

Donald Trump
President-elect of the United States of America
Trump Tower
735 5th Avenue
New York, NY 10022

January 13, 2017

Dear President-elect Trump:

Opposition to status-quo trade agreements has grown during the two decades that Americans have lived with the negative consequences of numerous trade deals premised on the model set in the North American Free Trade Agreement (NAFTA). The more than 12 million Americans represented by the diverse member groups of the Citizens Trade Campaign represent a broad demand in this country for policies that create good jobs, raise wages, reduce inequality, protect the environment and ensure healthy communities.

You made criticism of America's trade agreements a central focus of your campaign. It is all well and good that you have announced that you will not revive the Trans-Pacific Partnership (TPP) that already had no chance of passing Congress. But will you end negotiations now underway to establish *more* TPP-style agreements — including the Trans-Atlantic Trade and Investment Partnership, the Trade in Services Agreement and the U.S.-China Bilateral Investment Treaty — and will you replace NAFTA and other existing agreements with trade policies that put working people and healthy communities first?

NAFTA has been a disaster for working people, healthy communities and a clean environment in the United States, Mexico and Canada. For more than two decades, the deal has prioritized corporate profits while offshoring jobs, eroding working class wages, displacing family farmers, fueling forced migration, increasing medicine costs, rendering food unsafe, polluting our air and water and destabilizing our climate.

Millions of people across the United States, Canada and Mexico have long pushed for a NAFTA renegotiation that would halt the deal's damage to the majority. Calling NAFTA "the worst trade deal in history," you said you would "tell our NAFTA partners that I intend to immediately renegotiate the terms," pledging to withdraw from it if you could not make it "a lot better" for working people.

This will require your administration to immediately notify Mexico and Canada that the United States will withdraw from the agreement as provided in NAFTA Article 2205, unless the deal's many harmful provisions can be eliminated and critical additions made through a transparent

renegotiation process during the first year of your presidency.

The rubric for assessing a NAFTA renegotiation is clear: Does it put the needs of people and the planet over corporate profits? Does it support — not undermine — good jobs, public health and a more stable climate? If your administration fails to achieve these fundamental goals, or delivers yet another corporate-favoring deal that threatens such priorities, we will oppose it at every step.

To create good-paying jobs, eliminate threats to our communities and otherwise benefit the majority, NAFTA must be replaced with an agreement that includes these essential changes:

- **Eliminate rules that incentivize the offshoring of jobs and that empower corporations to attack democratic policies in unaccountable tribunals.** NAFTA was the first U.S. trade agreement to include special privileges for investors and the Investor-State Dispute Settlement (ISDS) regime that make it less risky for employers to relocate jobs offshore, while simultaneously threatening democratic policymaking at home and abroad. ISDS grants new rights to multinational corporations to sue governments before panels of corporate lawyers. These lawyers can award the corporations unlimited sums to be paid by taxpayers, including for the loss of expected future profits. The corporations need only convince the lawyers that a law or safety regulation violates their broad NAFTA rights. Their decisions are not subject to appeal. Already, corporations have used ISDS to challenge bans on toxic chemicals, land use policies, forestry and water policies, financial regulation, court rulings that support access to medicine and protections for our climate. Broad corporate rights, including ISDS, must be eliminated from NAFTA in order to eliminate offshoring incentives and to safeguard nations' right to democratically determine their own public interest policies.
- **Defend jobs and human rights by adding strong, binding and enforceable labor and environmental standards to the agreement's core text and requiring that they are enforced.** NAFTA facilitated a race to the bottom by relegating labor and environmental concerns to weak and unenforceable "side agreements." This encouraged corporations to offshore jobs to the country where they could exploit the lowest labor and environmental standards. U.S. trade agreements since the George W. Bush administration have addressed labor and environmental matters in their core texts, but the required standards were weak, enforcement lax and these later pacts also failed to deliver improved labor or environmental conditions in trade partner countries. Any deal that replaces NAFTA must create a fair playing field by requiring the agreement go into effect only upon each participating country adopting, maintaining, implementing — and enforcing — domestic laws that provide the labor rights and protections included in the International Labor Organization's Core Conventions and policies that fulfill the Paris climate agreement and other core multilateral environmental agreements. These commitments must be enforceable via an independent dispute settlement process and subject to the same sanctions used to enforce the commercial provisions of NAFTA. Market access must be conditioned on confirmation that labor and environmental commitments are enforced — meaning sustained evidence that conditions on the ground have improved and withdrawal of trade benefits for backsliding. In addition, the deal must tax imported products made under highly climate-polluting conditions.

