

# Congress of the United States

Washington, DC 20515

January 9, 2025

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Biden:

We have recently been made aware, primarily through press reports, of efforts by the United States Trade Representative (USTR) to negotiate new interpretations of investment-related provisions of the U.S.-Colombia Trade Promotion Agreement and the U.S.-Mexico-Canada Agreement (USMCA). We write to express major concern that the contemplated new interpretations could be inconsistent with our national interest. We also have major concern with the lack of transparency in USTR's efforts on this issue so far.

USMCA phased out many of the Investor-State Dispute Settlement (ISDS) protections that existed under the North American Free Trade Agreement (NAFTA). However, American negotiators, with strong congressional support, provided a three-year phase-down opportunity for American firms with pre-existing investments to file claims under the previous terms.

This phase-down was necessary because the Government of Mexico has engaged in numerous instances of direct expropriation and other unlawful actions in recent years. For example, Vulcan Materials Company has been engaged in ISDS claims under NAFTA since 2018 to recover losses and damage due to invasions, arbitrary shutdowns, and direct expropriation of their assets by the Mexican government.

USTR's actions could arbitrarily weaken the litigation positions of Vulcan and other U.S. investors while their disputes with foreign sovereigns are still being considered.

As reported by various media outlets, instead of letting these processes run their course, USTR is seeking to modify the interpretation of key provisions of USMCA.<sup>1</sup> Such changes have the potential to help the Government of Mexico escape liability for its egregious behavior while reducing the likelihood that our constituents will succeed in pursuing fair outcomes in arbitration. One does not need to be a champion of ISDS to see this as contrary to the national interest.

A best-case interpretation suggests that USTR is simply trying to clear some bilateral issues before the conclusion of your Administration's term. However, we believe that unilaterally removing this issue from discussion at the eleventh hour of an outgoing Administration would negatively impact the ability of the next Administration to secure a positive outcome in the bilateral relationship with Mexico.

Finally, it is deeply troubling that Congress, as well as the stakeholders who will be most affected by these changes, has not been adequately informed or consulted about these negotiations. As you know, existing U.S. trade laws and precedent require the USTR to regularly consult with lawmakers on matters that impact U.S. investment obligations in trade agreements. It is imperative that these discussions take place in a transparent and

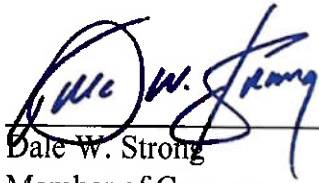
---

<sup>1</sup> Editorial Board, *The Biden's Midnight Trade Sabotage*. The Wall Street Journal. December 12, 2024. [https://www.wsj.com/opinion/joe-biden-investor-state-dispute-settlement-trade-usmca-climate-301aad22?mod=editorials\\_article\\_pos7](https://www.wsj.com/opinion/joe-biden-investor-state-dispute-settlement-trade-usmca-climate-301aad22?mod=editorials_article_pos7). Accessed January 3, 2025.

collaborative manner with both Congress and affected stakeholders, and USTR should not even engage in discussion of potential changes with trading partners absent support from Congress.

It is vital that USTR and its partner agencies act in the national interest. We do not believe that there is adequate time for proper Congressional and industry consultation before the end of your term, therefore we urge that this issue be tabled until the next Administration can review these interpretations. We urge your prompt response to our concerns.

Sincerely,



---

Dale W. Strong  
Member of Congress



---

Barry Moore  
Member of Congress  
Ranking Member, Subcommittee  
on Economic Opportunity



---

Terri A. Sewell  
Member of Congress



---

Gary J. Palmer  
Member of Congress



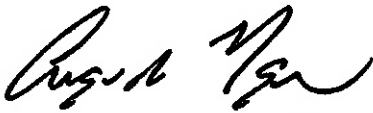
---

Vicente Gonzalez  
Member of Congress



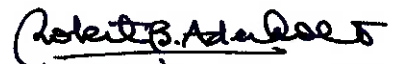
---

Jimmy Panetta  
Member of Congress



---

August Pfluger  
Member of Congress



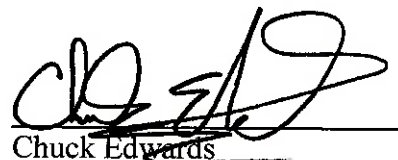
---

Robert B. Aderholt  
Member of Congress



---

Ben Cline  
Member of Congress

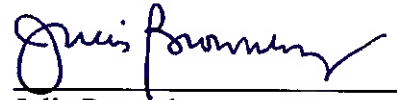


---

Chuck Edwards  
Member of Congress



Jodey C. Arrington  
Member of Congress



Julia Brownley  
Member of Congress



Beth Van Duyne  
Member of Congress



Henry Cuellar  
Member of Congress



John H. Rutherford  
Member of Congress



Salud Carbajal  
Member of Congress



Greg Stanton  
Member of Congress



Jim Costa  
Member of Congress



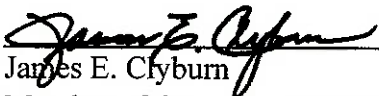
David Rouzer  
Member of Congress



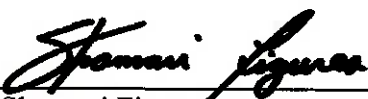
Mike Rogers  
Member of Congress



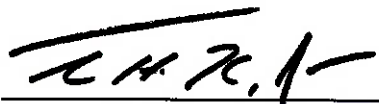
Mario Diaz-Balart  
Member of Congress



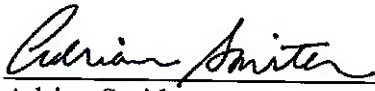
James E. Clyburn  
Member of Congress (SC-06)



Shomari Figures  
Member of Congress



Thomas H. Kean, Jr.  
Member of Congress



---

Adrian Smith  
Member of Congress



---

Earl L. "Buddy" Carter  
Member of Congress