

COMMITTEE ON APPROPRIATIONS

RANKING MEMBER

Subcommittee on Energy and Water
Development and Related Agencies

Subcommittee on Defense

Subcommittee on Interior



MARCY KAPTUR
9TH DISTRICT, OHIO

WASHINGTON, D.C. OFFICE

2186 Rayburn Building
Washington, DC 20515-3509
(202) 225-4146
Fax: (202) 225-7711

OHIO OFFICES

(800) 964-4699
Fax: (419) 255-9623

<http://kaptur.house.gov>

November 3, 2017

Ambassador Robert Lighthizer
Office of the United States Trade Representative
Winder Building
600 17th Street NW
Washington, D.C.

Dear Ambassador Lighthizer,

Let me begin by thanking you for your serious effort as you approach the once in a generation opportunity to renegotiate the North American Free Trade Agreement (NAFTA). To secure NAFTA's original passage, many promises were made to raise standards of living for the people and communities across our continent. In the three decades that followed, too many Americans have suffered as a result of shortcomings from those broken NAFTA promises.

Millions of Americans have endured relentless job outsourcing and significant downward wage and benefit pressures under NAFTA's rigid provisions. Significant as well, our nation has never achieved a trade balance with our NAFTA competitors in over a quarter century. Indeed, since 1993, America's cumulative deficit with NAFTA partners now totals nearly \$2 trillion. This negative result represents an astounding abdication of economic growth.

I have long held the view that when a third world economy and a first world economy are joined, as occurred with NAFTA, there must be adjustment provisions to moderate the negative consequences of combining asymmetric economies. Further, divergent levels of community and legal system development present ongoing challenges to continental stability. When the European Union integrated Spain and Portugal, transition mechanisms were part and parcel to the agreement. When NAFTA was originally passed, a small step was taken in that direction but only with the passage of the North American Development Bank. And of course, sadly, that institution has only focused on the Southern Border, rather than throughout America as originally intended.

Consequently, without such robust adjustment provisions, amongst other failings, cross-border infrastructure needs remain unaddressed. Environmental investments have been shortchanged. Importantly, NAFTA's vast disgorgement in Mexico of millions of ejido farmers with no adjustment has resulted in despair and a vast continental stream of desperate, landless workers. Economic decisions do yield social consequences.



NAFTA's original provisions provided absolutely no transition for these legions of poor farmers. This remains a continental sacrilege. It has fueled labor and human trafficking, illegal narcotics, and human misery and brutality the likes of which neither of us would wish to endure. I invite you to visit communities like Anapra, Mexico with me to witness NAFTA's underbelly. I also am attaching the story of 29-year-old, Santiago Cruz, a Mexican farmworker murdered in Monterrey as he worked to stem labor trafficking by his "coyote" assassins. Simply, the United States of America cannot tolerate murder as a function of its economic practices.

In regions such as I represent, vast former production platforms remain vacant. Brownfield sites need repurposing. Many terminated workers have not been re-employed at the wage and benefit levels needed for a middle-class way of life. This ratcheting down of American workers' prospects is not only undermining their potential, it is slowly eroding the value of work itself. We witness declining aspirations by the public about their futures. Concurrently, the thriving continental underground drug trade snuffs out lives as it creates serious hiring challenges across U.S. industry.

It is with these realities in mind that I write today. In August, I hosted a field hearing in Brook Park, Ohio to hear what workers impacted by the original NAFTA demand in a modernized NAFTA. Brook Park lost over 14,500 jobs to Mexico following NAFTA's passage. As you are well aware, I vehemently opposed NAFTA's original passage because it was clear the balance of power would not favor average American workers, but rather transnational investor interests. Given President Trump's frequent calls to "protect our workers" in renegotiations, I wanted to hear specifics of how American workers believe a modern deal can better protect their interests.

To drive through our district and speak to our constituents provides a daily reminder of the plight these workers face: shuttered factories, hollowed out neighborhoods, chronic economic stress due to diminished employment opportunities in quality jobs. Time and again during the field hearing, participants called for increased worker protections, improved environmental provisions, and elimination of special courts that further enhance already bloated transnational interests. You now have great opportunity to rectify these troubles by focusing on the American worker as you negotiate with Canada and Mexico. To amplify the concerns of the hearing's participants, I am including their prepared testimony so you can read their stories and understand their experiences.