- **Overhaul NAFTA rules that harm family farmers and feed a destructive agribusiness model.** NAFTA devastated rural communities in the United States and Canada, while also forcing millions of Mexican farmers and farmworkers off their land, fueling a major increase in forced migration. Moreover, NAFTA's agribusiness model concentrated wealth in a handful of food processing and trading companies, depleted natural resources, polluted water and the climate and left taxpayers to pick up the tab for agribusinesses' failure to pay farmers above-cost-of-production prices. NAFTA's agriculture terms must be changed to achieve balanced trade that supports fair and sustainable food supplies and rural economies. All nations must have the right to democratically establish domestic farm policies that ensure that farmers are paid fairly for their crops and livestock, as well as to establish other farm and food policies, such as inventory management, strategic food reserves, import surge protections and other anti-dumping mechanisms, that protect farmers, workers and consumers.
- **End NAFTA rules that threaten the safety of our food.** NAFTA has enabled a flood of food imports that has overwhelmed food safety inspectors, contributing to a rise in food-borne illnesses. NAFTA even allows imports of food that does not meet domestic food safety standards, further jeopardizing our health. To make matters worse, our NAFTA partners have used trade tribunals to attack commonsense food labels, such as those that tell consumers where our food came from. To ensure that our food is safe, any deal that replaces NAFTA must require imported food to meet domestic food safety standards, include enhanced border inspection requirements. And, it must require country-of-origin labeling for meat and other food products so consumers can make informed choices, and must otherwise affirm countries' rights to require mandatory food labeling regimes to inform consumers.
- **Eliminate NAFTA rules that drive up the cost of medicines.** NAFTA prioritizes drug companies over patients by establishing monopoly protections that shield pharmaceutical firms from competition and increase medicine prices. Those firms hope to use NAFTA renegotiation to gain even further protections by inserting extreme provisions from the TPP. This corporate protectionism is a life-or-death matter, as it can put life-saving drugs out of reach for many. To increase access to affordable medicines, NAFTA's existing intellectual property protections must be eliminated and no new measures included that would go beyond the existing World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is already in effect in all NAFTA member countries. Instead, public health protections should be included that enable the United States and other countries to promote the human right to health and ensure access to medicine for all.
- **Eliminate NAFTA rules that undermine job-creating programs like Buy American.** NAFTA bars each participating government from prioritizing purchases of domestically made products over those made in other NAFTA countries or from requiring that outsourced government services, such as call centers, employ workers domestically. It also threatens environmentally-friendly purchasing policies and prevailing wage and other labor requirements. This undercuts popular programs that create jobs, support living wages and reduce pollution. To restore such pro-worker, pro-environment policies and ensure that every country has the freedom to choose how to spend its own tax funds, NAFTA's procurement chapter must be eliminated.

