

Congress of the United States

Washington, DC 20510

September 19, 2017

The Honorable Rex W. Tillerson
Secretary of State
2201 C Street N.W.
Washington, D.C. 20520

The Honorable R. Alexander Acosta
Secretary of Labor
200 Constitution Ave. N.W.
Washington DC 20210

The Honorable Robert Lighthizer
U.S. Trade Representative
600 17th Street N.W.
Washington, D.C. 20006

Dear Secretary Tillerson, Secretary Acosta, and Ambassador Lighthizer,

Vigilant enforcement of international labor rules is a crucial component of any strategy to level the playing field for American workers and ensure that American wages and working conditions do not deteriorate as a result of increased trade. Without enforcement, American workers are forced to compete against imports made with slave and child labor, or otherwise produced by workers facing deplorable conditions overseas. During his campaign, the President stated that the absence of labor protections overseas was “undercutting American workers” and Administration officials, in testimony to Congress, have since characterized low labor standards as conferring “an unfair advantage”. Yet, eight months into the Administration, no major action has been taken to address trade-related labor violations overseas.

The failure of U.S. trading partners to accord basic labor rights, including freedom of association and collective bargaining rights, enables substandard wages overseas and exerts downward pressure on wages in the United States. That is why the United States has negotiated enforceable labor obligations in trade agreements and why it is critical for the United States to exercise its rights under those obligations as part of a broader effort to level the playing field for American workers and businesses.

We write to call your attention to three key labor enforcement matters on which your agencies are due to issue decisions within the next 30 days. How the Administration addresses these issues will, in our judgment, clearly indicate whether it is truly committed to leveling the playing

field for American workers or whether it is content to stand by and allow U.S. wages and working conditions to be eroded by foreign labor practices.

1. End cuts to labor enforcement staff and resources at the Departments of Labor and State, and utilize Congressionally-authorized enforcement funding.

The Department of Labor (DOL) and Department of State (State) are responsible in the first instance for ensuring that U.S. trading partners adhere to their international labor obligations by monitoring labor conditions and serving as factfinders and investigators on the ground. In particular, DOL's international work helps uphold the standards laid out in our trade agreements and U.S. law, such as U.S. preference programs, and assists countries in meeting them, which in turn helps ensure that U.S. workers are not caught in a race to the bottom. Yet, for months, as a direct result of the hiring freeze announced in February and the Office of Management and Budget's (OMB's) direction to agencies to reduce staff, the Administration has failed to fill key enforcement positions at both agencies. For example, in addition to proposing major cuts to DOL's International Labor Affairs Bureau (ILAB), the Administration has not staffed labor attaché positions at the U.S. Embassies in Colombia, Bangladesh, and Vietnam, and has left vacant at least five enforcement positions at ILAB in Washington, DC.

The Office of the United States Trade Representative (USTR), which oversees trade agreements with 17 countries containing labor obligations enforceable through trade sanctions, is responsible for prosecuting violations of U.S. trade agreements. Yet this Administration has initiated zero prosecutions to date. The Administration also failed to seek funds authorized by Congress as part of the Trade Enforcement Trust Fund to enhance trade enforcement, including labor enforcement.

OMB has directed agencies to submit reform plans setting forth long-term workforce reductions this month. Agency budget submissions for FY2019, including the long-term workforce reduction submissions, will provide a clear indication of the extent to which the Administration is serious about labor enforcement. For example, submissions that do not ensure sufficient resources to DOL, State, and USTR for enforcement of international labor obligations (including the use of Trade Enforcement Trust Fund monies), or a failure to fill vacant enforcement positions at those agencies (including labor attaché positions overseas), would suggest that the Administration is not committed to effective labor enforcement.

2. Seek ambitious, enforceable commitments from Mexico on labor rights.

NAFTA did not include enforceable labor commitments. In the 20 years since NAFTA entered into force, real wages for Mexican manufacturing workers have fallen nearly 20 percent despite the fact that productivity increased during that time by nearly 80 percent. A key contributor to Mexico's persistently low labor costs is its lack of core labor rights, including with respect to independent unions and limits on collective bargaining. While Mexico has in recent years made some important strides in improving its legal framework for worker rights, significant shortcomings, including implementation challenges, remain. More generally, Mexico's serious corruption and rule of law problems will inhibit progress toward raising wages and labor standards even as they make it more costly and difficult for U.S. companies attempting to export

to and do business in Mexico. The Administration has expressed a desire to quickly renegotiate NAFTA, including by seeking significantly stronger labor obligations from Mexico.

This month, we expect the Administration to finalize its proposals for NAFTA labor commitments. It is critical that the proposals the Administration tables in NAFTA do more than just address the shortcomings in Mexico's labor standards on paper. The Administration's proposals must seek fully enforceable commitments that will be effective in making tangible improvements to a labor regime that has contributed to and fostered wage stagnation.

Moreover, it is essential that the Administration not merely produce ambitious proposals for addressing these concerns. The Administration must also demonstrate resolve in securing detailed commitments on the specific steps that Mexico will take to meet the standards reflected in these ambitious proposals. Consistent with the discussion above regarding funding, for implementation to be effective, these commitments must be supported by dedicated funds for workers' rights capacity building in Mexico. The Administration's efforts to propose high ambition labor obligations and secure the commitments necessary to satisfy those obligations will provide a clear indication of the Administration's dedication to preventing the race to the bottom for American workers that it says it wants to prevent.