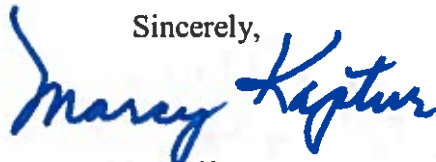
Finally, because history has shown the inclusion of labor standards as a side agreement of the original NAFTA had little merit without enforcement mechanisms, I heartily endorse the concept of requiring an Independent Labor Secretariat. The attached AFL-CIO Labor Chapter Proposal includes a detailed foundation for the Secretariat role. Given the AFL-CIO has a long and important history of promoting American worker interests, incorporating its recommendations would position the United States to lead global standards for workers. This position is tantamount to Canada's calls for the United States to abolish current right-to-work practices through NAFTA.

Your willingness and acknowledgment of the need to reduce the trade deficit, to fight for strong labor provisions, and to ensure American workers, farmers, and ranchers are better off in a renegotiated NAFTA is promising. Ultimately, the American worker demands fair trade and a

level playing field with workers in Canada and Mexico. I have little doubt that you will have the votes from Congress to support your achievement, if you negotiate a deal that puts American workers' interests first.

Thank you for taking the time to read the testimony from Ohioans who participated in the NAFTA renegotiation field hearing. I welcome the opportunity to collaborate with you further on this matter.

Sincerely,



Marcy Kaptur
Member of Congress

Enclosure:

- 1- Felicia Mello, *Murder in Monterrey*, THE NATION, April 25, 2007 at <https://www.thenation.com/article/murder-monterrey/> .
- 2- Testimony of panelists at Representative Marcy Kaptur's Book Park, Ohio NAFTA Renegotiation Field Hearing, August 3, 2017.
- 3- AFL-CIO Proposal for NAFTA Labor Chapter

Murder in Monterrey

A labor organizer was beaten to death after exposing exploitative labor practices in the United States and Mexico.

By Felicia Mello

APRIL 25, 2007

On April 9 Santiago Rafael Cruz, a labor organizer for the Farm Labor Organizing Committee (FLOC), was found beaten to death in the union's office in Monterrey, Mexico. The 29-year-old former farmworker had spent his days meeting with Mexicans who planned to travel to the United States as temporary laborers, educating them about their rights.

More than 40,000 guest workers from Mexico and other foreign countries work legally on American farms each year under a government program known as H2A. While the jobs can provide valuable income for workers and their families, advocates have recently filed dozens of lawsuits charging farmers and labor contractors with abuses ranging from failing to pay minimum wage to firing employees when they became injured.

In North Carolina, where FLOC represents laborers in the tobacco and cucumber industries, the union blames poor working conditions for the heat-exposure deaths of nine guest workers, not all of whom were union members, in the past two years. One contracting company allegedly imprisoned several Thai workers in condemned motels for weeks in 2005, confiscating their passports, according to court documents. The workers, who had each paid about \$11,500 in recruiting fees and illegal transportation costs to come to the United States, were forced to work without pay, the lawsuit claims.

Last year FLOC supported a lawsuit that resulted in a federal court ruling that prohibited most North Carolina growers and their recruiting agencies from charging guest workers such visa and transportation fees. It is the only United States union with an office in Monterrey, where thousands of Mexicans converge each year to apply for the coveted work visas. Union leaders said the office has been the target of several suspicious break-ins since it opened in 2005.

“Our organizers have been threatened by labor recruiters,” said Leticia Zavala, FLOC’s vice president. “The office has been broken into many times when nothing was stolen—things were just vandalized. But we never thought it would come to this.”

A spokesperson for the state police force investigating the murder said that “a fight between unions” in the union was the most likely motive. But union president Baldemar Velásquez dismissed that theory as “ludicrous.”

“This was a targeted act of intimidation to discourage us from doing work against all the corruption in the labor recruitment business in Mexico,” Velásquez said. The Inter-American Commission on Human Rights recently ordered the Mexican government to provide protection for the union’s remaining staff members in Mexico. Democratic Congresswoman Marcy Kaptur, whose Ohio district includes FLOC’s headquarters, praised the decision.

Democratic Congresswoman Marcy Kaptur, whose Ohio district includes FLOC’s headquarters, endorsed the petition. She said the attack on Cruz showed the weakness of migrant labor protections under the North American Free Trade Agreement.

“Here you have a situation where ordinary people are fighting an extraordinary battle to enforce labor standards on the continent,” she said. “Their lives are at risk and there is no legal system behind them.”

Cruz, a small man with a ready smile who loved salsa dancing and Italian opera, came to the Monterrey office a month ago after he was deported from the United States. Originally from Oaxaca, he had worked harvesting tomatoes and cucumbers in Ohio before becoming an organizer with FLOC in 2003.