- **Add strong, enforceable disciplines against currency manipulation to ensure a fair playing field for job creation.** NAFTA allows countries to lower the value of their currencies to gain trade advantages. Such currency manipulation results in floods of artificially-cheap imports, while exports are unfairly priced out of other countries' markets, threatening jobs and entire industries. The United States should work with Mexico and Canada to establish common mechanisms so that together we can confront currency manipulation around the world. Binding disciplines against currency manipulation must be included in trade agreements' core texts, and domestic U.S. legislation must be enacted that triggers automatic corrective action against currency manipulators, rather than simply triggering reports or dialogue.
- **Strengthen “rules of origin” and stop transshipment so as to create jobs and reinforce labor and environmental standards.** Allowing NAFTA's weak “rules of origin” to continue would incentivize firms to use parts and raw materials made in nations that exploit workers and the environment instead of producing them in a NAFTA country that complies with revised NAFTA labor, environmental and other standards. This is because NAFTA allows goods with a large share of value coming from non-NAFTA nations to qualify for its benefits. For example, a car with only 62.5 percent of its value coming from NAFTA nations gets duty free access if it is assembled in a NAFTA nation. A NAFTA replacement deal must require 90 percent of a product's value come from a NAFTA nation for it to qualify and must include stronger rules to stop “transshipment” cheating on the rules of origin.
- **Require imported goods and services to meet domestic safety and environmental rules.** As with imported food, NAFTA requires countries to allow imports of other products that do not meet domestic safety and environmental standards. NAFTA also requires us to import energy, financial and other services and to allow firms from one NAFTA country operating in another NAFTA country to provide services without meeting domestic standards. For instance, NAFTA requires us to permit unlimited access to U.S. roads for trucks from Canada and Mexico even when certain vehicles do not meet U.S. safety and environmental standards and drivers do not hold U.S. Commercial Drivers Licenses. Failure to comply with these terms subjects a country to challenge before NAFTA tribunals that can authorize trade sanctions or orders for cash compensation, both undermining democratic policymaking and workers at firms that follow the domestic rules. These NAFTA terms must be replaced with a simple rule: imported products and services must meet the same standards as domestic products and services, and all service providers — domestic or foreign — must equally comply with a country's environmental, land use, safety, privacy, transparency, professional qualification and consumer access policies to ensure high-quality products and services, as well as high-quality jobs.
- **Add a broad protection for environmental, health, labor and other public interest policies.** NAFTA's many overreaching rules restrict the policy tools that governments can use to protect workers, promote public health, tackle climate change and otherwise advance broadly-shared priorities. Other governments, and even corporations, can challenge laws democratically passed by Congress, state legislatures and city councils as NAFTA violations in tribunals operating outside of domestic court systems. This is the case even if such policies

apply equally to U.S. and foreign goods, firms and services. If a tribunal rules against a challenged policy, the government can face trade sanctions unless they remove or weaken the policy or be required to pay cash compensation to a corporation or investor that claims to have its NAFTA rights violated. Effectively, NAFTA negotiators created an expansive body of corporate-rigged law outside of normal democratic procedures. But it includes no provision that effectively shields domestic policies created through our democratic procedures from such challenges — only a weak “exception” that does not apply to many of the pact’s rules and that has consistently failed to protect challenged policies. Any deal that replaces NAFTA must include a broad “carve-out” that exempts non-discriminatory domestic policies from all of the deal’s rules, providing a strong deterrent and an early defense against any challenges.

This is only a partial list of needed changes to NAFTA — many others could be added. But a NAFTA renegotiation that does not include these changes would certainly not be “a lot better” for working people.

To achieve such an overhaul, the NAFTA renegotiation process must be transparent and participatory — the complete opposite of the opaque and corporate-dominated negotiations that produced NAFTA and the TPP. During the renegotiation, the public must be invited to help formulate U.S. positions and comment on draft U.S. proposals. Negotiated texts also must be made publicly available, with opportunity for comment, after each negotiating round.

Creating an open, participatory process is the only way that the American public will have confidence that NAFTA renegotiation is not more the same rigged trade policy. This is especially the case given that corporate interests are publicly stating that NAFTA renegotiation will provide an opportunity to revive the rigged TPP terms, such as the extended monopoly protections for pharmaceutical firms that drive up the price of medicines.

For the millions of people across North America who have been pushing for a renegotiation of NAFTA for more than two decades the objective has always been to achieve an entirely different kind of trade agreement — one that prioritizes the advancement of the common good over the narrow pursuit of corporate profits. With support for this new approach to trade now at an all-time high, we will redouble our fight *for* a progressive overhaul of NAFTA, while committing to fight *against* any corporate-favoring renegotiation that masquerades as change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arthur', with a stylized flourish extending to the right.

Arthur Stamoulis
Executive Director