3. Take decisive enforcement action against countries that fail to comply with labor obligations.

DOL, in consultation with USTR and State, is due to issue its updated assessment of progress and identify appropriate next steps with respect to long-standing labor rights concerns in Colombia, the Dominican Republic, Peru, and Honduras.

- Colombia. Violence against unionists, impunity for perpetrators of the violence, inadequate labor inspections and enforcement actions, the use of collective pacts, and abusive subcontracting are among the issues that must be addressed to ensure a level playing field with Colombia. In its January 17 report, DOL's Office of Trade and Labor Affairs (OTLA) identified several actions that Colombia should take to address these concerns, and committed to assess its progress and recommend next steps within nine months — i.e., by October 11.
- Dominican Republic. Shortcomings in labor inspections in the sugarcane industry in the Dominican Republic, as well as concerns regarding child labor and forced labor, continue to raise serious concerns regarding the Dominican Republic's compliance with its obligations. In its October 2016 report, OTLA committed to assess progress within twelve months – i.e., by October 5.
- Peru. Restrictions on freedom of association, particularly through the use of short-term contracts, and ineffective enforcement of labor laws by the Government of Peru, including actions that impede the ability of workers in export sectors such as textiles and apparel, and certain agricultural products, have been identified by the United States as serious concerns in Peru. OTLA committed to assess progress within six months – i.e., by June 16, 2017 – but has yet to issue a report.

- Honduras. Failure to provide or allow labor inspections, anti-union discrimination, failure to pay wages that satisfy the Honduran minimum wage, and the use of child labor have been longstanding issues of concern in Honduras. The Department of Labor signed a Labor Rights Monitoring and Action Plan in 2015 with specific deadlines for implementation. Nearly all of those deadlines have passed, yet the U.S. government has provided no update on this case since March 2016.

If the Administration fails to issue the assessments described above within the next 30 days or merely calls for additional discussions without specific action to ensure that these countries adhere to their obligations, it will indicate that the Administration is unwilling or unable to use tools available to it to address the impact of substandard worker rights in these countries on American workers.

The decision rendered by a trade agreement panel considering Guatemala's failure to enforce its labor laws highlights the need for strong action. In that dispute, there was little doubt that Guatemala had repeatedly failed to enforce its labor laws, yet the panel still found that Guatemala had not violated the terms of its trade agreement with the United States. Indeed, the Administration indicated in a statement following the report that it "will continue to hold accountable its trading partners, including Guatemala, and require fair labor practices that help level the playing field for American workers." The Administration's inaction on labor enforcement may embolden those who interpret the panel report as license to skirt their obligations. That is why it is more critical than ever that the Administration demonstrate its commitment to enforcement by taking action in each instance in which it determines that a violation has occurred.

So that Congress may provide input to assist the Administration in developing a strong labor enforcement record for workers and accurately assess the Administration's actions in each of these areas, we further request as follows:

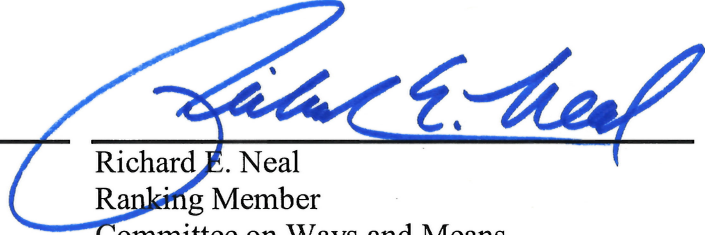
- (1) Please submit to the House Ways and Means and Senate Finance Committees, as Committees with jurisdiction over trade-related labor enforcement matters, a copy of your respective Agency Reform Plans and budget proposals on the date they are transmitted to OMB;
- (2) At least 14 days prior to taking action in the country-specific matters identified above, please provide briefings to Committees with jurisdiction over these matters, and to any other Member of Congress that so requests, describing the proposed actions and how such actions will ensure vigilant enforcement of U.S. rights under international agreements; and
- (3) In addition to consulting closely with Members and Committees with jurisdiction over trade-related labor obligations in the process of developing proposals, before the Administration provides its labor proposals for NAFTA to U.S. trading partners, please update the public summaries published by the United States Trade Representative for the NAFTA negotiation to include detailed summaries of those proposals.

We look forward to working with you on these critical matters over the next 30 days.

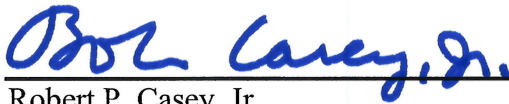
Sincerely,



Ron Wyden
Ranking Member
Committee on Finance



Richard E. Neal
Ranking Member
Committee on Ways and Means



Robert P. Casey, Jr.
Ranking Member, Subcommittee on Trade
Committee on Finance



Bill Pascrell, Jr.
Ranking Member, Subcommittee on Trade
Committee on Ways and Means

Cc: Mick Mulvaney, Director, Office of Management and Budget