“He was so lively and so strong,” said Zavala. “Even before working for FLOC he was always volunteering. He lifted so many programs up from scratch.”

Two weeks before his death, Cruz sat in his one-room office chatting with me and two brothers who had stopped by to ask for help. One of the brothers had injured himself in the

chest while working for a landscaping company in Ohio. His employer, he complained, was refusing to pay his medical bills. Cruz gave them phone numbers of agencies to call in the United States.

“Sometimes it makes me feel a little desperate, the way the farmers treat [the workers] like animals,” he said later. “I tell them, ‘If it’s too hot, if you feel bad, get out of the fields. If someone says something to you, call the union.’ This is our mentality, to organize to improve their lives. It’s hard work, but I like it.”

Felicia Mello Felicia Mello is a freelance writer whose work has appeared in *Salon* and *The Los Angeles Times Magazine*.

To submit a correction for our consideration, click [here](#).
For Reprints and Permissions, click [here](#).

Testimony of Roger Wise, Ohio and National Farmers Union

August 3, 2017 NAFTA Remarks

Good afternoon. Thank you Rep. Kaptur, Elizabeth of the Citizens Trade Campaign and President Mark Payne, Local 1250 for hosting this very timely event about this very important topic.

My name is Roger Wise and I am a 4th generation full-time family farmer and have been so for more than 40 years. I am here today on behalf of the Ohio and National Farmers Union. NFU is the oldest active farm organization in the country, advocating since 1902. Ohio has been chartered since 1934.

Nationally we represent over 200,000 family farmers and ranchers and fishers. Here in Ohio we tout 2500 of those members. Four of them are here with me today, Marge and Mardy Townsend from Astabula Country, and of course Congresswoman Kaptur.

The Farmers Union organization works through grassroots driven policy to improve the well-being and quality of life for family farmers, ranchers, fishers and rural communities. Each year at our national fly in we bestow on like-minded members of Congress our most prestigious award, the Golden Triangle. Rep. Kaptur has received it more than 25 years running, more than any other legislator; and we are grateful for her support.

I remember vividly when the Secretary of Agriculture, Earl Butz declared the United States would plant “fence row to fence row” and we would export our nation to prosperity and feed the world along the way. That 70’s expansion lasted only a few years because American farmers soon produced massive surpluses, interest rates, inflation and input costs skyrocketed, prices plummeted and competing countries developed their own farming techniques. The farm crises of the 80’s began and lasted for the next 25 years. Farm program payments accounted for 50% of farm income. The mantra was that profit came in “economies of scale”, and we must “get big or get out”. Many family farmers and ranchers did exactly that, some by choice, many by the force of the bank.

Trade agreement seeds were planted and gathered momentum in the 80’s.

NAFTA was the poster child. Assurances were given that no jobs would be lost, in fact, many more would be created; and the economies of the United States, Mexico and Canada would explode for the benefit of the people in all 3 countries. President Clinton signed on to the agreement ensuring us this would be the economic model for the world.

Now, 25 years later we know the rosey assumptions and predictions did not play out in reality like they did on paper. American workers lost their manufacturing jobs to low wage Mexican workers who were also decimated product quality eroded, unions were decimated, family farmers either quit or were forced out of business, the middle class began to shrink and the trade deficit began to climb.

Agriculture, however, through it all was championed because the United States consistently enjoyed trade surpluses primarily from corn and soy exports. Unfortunately though, family farmers, ranchers, and consumers did not benefit from NAFTA. With the exception of the boom year 2008-2013, which were due to the Renewable Fuel Standard, not NAFTA, close inspection reveals vertically integrated multi-national companies reaped the profits while farmers in all 3 countries saw margins decline to the point of non-profitability; and all the while our trade deficits soared. Additionally, trade deals opened the door to consolidation and mega-mergers which led to less competition, non-competitive markets, higher costs, fewer choice and reduced research and development. An example of the latter is herbicide weed resistance.

For decades Country of Origin Labelling, “COOL” has been the signature issue the Farmers Union. We pushed for its passage with great vigor because it benefits producers and 95% of consumers support it. Simply, it requires beef pork and poultry to be labeled with the country from which these products came. Rep. Kaptur has been indefatigable promoting this issue. In fact, she is more steadfast supporting and promoting COOL than any congressperson in D.C. and we are grateful for her efforts. This requirement is not unique and this virtually all of our trading partners have a form of COOL and all of them are WTO compliant.

