

Congress of the United States
Washington, DC 20515

March 20, 2018

Ambassador Robert E. Lighthizer
United States Trade Representative
The Office of the United States Trade Representative
600 17th St. N.W.
Washington, DC 20508

Dear Ambassador Lighthizer:

We write to reiterate our strong support for the continuation of robust investor protections, including investor-state dispute settlement (ISDS), in NAFTA and to insist that ISDS provisions at least as strong as those contained in the existing NAFTA must be included in a modernized agreement to win Congressional support.

These protections are crucial for U.S. companies that invest abroad to serve foreign markets, whether through exports from the United States or through the provision of local goods or services. These protections provide certainty for U.S. companies in all sectors, including U.S. energy companies that drill or operate pipelines or service stations in Mexico; U.S. railroads that operate on both sides of the U.S.-Mexican border; agriculture entities that maintain feedlots or processing or storage facilities; and U.S. services companies that maintain capital in Mexico to meet regulatory requirements or establish facilities.

The overwhelming majority of Republicans in both the House and the Senate supported Trade Promotion Authority (TPA), which directed the Administration to include robust investor protections in trade agreements. In particular, TPA directs the Administration “to secure for investors important rights comparable to those that would be available under United States legal principles and practices,” including by “providing meaningful procedures for resolving investment disputes.” Congress expects that both the substantive protections and the enforcement mechanisms for investment commitments will be more or equally robust in an updated NAFTA relative to the existing agreement. Our position on the importance of these protections has not changed and is as strong as ever: ISDS is an essential enforcement mechanism for investor protections and must be maintained rather than weakened or abandoned.

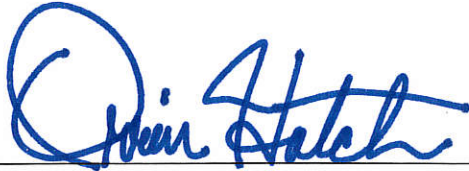
As you may know, the prior Administration disregarded advice from Congressional Republicans and excluded a single sector from ISDS in the Trans-Pacific Partnership (TPP). This policy choice significantly diminished Republican support for that agreement. Excluding ISDS altogether or making it optional in a modernized NAFTA similarly will jeopardize Republican support, even among Members who consistently have voted for trade agreements.

We are open to continuing to discuss ways to enhance the fairness, transparency, and efficiency of NAFTA’s ISDS mechanism. But abandoning or weakening this important enforcement tool would harm the ability of U.S. companies to export and locally provide goods and services to

Canada and Mexico. In addition, such action would advantage our global competitors – including China – which continue to benefit from ISDS and/or direct government ownership and support.

As NAFTA negotiations progress, we look forward to continuing to work with you to achieve the negotiating objectives, including those concerning ISDS, that Congress established through statute, which is necessary to successful consideration of a modernized NAFTA by Congress.

Sincerely,



Orrin G. Hatch
United States Senator



David Schweikert
Member of Congress



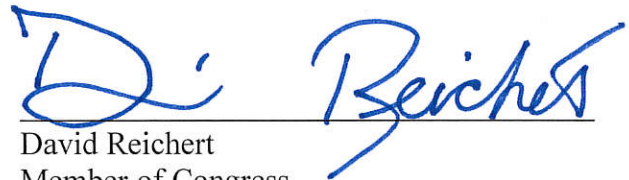
John Cornyn
United States Senator



Kevin Brady
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John Thune
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David Reichert
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Bill Cassidy, M.D.
United States Senator



