

June 5, 2019

The Honorable Earl Blumenauer
Chairman, Subcommittee on Trade
House Ways and Means Committee
U.S. House of Representatives
Washington D.C. 20515

The Honorable Vern Buchanan
Ranking Member, Subcommittee on Trade
House Ways and Means Committee
U.S. House of Representatives
Washington D.C. 20515

Dear Chairman Blumenauer and Ranking Member Buchanan,

We appreciate the opportunity to provide comment on the May 22, 2019 hearing titled, “Enforcement in the New NAFTA.”

On behalf of our more than six million members and activists, we urge you to make strong and meaningful environmental enforcement a top priority in ongoing discussions regarding the renegotiation of the North American Free Trade Agreement (NAFTA). Any renegotiated deal must first and foremost protect people and the planet.

We have long called for the renegotiation of NAFTA to curb the deal’s damage to our communities. However, we were disappointed to see that the current NAFTA rewrite proposal—the Trump administration’s U.S.-Mexico-Canada Agreement (USMCA)—falls far short of meeting [baseline environmental criteria](#) to address climate change, fails to include meaningful terms to reverse NAFTA’s track record of outsourcing air and water pollution, and neglects to eliminate Investor-State Dispute Settlement (ISDS) mechanisms for corporate polluters. The USMCA also disappointingly weakens environmental standards of past trade deals, includes new support for fossil fuels, and adds regulatory rules that could inhibit environmental protections.

One of the most concerning weaknesses of the USMCA is its failure to include independent and binding enforcement language for environmental terms, largely replicating the same, weak mechanisms of past trade deals that have consistently failed to curb environmental abuses.

Under the enforcement mechanisms of recent trade agreements, the United States has never brought a case against a trade partner for environmental abuses, despite widely documented violations. This track record of zero hardly inspires confidence that the environmental terms of the USMCA, even if strong, would be enforced. In fact, the USMCA manages to further weaken the enforcement mechanism of the past four U.S. trade deals by allowing a government that is committing environmental abuses to block a case from advancing.

We have [called](#) for a new NAFTA to require each country to adopt, maintain, and implement robust environmental, labor, and human rights protections, such as policies that fulfill the Paris Climate Agreement and other fundamental international agreements. These standards must be enforced via a new, independent, and binding enforcement system.

For instance, an independent investigative body of impartial environmental experts could be tasked with proactively investigating potential environmental abuses and inviting and reviewing public submissions of reported non-compliance. This independent body, in addition to governments, affected communities, and public interest groups, should be able to bring cases of potential violations to an independent dispute settlement body composed of impartial environmental experts. Findings of environmental violations should be subject to the same sanctions used to enforce the commercial provisions of the trade agreement.

As an additional and necessary enforcement mechanism, we have also called for NAFTA's replacement to penalize imported goods made with high climate emissions. In October 2018, the United Nations Intergovernmental Panel on Climate Change released a report with staggering conclusions: at that time, the global community had 12 years to act to avoid the most catastrophic impacts of global warming. For a multilateral agreement among three of the world's largest economies to completely ignore climate change is irresponsible and short-sighted. Trade contributes to global warming and is also impacted by it—so any trade agreement must consider it to be relevant in the 21st Century.

We are at a pivotal moment in trade policy—one that could shape future U.S. trade agreements beyond NAFTA's renegotiation. Therefore, as leaders on trade issues in Congress, we urge you to take ample time to explore and thoughtfully consider new, innovative options for strengthening environmental enforcement in any deal to replace NAFTA. Future generations living on the North American continent cannot afford another quarter century of trade policy that ignores climate change, outsources pollution, locks in fossil fuel dependency, undermines hard-fought environmental protections, and puts the interests of polluters over the health of our environment and the needs of our communities.

Sincerely,

Natural Resources Defense Council
Sierra Club

CC: House Ways & Means Chairman Richard Neal, and Ranking Member Kevin Brady