Our coalition efforts paid off in 2002, when COOL was included in the Farm Bill. Unfortunately, special interests, uncaring about its popularity and practicality, lobbied to prevent its funding and the measure was not implemented. Our efforts continued and in the 2008 Farm Bill COOL was mandatory and it became law of the land.

Again special interests went to work to derail the law. They challenged it 3 times in Federal Court and lost each time. Undeterred and well financed, Canada and Mexico were coerced into filing suit with the WTO. Ironically, the tribunal was chaired by none other than Mexico. With the deck clearly stacked against us, our case was lost and Congress, under bogus threats of economic reprisals repealed COOL.

For NAFTA to be meaningfully renegotiated, re-instating COOL must be a high priority for the benefit of farmers and consumers.

Food production and its safety are national security issues as well as an economic ones. Trade agreements have led to reduced border inspections of food imports. Further, these agreements have deemed other countries less stringent safety regulations adequate for our import inspections. This relaxing of regulations puts our farmers and ranchers at a disadvantage because our products are routinely of higher quality.

Currency manipulation and the overvalued U.S. dollar makes our exports more expensive relegating us to the supplies of last resort which also adds to the trade deficit.

Farmers and ranchers were not helped by America's withdrawal from the Paris Climate Agreement. Farmers are poised to help mitigate climate change both here and around the world through conservation, carbon sequestration and other initiatives to assure sustainability for decades to come. Climate change must be part of any meaningful trade agreement based on public funded, peer reviewed science based research.

To conclude, the record must be clear. NFU is not anti trade or protectionist. We are keenly aware that the economy is global and trade is a critical component of world economics. We do, however, believe that trade deals should benefit farmers and workers in all counties. Living wages, competitive markets, with safety and welfare in the work place guaranteed; and all nations must strive for a clean and healthy environment to preserve our planet for centuries hence. Only then will trade be fair and our deficit decline.

Thank you

NAFTA Field Hearing with Rep. Marcy Kaptur

Testimony of Nick "Sonny" Nardi, President, Teamsters Local 416

Good afternoon. My name is Sonny Nardi and I am president of Teamsters Local 416 in Cleveland.

In May 2000, 320 Teamsters got laid off from the Mr. Coffee plant in Glenwillow, about 20 miles east of here. Their jobs went to Mexico because of the North American "so-called" Free Trade Agreement.

My Local, Teamsters 416, lost hundreds of jobs to NAFTA

--120 jobs at HOSPECO on 79th and Carnegie in Cleveland,

--60 jobs at Muller Electric on Pain Avenue in Cleveland

--96 jobs in Bedford Heights, The Mr. Coffee Filter Division

--115 jobs at Blue Coral Car Wax in Maple Heights

These were all good paying jobs with benefits and many were inner city jobs, workers could walk to work and had much tenure.

Most of these guys, because their production jobs were simply shifted to Mexican plants, were eligible for some federal benefits under a narrow NAFTA program called "Trade Adjustment Assistance," or TAA. Here in Ohio, under NAFTA TAA, more than 150,000 workers have been certified as lost their jobs due to offshoring—plant relocation like Mr. Coffee—or because of increased imports from Mexico and Canada that reduce production and jobs at American companies.

But, as everybody knows, the TAA totals are the tip of the iceberg because that program certifies only the manufacturing jobs that we have lost because of NAFTA—not the services jobs that depend on a strong manufacturing base.

So, when you factor in those jobs, as well as the manufacturing jobs Ohio has lost due to our flawed and failed so-called "free trade" policies, than Ohio. And, on a personal note, as a longtime northern Ohio Teamster leader, there aren't many Local unions that have been decimated, the way 416 has, by NAFTA.

And on another point of personal privilege, I want to say that American workers, not just here in Cleveland but all over the country, have had no better friend, no greater ally, than Congresswoman Marcy Kaptur.

Some folks here are probably too young to remember the NAFTA Accountability Act back in the mid-90s. That was Marcy Kaptur shining a legislative light on the NAFTA disaster even as the jobs were staring to flow south.

That's why this field hearing is so important and that's why the renegotiation of NAFTA is an historic opportunity.

So I want to spend a couple of minutes on how we can overhaul the NAFTA to begin to repair the damage. Specifically, I want to describe some things that must be included in a new NAFTA, new Chapters, as well as some old parts of NAFTA that must come out.

But let me be really clear at the outset: if the Trump trade team does not renegotiate NAFTA in a thorough way that works for workers, then the US should quit the deal altogether.

I can't speak for the other folks on this panel today, but the Teamsters demand a complete overhaul of the NAFTA model. No cut-n-paste of the Trans-Pacific-Partnership, no tweaking around the edges. We want a NAFTA upgrade that puts in interests of working families first and foremost.

