

Comments on the Americas Partnership for Economic Prosperity (APEP) Trade Track

Docket No. USTR-2024-0009

Thank you for the opportunity to suggest priorities for the trade track of the Americas Partnership for Economic Prosperity (APEP). These comments are submitted on behalf of Citizens Trade Campaign, a national coalition of labor, environmental, family farm, faith and consumer organizations working together to improve U.S. trade policy. Our member organizations together represent more than 12 million Americans.

Citizens Trade Campaign shares APEP Leaders' stated interest in pursuing a trade agenda that promotes "internationally recognized labor rights, environmental sustainability, and economic inclusion." As such, we heartily support the U.S. Trade Representative's (USTR) proposal to exclude tariff reduction and other "market access"-related terms from APEP. We also greatly support USTR's proposal to exclude the corporate protections and rights at the center of failed, old-model trade agreements with respect to foreign investment, government procurement, intellectual property and digital trade. Not expanding the policies and related harms wrought by past trade deals is a necessary first step towards creating a new trade model that centers the interests of working people, family farmers and the environment throughout the Americas.

Insofar as an APEP trade track moves forward, we ask that it be utilized both to fix problems in existing pacts in the region and to advance new tools for elevating the hemisphere-wide adoption and enforcement of international standards on worker rights, democracy and the environment. Areas we recommend prioritizing in APEP trade discussions include:

- ***Eliminating ISDS.*** To remove incentives for job offshoring, to end transnational corporations' trade attacks on environmental progress and to protect democratic sovereignty across a range of public policy areas, the APEP process should be used to complete the U.S.-Mexico-Canada Agreement's (USMCA) unfinished work of eliminating investor-state dispute settlement (ISDS) in the region. In recent years, the United States has rightly refused to include ISDS in new trade agreements and began extracting itself and trade partners from ISDS in the context of USMCA negotiations. There are currently 43 ISDS-enforced agreements among the 12 APEP countries, under which there are 73 pending ISDS cases totaling \$47 billion in corporate claims. The Biden administration can greatly enhance U.S. relationships with countries in the Americas and promote APEP's climate, health and equity goals by leading an Americas-wide ISDS exit. We specifically request that USTR propose an APEP working group tasked with this goal.
- ***Expanding labor enforcement.*** To enshrine a deeper respect for labor rights across the Americas, encourage improvements in workers' standards of living and better prevent

race-to-the-bottom offshoring of U.S. jobs, any APEP trade track text should improve upon the labor standards and enforcement benchmarks within existing U.S. trade pacts in the region. At a minimum, this should involve the inclusion of strong labor standards based on the core International Labor Organization (ILO) Conventions and their accompanying jurisprudence, as well as swift-and-certain enforcement mechanisms, including facility-specific enforcement tools that build off of those established in the USMCA's Rapid Response Mechanism and that apply equally to all parties. U.S. should consider partnering with Mexico on opportunities to educate other countries on the RRM's successes.

- ***Adopting climate standards.*** Given that existing U.S. trade pacts in the Americas fail to even mention climate change, significant progress is needed if APEP's trade track is to contribute meaningfully to climate solutions. Trade track discussions should seek to elevate the need for strong and binding climate commitments, as well as commitments to adopt, implement and enforce other Multilateral Environmental Agreements, again accompanied by the addition of swift-and-certain enforcement mechanisms including facility-specific enforcement tools that build off of those established in the USMCA's Rapid Response Mechanism and that apply equally to all parties. To protect clean energy jobs initiatives, like those in the Inflation Reduction Act and elsewhere, the APEP process should also seek agreements between its partners not to use existing trade or investment agreements to attack each other's clean energy and other climate initiatives. To further safeguard existing and future environmental and other public interest policies from undue corporate influence, the U.S. should move away from pushing so-called "Good Regulatory Practice" provisions within any APEP framework.
- ***Improving critical minerals supply chains.*** Insofar as APEP addresses critical minerals, it can aid in job creation, climate solutions and sustainable development by including measures that: prioritize "reduce, reuse and recycling" within supply chains beyond just additional extraction; develop value chain industries in the United States and countries from which minerals are extracted and/or recovered; establish strong, binding standards on labor rights, the environment, ownership transparency, indigenous rights and community engagement throughout the supply chain; and ensure standards are backed by swift-and-certain enforcement mechanisms coupled with meaningful, facility-specific penalties for violations.
- ***Ensuring access to medicines.*** APEP should build off the lessons of the COVID-19 pandemic by striking deals explicitly allowing for the use of compulsory licensing for vaccines, medicines, diagnostic tools and other medical technologies needed to address existing and future public health crises. The APEP process should also be used to negotiate the removal of "TRIPS-plus" terms included in existing trade agreements in the region.
- ***Promoting food security and consumer right-to-know.*** Other improvements that should be made within APEP's trade track include increasing food security in the region, such as

with the adoption of measures allowing for the creation of strategic grain reserves and other public investment in domestic agricultural resilience, and advancing consumer right-to-know by explicitly allowing the adoption of Country-of-Origin-Labeling for meat products and all goods and services.

- ***Protecting migrant rights:*** APEP trade track agreements must also ensure that any worker rights provisions apply to migrant workers as well as citizens. The U.S. should also acknowledge the role that U.S. trade agreements in Latin America play in displacing family farmers and small- and mid-sized employers abroad and should seek ways to reverse these injustices, including with the addition of strong labor and climate enforcement provisions; greater respect for nations' food sovereignty; and greater rights for documented and undocumented migrants in the United States.

While these are far from the only recommendations our organizations have for APEP's trade track, we believe devoting attention to these areas can go a long way to creating the new trade models that the United States and its APEP partner nations seek.

Finally, as the USMCA experience highlighted, trade renegotiations that make advances in these and other areas can attract broad bipartisan support and be passed by large margins. A more transparent and participatory negotiating process would help inspire confidence among the public, civil society groups and Congress, and is useful to facilitating such broad support. We strongly encourage you to publish U.S. APEP proposals for public comment before tabling them, and to publish other countries' proposals and any draft composite texts at the close of each APEP negotiating round.

Thank you for your consideration.