Congress of the United States
Washington, DC 20515

November 3, 2021

Ambassador Katherine Tai
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Secretary Anthony J. Blinken
U.S. Department of State
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Secretary Gina M. Raimondo
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Secretary Jennifer M. Granholm
U.S. Department of Energy
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Ambassador Tai, and Secretaries Blinken, Raimondo, and Granholm:

We write to express our grave concern about reports of escalating efforts by the Government of Mexico to exclude private companies from its energy sector in contravention of its international commitments, including the United States-Mexico-Canada Agreement (USMCA).

President Andres Manuel López Obrador himself has acknowledged the explicit goal of providing Mexico's national energy companies, Petróleos Mexicanos (PEMEX) and the Comisión Federal de Electricidad (CFE) with preferential treatment, in direct contradiction of the USMCA, which his own Administration negotiated and signed. His Administration and his party have championed regulatory and legislative efforts that have been ruled to be anti-competitive and harmful to the environment by Mexican courts. As such, they are also harmful to U.S. investment, American workers, and the North American commitment to sustainability – all of which are concepts that are protected by the USMCA.

In recent weeks, discriminatory and arbitrary enforcement actions have escalated. Through what appears to be a selective use of authority, they have explicitly hindered – and in some cases outright blocked – U.S. private sector participation in Mexico's fuels markets.

According to media reports, the Mexican government has suspended the permits of several U.S.-owned fuel storage terminals, while using the National Guard to force the closure of 23 fuel-related facilities, such as storage sites, and partial closures of 17 others[1]. These actions are just the latest in a broad and sweeping effort aimed at stifling competition from the private sector. In June, Mexico's tax authority changed the General Rules for External Trade, banning companies from obtaining or renewing the three-year permits that are required for fuel terminals to serve as points of entry and exit for hydrocarbons[2]. The same agency suspended 82 companies in July from trading fuels over alleged fiscal violations[3]. Meanwhile, between December 20, 2020 to July 15 alone, Mexico's Secretariat of Energy has canceled 1,866 permits for the import and export of gasoline, diesel, LP gas, jet fuel, fuel oil and crude[4]. As of September 20, just 97 of 1,954 permits issued to private companies were active in Mexico.

[1] https://www.argusmedia.com/en/news/2255299-mexico-shuts-monterras-tuxpan-fuel-terminal
[2] http://dof.gob.mx/nota_detalle.php?codigo=5620954&fecha=11/06/2021
[3] https://www.elsoldemexico.com.mx/finanzas/sat-suspende-permisos-a-ferrosur-y-repsol-para-importar-combustible-6982560.html
[4] https://www.forbes.com.mx/sobrevive-5-permisos-importacion-exportacion-combustibles/

Such brazen action in contravention of existing legislation has significant implications for American businesses and workers. In 2019, the oil and natural gas industry directly or indirectly supported 11.3 million jobs in the U.S. and had a national economic impact of nearly $1.7 trillion. In 2020, Mexico was the largest export market for U.S. petroleum products, accounting for 12 percent of all exports, as well as a growing market for natural gas[5].

Within Mexico, there is recognition that protectionist policies come with significant costs. Mexico's Consejo Coordinador Empresarial, a leading business association, has expressed "deep concern" over "obstacles to the importation of gasolines to artificially protect PEMEX.[6]" Mexico's anti-trust agency, Comisión Federal de Competencia Económica (COFECE), has warned that restricting private sector participation would lead to "an artificial and unjustified restriction of the supply of goods and services, harming Mexican consumers.[7]"

Based in part on CFE's expansion plans, the Mexican government's National Electric Power System Development Program (Prodesen) recognizes that Mexico will not meet its clean energy generation goals. In 2024, only 32% of Mexico's electricity matrix will have clean sources, falling short from the 35% share that Mexico had committed for that year[8]. Favoring PEMEX could also cause Mexico to violate the International Maritime Organization's IMO2020 and other international environmental commitments, due to the high content of sulphur in PEMEX's fuel oil[9]. CFE has also recognized its choice to use this same fuel oil over natural gas in power plants near the country's largest cities, such as in the Tula plant that provides up to 20% of Mexico City's electricity[10].

The overwhelming list of discriminatory actions has long passed the point of 'merely' raising serious questions about President López Obrador's commitments to the letter and spirit of USCMA. They actually suggest that the Mexican government is proactively attempting to enact policies and take actions that violate and undermine the Treaty.

Recent reports of discriminatory actions against U.S. companies require a timely and clear response. We urge you to elevate efforts to press Mexican authorities to stop discriminatory actions and provide U.S. companies operating in or trading with Mexico a level playing field, as envisioned by USMCA.

Sincerely,

Earl L. "Buddy" Carter
Member of Congress

David B. McKinley, P.E.
Member of Congress

[5] https://www.api.org/-/media/Files/Policy/American-Energy/PwC/API-PWC-Economic-Impact-Report.pdf
[6] https://cce.org.mx/2021/09/22/el-cce-exhorta-al-gobierno-federal-a-no-obstaculizar-la-importacion-legal-de-combustibles-al-pais/
[7] https://www.cofece.mx/algunos-terminos-de-la-reforma-a-ley-de-hidrocarburos-afectarian-la-competencia/
[8] https://www.gob.mx/cms/uploads/attachment/file/112838/Ley_de_Transicion_Energetica.pdf
[9] https://mexicotoday.com/2021/04/15/mexicos-pemex-high-sulfur-fuel-oil-production-doubles-in-one-year/
[10] https://www.elsoldemexico.com.mx/finanzas/cfe-justifica-quema-de-combustoleo-en-tula-produccion-energia-electrica-pemex-6522553.html

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