

United States Senate

WASHINGTON, DC 20510

January 12, 2018

Donald Trump
President
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. President,

We write to urge you to direct agency heads responsible for trade policy to significantly improve transparency as it relates to trade negotiations and trade enforcement, and to fully comply with both the letter and spirit of transparency-related requirements in both areas. Recent decisions by the Administration to begin trade negotiations with Korea without complying with basic transparency requirements set out in U.S. law and the failure of the Administration to release several trade-related reports raise serious questions regarding the Administration's commitment to openness with the American public when it comes to trade policy.

Lack of transparency in trade negotiations

U.S. law establishes requirements for trade negotiations and renegotiations that help ensure that the public and Congress are adequately informed and consulted. Yet the Administration has declined to follow those procedures with respect to its recently-launched renegotiation of the US-Korea trade agreement. To date, it has failed to, among other things:

1. Provide formal notice of the negotiations to Congress;
2. Release a public report containing a detailed and comprehensive summary of specific negotiating objectives, as well as a description of how the agreement would further those objectives and benefit the United States;
3. Consult with the House and Senate advisory groups on trade policy regarding the negotiation; and
4. Consult with Congress regarding how sensitive products will be addressed in the negotiation (including sensitive agricultural products and textiles).

As it stands, the public has been kept in the dark as to the Administration's specific intentions regarding the renegotiation of a free trade agreement that is second only to NAFTA in size.

These shortcomings are compounded by the fact that USTR has failed to appoint a Chief Transparency Officer as required by law to oversee transparency policy and engage and assist the public with respect to trade negotiations. It should be noted that this position does not require Senate confirmation.

Lack of transparency in enforcement actions and trade analysis

It is equally critical that Americans understand the objectives and analysis underlying the Administration's trade enforcement actions. In 2017, you directed the Commerce Department and USTR to produce several trade related reports, yet none has been released to the public. For example:

- In Executive Order 13786 of March 31, 2017, you directed Commerce and USTR to produce reports by June 2017 on the causes of significant trade deficits. No such reports have been issued.
- In Executive Order 13788 of April 18, 2017, you directed Commerce to submit a report by November 2017 on Buy American policies, including findings regarding "the impacts of all United States free trade agreements and the World Trade Organization Agreement on Government Procurement on the operation of Buy American Laws." No such report has been issued.
- In Executive Order 13796 of April 29, 2017, you directed Commerce and USTR to produce comprehensive performance reviews by October 2017 of violations or abuses of WTO rules and trade agreements. No such reports have been issued.

Either these reports were not completed, or they are being kept from Congress and the public. This pattern is particularly troubling given that this month statutory deadlines will arrive for the Commerce Department to submit its reports to you regarding national security implications of steel and aluminum imports, in connection with Section 232 investigations initiated in 2017. It is essential that these reports be completed in a timely fashion – as required by law -- and that they are made public. Detailed analysis prepared at taxpayer expense should not be kept from the public without good cause. On a matter as critical as trade in basic commodities, it is essential that both Congress and the public have timely access to the analysis that is the basis for Administration decisions.

We urge you to act swiftly to direct agencies to publicly release all completed trade-related reports and to direct USTR, in its negotiations with Korea, to comply with transparency and consultation requirements set out in law in 2015, including those specified above. Put simply, when it comes to trade policy, Americans cannot be kept in the dark.

Sincerely,



Ron Wyden
United States Senator



Benjamin L. Cardin
United States Senator

Bob Casey, Jr.

Robert P. Casey, Jr.
United States Senator

Maria Cantwell

Maria Cantwell
United States Senator

Mark R. Warner

Mark R. Warner
United States Senator

Robert Menendez

Robert Menendez
United States Senator

Tom Carper

Thomas R. Carper
United States Senator

Sheldon Whitehouse

Sheldon Whitehouse
United States Senator

Debbie Stabenow

Debbie Stabenow
United States Senator

Michael F. Bennet

Michael F. Bennet
United States Senator