Sam Johnson
Member of Congress



Michael B. Enzi
United States Senator



Devin Nunes
Member of Congress



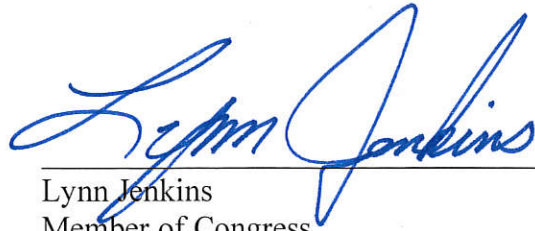
Johnny Isakson
United States Senator



Adrian Smith
Member of Congress



Pat Roberts
United States Senator



Lynn Jenkins
Member of Congress



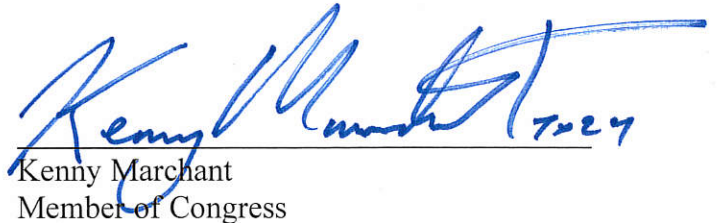
Pat Toomey
United States Senator



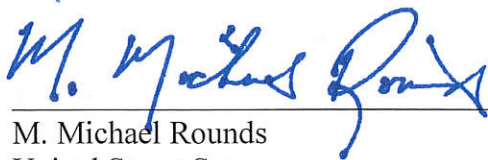
Erik Paulsen
Member of Congress



Thom Tillis
United States Senator



Kenny Marchant
Member of Congress



M. Michael Rounds
United States Senator



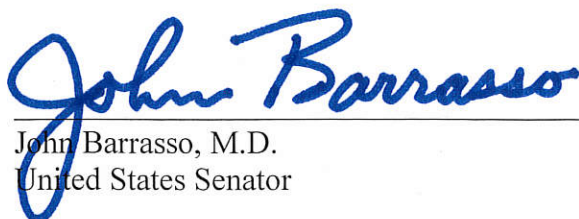
Patrick Meehan
Member of Congress



John Hoeven
United States Senator



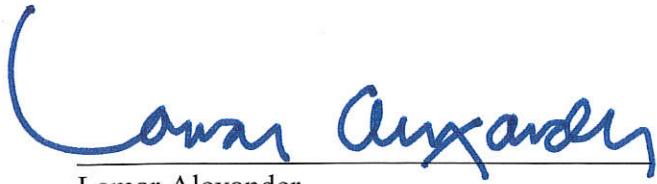
George Holding
Member of Congress



John Barrasso, M.D.
United States Senator



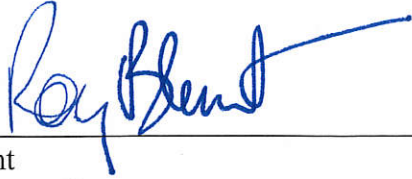
Jackie Walorski
Member of Congress



Lamar Alexander
United States Senator



Carlos Curbelo
Member of Congress



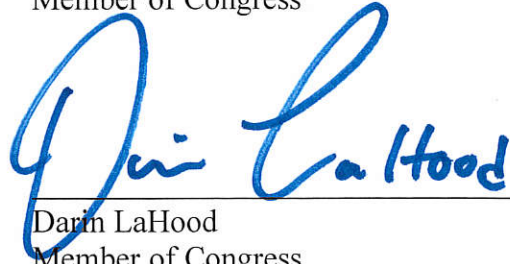
Roy Blunt
United States Senator



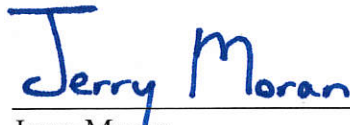
Mike Bishop
Member of Congress



Dan Sullivan
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Darin LaHood
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Jerry Moran
United States Senator



Michael T. McCaul
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Tim Scott
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Bill Flores
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Todd Young
United States Senator



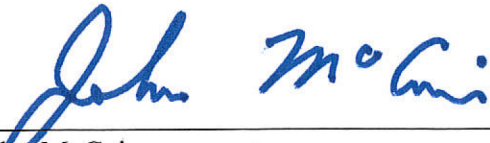
Jim Banks
Member of Congress



John Boozman
United States Senator



Daniel Webster
Member of Congress



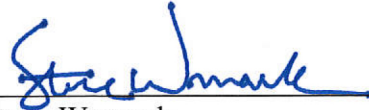
John McCain
United States Senator



Mike Johnson
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Paul A. Gosar, D.D.S.
Member of Congress



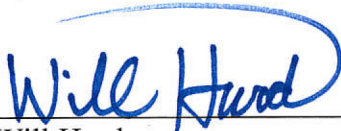
Steve Womack
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Roger Marshall, M.D.
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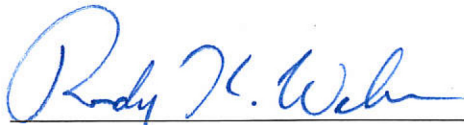
Ron Estes
Member of Congress



Will Hurd
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Pete Sessions
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Randy Weber
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Elise M. Stefanik
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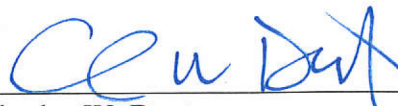
Barbara Comstock
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Steve Chabot
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Karen Handel
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Charles W. Dent
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Roger Williams
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David Rouzer
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Billy Long
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Glenn Grothman
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Andy Biggs
Member of Congress



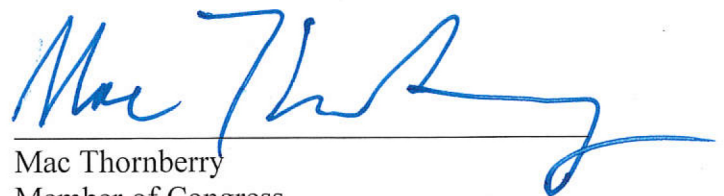
Kevin Cramer
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Tom Graves
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Jody B. Hice
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Mac Thornberry
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Mike Kelly
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Andy Barr
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Jason Smith
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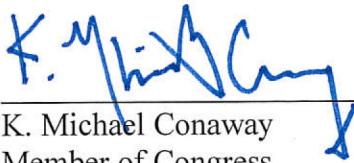
Jodey Arrington
Member of Congress



