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Congress of the United States
House of Representatives
Washington, DC 20515-4319

COMMITTEE ON
WAYS AND MEANS

SUBCOMMITTEES:
SELECT REVENUE
SOCIAL SECURITY
TRADE

JOINT ECONOMIC
COMMITTEE

July 1, 2021

The Honorable Katherine Tai
United States Trade Representative
600 Seventeenth Street, N.W.
Washington, D.C. 20508

Dear Ambassador Tai,

One year ago today, the historic U.S.-Mexico-Canada Agreement (USMCA) went into effect, leading to freer markets, fairer trade, and robust economic growth in North America. In addition to advancing numerous other trade objectives, USMCA reinforced Mexico's historic energy sector reforms with robust foreign investment obligations and an innovative chapter on state-owned enterprises designed to ensure that foreign companies can compete against national operations.

Since implementation, significant legal and regulatory challenges have arisen for U.S. companies seeking access to several sectors of the Mexican economy, including Mexico's energy sector. Specifically, the Mexican Legislature has revised the Power Industry Law to allow Mexican state-owned generation plants to precede private electricity plants in the dispatch order. This action discriminates against American investment in favor of state-owned plans, which are comparatively less efficient and environmentally friendly. The Mexican Legislature also reformed the Mexican Hydrocarbons Law to grant discretionary powers to the government to suspend or revoke permits across the fuel supply chain and to impose retroactive and obligatory storage requirements that only Petróleos Mexicanos (PEMEX) can meet. Pursuant to this legislation, the government can force private facilities to relinquish their operations to PEMEX if the government revokes or suspends necessary permitting. Additionally, twenty-year import-export permits for hydrocarbons have been replaced with permits of one-to-five years. This regulatory action has discouraged American endeavors to establish and expand business in Mexico as it eliminates any long-term certainty for continued operation.

In recent conversations with Mexican officials, I raised my extreme concern about the extent to which these policies discriminate against American energy companies and appear to violate numerous core USMCA and surviving NAFTA commitments. In response, officials highlighted the innovative dispute settlement mechanisms within USMCA and noted that if there are U.S. concerns, they should be resolved through those enforcement mechanisms.

The Biden Administration is utilizing USMCA's powerful dispute settlement system to challenge Canada's refusal to adhere to dairy market access commitments and to demand that

Mexico honor its commitments under the labor chapter. While it is true that U.S. energy sector investors with legacy NAFTA claims or government contracts can initiate investor-State cases to address some of their claims, that is only a partial solution. I strongly urge the Administration to utilize the enforcement mechanisms to ensure that the obligations in USMCA's innovative State-Owned Enterprise chapter are also fully enforced. This chapter has enjoyed strong support in Congress, and its full enforcement is vital to achieving expected outcomes in Mexico and proving the value of similar provisions in future agreements.

As a Representative from the largest oil and natural gas producing state, I look forward to working with USTR to ensure the vigilant enforcement of USMCA and the prioritization of American workers and businesses. Thank you for your attention and timely consideration of this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jodey C. Arrington". The signature is stylized and fluid, with a large initial "J" and "A".

Jodey C. Arrington
Member of Congress