

United States Senate

WASHINGTON, DC 20510

December 1, 2020

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street N.W.
Washington, D.C. 20508

Dear Ambassador Lighthizer,

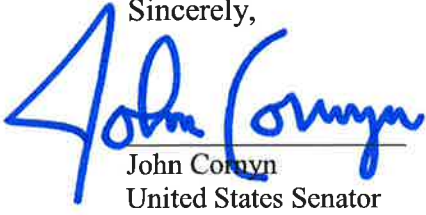
First, we write to thank you for your hard work in securing final approval of the bipartisan U.S.-Mexico-Canada Agreement (USMCA). However, we are concerned that the Office of the U.S. Trade Representative (USTR) believes Congress should approve what the Congressional Budget Office projects to be a \$2 billion tax increase on job-creators operating on U.S. soil and employing Americans in Foreign Trade Zones (FTZs), through a “technical corrections” legislative package to the USMCA implementing legislation. Supporting such a tax increase during a global pandemic and economic recession would harm American manufacturers across a wide range of industries, including the energy, electronics, automobile, and pharmaceutical sectors, among others.


The proposed provision in question – which excludes goods produced in U.S. FTZs from receiving preferential-duty treatment under NAFTA even if they meet NAFTA rules of origin – was originally included in implementing legislation for the North American Free Trade Agreement (NAFTA) (19 U.S.C. 3332(a)(2)(A)). Our constituents have long-argued that this provision puts U.S.-based FTZ manufacturers at a disadvantage compared to their counterparts in Canada and Mexico that do not face similar restrictions. During the NAFTA re-negotiation process, stakeholders requested this provision’s removal, including in comments submitted to USTR. Ultimately, the provision was not included in the USMCA implementing legislation submitted by the Trump Administration to Congress.


In response to questions from the Senate Finance Committee on this topic, USTR stated that the NAFTA FTZ restriction would achieve “stronger rules of origin”. However, reinstating this provision would prevent the nearly 500,000 workers and their employers operating on U.S. soil in FTZs from receiving the same reduced tariff benefits as their counterparts in Canada and Mexico. Given the significant impact that reinstating the NAFTA FTZ restriction would have on companies in our states, we request that you oppose the reinstatement of any NAFTA FTZ provision in a USMCA “technical corrections” package. As you are aware, under the Constitution, it is clear that Congress has the authority to “lay and set taxes [and] duties”. The questions about the effect of reinstating this provision on our economy and constituents during this time deserve further discussion in the public square. Congress should not simply rubber stamp this tax increase.


We appreciate your attention to this matter and look forward to further discussing it with you. Thank you again for your dedication and work in securing the bipartisan USMCA.


Sincerely,



John Cornyn
United States Senator


Thomas R. Carper
United States Senator


Christopher A. Coons
United States Senator


Cindy Hyde-Smith
United States Senator


Jerry Moran
United States Senator


Ben Sasse
United States Senator