Senator
Ranking Member, Committee
on Finance



Michael D. Crapo
United States Senator
Chairman, Committee on
Finance



Tim Kaine
United States Senator



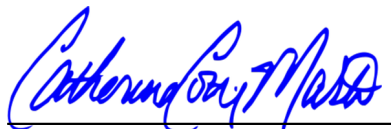
Tommy Tuberville
United States Senator



Michael F. Bennet
United States Senator



Thom Tillis
United States Senator



Catherine Cortez Masto
United States Senator



Charles E. Grassley
United States Senator



Alex Padilla
United States Senator



Bill Cassidy, M.D.
United States Senator



Christopher A. Coons
United States Senator



Marsha Blackburn
United States Senator



Mark R. Warner
United States Senator



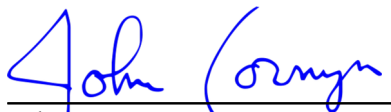
Katie Boyd Britt
United States Senator



Steve Daines
United States Senator



Todd Young
United States Senator



John Cornyn
United States Senator



Roger Marshall M.D.
U.S. Senator

cc: Ambassador Katherine C. Tai, United States Trade Representative

Juan A. Millán, Acting General Counsel and Chief Transparency Officer, Office of the
United States Trade Representative

The Honorable Antony Blinken, United States Department of State

Jake Sullivan, National Security Advisor