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June 11, 2020

The Honorable Michael R. Pompeo
Secretary of State
Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Dan Brouillette
Secretary of Energy
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Ambassador Robert E. Lighthizer
United States Trade Representative
Office of the United States Trade
Representative
600 17th Street, NW
Washington, DC 20508

Dear Sirs,

As we operate in extraordinary times, the U.S. oil and natural gas industry remains focused on continuing to provide the energy that is essential to not only our nation, but also to nations across the globe. Export markets are critical to the oil and gas industry in the United States. In the last 25 years, North American energy markets have become more and more intertwined and interdependent. Canada and Mexico remain our largest energy export partners, a fact solidified by the United States-Mexico-Canada Agreement (USMCA).

For our industry, the success of the USMCA is grounded in the framework that allows the continued trade flows and capital investments in energy between the three largest North American economies. We have become concerned, however, that recent actions taken by the Government of Mexico undermine this framework and discriminate against US investors in violation of commitments that Mexico agreed to in both NAFTA and USCMA.

Recent examples appear to be new regulatory actions that are inconstantly applied or inconsistent with past practice. For example, US investors are facing increasing difficulties getting permits for a range of activities, including new or re-branded stations, third party storage facilities, imported fuels, liquids terminals, and LNG terminals. For more information on specific examples on permits and other investor concerns, please see the *Annex of Examples of Discrimination against API Member Companies in Mexico* enclosed.

These examples are actions of discrimination against API member companies that likely contravene Mexico's commitments to the National Treatment investment protection, in the

Investment chapters of both NAFTA and USMCA. These examples also likely contravene Mexico's commitment to Non-Discriminatory Treatment in the State-Owned Enterprises and Designated Monopolies chapter of USCMA, with regards to state-owned PEMEX.

We encourage you to use diplomatic channels to engage with the President of Mexico and your cabinet-level counterparts in Mexico's agencies to urge the Government of Mexico to uphold its USMCA commitments to treat US investors and US exporters fairly on the eve of USMCA entering into force.

USMCA was developed to foster relationship between the three nations and create a positive trade and investment environment for all parties involved, bringing immense benefits to both the United States' and Mexico's energy consumers. API has supported USMCA as a basis to develop the mutual benefits a strong trade agreement can deliver, and we support the entry into force of USMCA on July 1, 2020. We look forward to hearing from you and hope to set up meetings to discuss our member companies' concerns. Thank you for your recognition of U.S. energy leadership and the importance of global energy export markets, and please do not hesitate to contact me regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Sommers".

Michael J. Sommers
President & CEO

Enclosure: *Annex of Examples of Discrimination against API Member Companies in Mexico*

Annex: Examples of Discrimination against API Member Companies in Mexico

API member companies, as foreign private sector investors in Mexico's energy market, are facing the following examples of discrimination:

- US investor enterprises carrying out retail marketing of gasoline and diesel fuels in Mexico are facing increasing difficulties in getting permitting approval for new or re-branded fuel retail stations, as the Energy Regulatory Commission (Comisión Reguladora de Energía – CRE) prolongs administrative processes for permits to transfer legal ownership that are by regulation supposed to be granted within 90 days. In addition, CRE also requests additional information to issue the permits, that is not established in the regulations, until the point of denying such permits to the companies, after several delays.
- The same enterprises face discrimination in regulations. Examples include:
 - Standards inspections by the Consumer Protection Bureau/Bureau of Weights and Standards (Procuraduría Federal del Consumidor - PROFECO), which has been shutting down pumps at US enterprise gas stations for minor or non-existent infractions for pump and hose reliability and for measurement accuracy; in addition, PROFECO has conducted routine inspections of compliant facilities with the coercive presence of the National Guard.
 - Non level playing field in enforcement of fuels regulation NOM-016-CRE-2016, where Petróleos Mexicanos (PEMEX) receives waivers while fuel importers must meet the regulatory specifications (e.g., low sulfur diesel and summer gasoline vapor pressure).
- US investor enterprises are also being affected by the new requirement effective July 1, 2020, known as the Compulsory Stock Obligation (Política Pública de Almanecimiento de Petrolíferos). This program requires a minimum of five days' fuels storage requirement. It is problematic because state-owned PEMEX owns and operates most of the certified storage capacity, since some of the other participants in the industry have not been able to construct new storage facilities due to unjustified delays in granting the required permits.
- US investor enterprises in fuels marketing, part of Mexico's downstream sector, are being undercut in fuels markets because CRE annulled, opaquely, a December 2018 Asymmetric Pricing Regulation applicable to PEMEX. The regulation was designed to be in place until PEMEX's market share decreased to 70%. PEMEX's market share at the time of annulment was still above 90%. This allows PEMEX to unfairly and opaquely undercut the pricing of foreign competitors, giving the company a significant advantage in downstream pricing.
- US investor enterprises importing fuels from refineries in the United States are experiencing delayed, rejected, and/or restricted permit issuance for imported gasoline and diesel by the Ministry of Energy (SENER).
- US investor enterprises that are constructing new facilities, a new LNG terminal and a new storage terminal for refined products, are experiencing significant delays for outstanding infrastructure permits and concessions from SENER, the Environmental Hydrocarbons Agency (ASEA), the Environmental Ministry (SEMARNAT), and the CRE, which has resulted in stopping construction of those facilities.