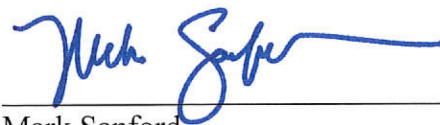
Kristi Noem
Member of Congress



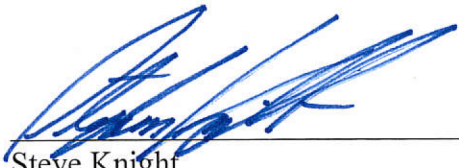
Jim Renacci
Member of Congress



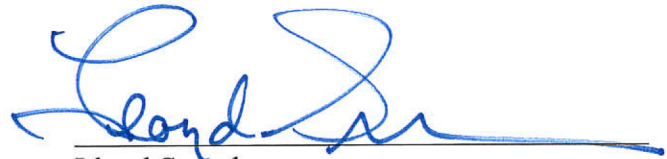
K. Michael Conaway
Member of Congress



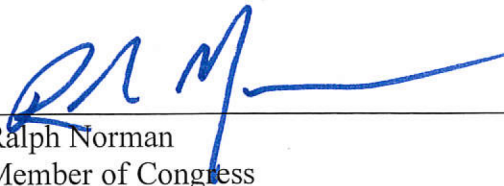
Mark Sanford
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Steve Knight
Member of Congress



Lloyd Smucker
Member of Congress



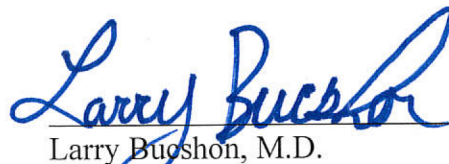
Ralph Norman
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David G. Valadao
Member of Congress



Mark Walker
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Larry Bucshon, M.D.
Member of Congress



Mike Crapo
United States Senator



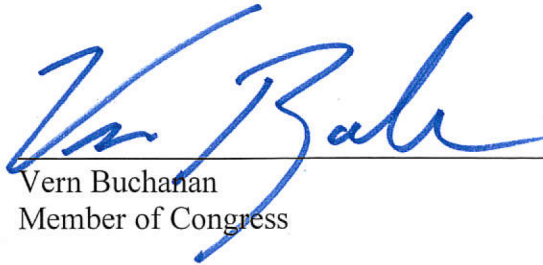
Steve Stivers
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Greg Gianforte
Member of Congress



Mike Coffman
Member of Congress



Vern Buchanan
Member of Congress



John Moolenaar
Member of Congress



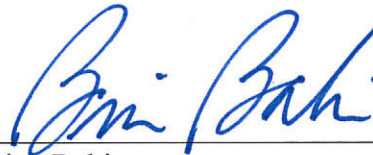
Michael R. Turner
Member of Congress



Cathy McMorris Rodgers
Member of Congress



James Comer
Member of Congress



Brian Babin
Member of Congress



Don Bacon
Member of Congress



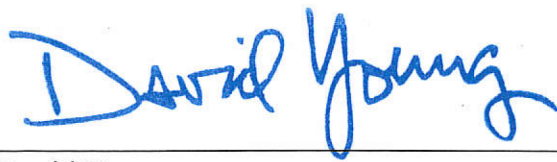
Joe Barton
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Brad R. Wenstrup
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Adam Kinzinger
Member of Congress



David Young
Member of Congress



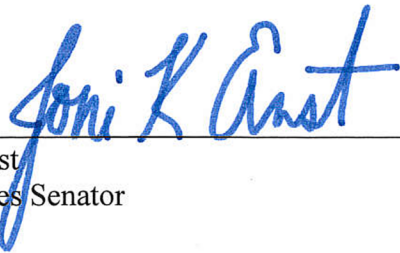
Mimi Walters
Member of Congress



Member of Congress
Scott R. Tipton



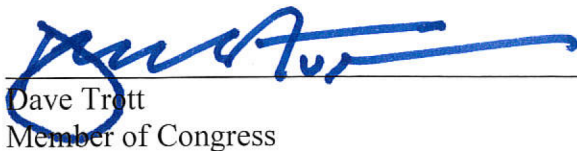
Warren Davidson
Member of Congress



Joni K. Ernst
United States Senator



Tom Emmer
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Dave Trott
Member of Congress



Jack Bergman
Member of Congress



Martha McSally
Member of Congress