To achieve this goal, the top priority has to be a new Labor Rights Chapter to replace the weak and unenforceable side agreement added to NAFTA to get Congress to support ratification in 1993.

When it comes to North American worker rights, we've got to level the playing field, so Mexican workers and union organizers have the same rights we take for granted up here. That will reduce the incentive for corporations to relocate jobs down there, if they can't oppress labor or avoid collective bargaining.

The new NAFTA must prohibit child labor and forced labor and protect the freedom of association and the right to bargain collectively through independent unions. Further, those fundamental labor rights must be enforceable by the same or better trade sanctions that protect commercial interests.

Moreover, a truly modernized NAFTA should establish a process to determine basic living wage rates in all regions of all free countries and an enforcement mechanism to guarantee a decent standard of living, including to save for retirement.

All these basic labor rights and the sanctions that protect them and the commitment to living wage must be enforced by an independent tri-national labor secretariat that can hear labor cases and resolve them on behalf of all workers, including migrant workers.

Last point on labor: this new NAFTA chapter will serve as a template for future negotiations, so it is crucial that America get it right this time.

Another new chapter that must be part of the NAFTA replacement model is Currency. One of the reasons we could not support the TPP was the previous administration refused to include enforceable disciplines against currency manipulation.

America has learned the hard way how our trading partners manage their currencies against the dollar to increase their exports to us (and limit imports from us), which increases our trade deficits, which costs American jobs. We're not saying that Mexico or Canada is currently manipulating their currencies. But we are saying that a replacement trade model that we will support must finally address the issue of currency misalignment.

Let me finish by mentioning a couple bad NAFTA provisions that must come out during renegotiation.

The first is Government Procurement, which is NAFTA chapter 10. It has undermined "Buy American" laws by requiring the federal government to treat foreign bidders as if they were US bidders. To Buy American is to Hire American; that's how it works, and we want our jobs back and our tax dollars spent at home.

Going into these new NAFTA talks, the U.S. should retract all procurement commitments that undermine responsible bidding standards and all domestic or local preferences. Teamsters and taxpayers from both sides of the partisan divide support "Buy American"—and we don't want the new NAFTA to weaken that economic policy, especially as we look forward to the infrastructure investment that this country needs so badly.

The second thing that must come out is the controversial system of private corporate courts that protect foreign investors. NAFTA's chapter 11 introduced so-called "investor-state dispute settlement" (ISDS) into our "free trade" deals, giving foreign companies superior rights over U.S. firms.

ISDS undermines the rule of law and facilitates offshoring by creating unique privileges and secretive arbitration chambers in which foreign investors, but not American firms, can challenge laws the claim will cut profits.

A third bad provision, of particular interest to the Teamsters, is in Chapter 12, which deals with trade in services. The old NAFTA opened up American highways to unsafe Mexican-domiciled long-haul carriers.

We and our allies like Advocates for Highway Safety, the Sierra Club and the Owner-Operator Independent Truckers, have fought for many years, in the Congress and in the courts, to keep that provision from being fully implemented.

The original intent of the NAFTA negotiators was to keep US interstates closed to Mexican carries until the safety of the trucks and drivers could be certified. That never happened. Accordingly, we call on the new NAFTA RE-negotiators to end this controversy once and for all. The new NAFTA should require Mexican-domiciled trucks to transfer their loads to US trucks in the 20 mile wide border commercial zone.

In conclusion, I have named two new chapters that must be included in NAFTA 2.0 and three bad aspects that must come out—five reforms that will keep and create middle class jobs and help America lead the way towards a new trade policy program, a template for all future international commercial agreements.

But, seeing as we are enjoying the hospitality of our UAW brothers and sisters here in Local 1250, I want to mention one last NAFTA fix.

The Rules of Origin for autos and auto parts should be beefed up. The "regional value content" should be raised and all loopholes closed. In order to enjoy the low tariffs and NAFTA market access, all cars and trucks that are made in the

three countries should not have components that are made in other countries where wages are suppressed by companies that oppress workers and pay them less than their labor is worth.

That solidarity is what this opportunity is all about. Autoworkers and Steelworkers and Machinists and Teamsters, the labor unions that have had the worst experience under NAFTA and now have the greatest stake in real overhaul in its renegotiation. We must stand in solidarity with our brothers and sisters in the independent unions in Canada and Mexico. And, in turn, all of labor must stand in solidarity with environmental activists, consumer advocates and the family farmers.

Together, we have been fighting NAFTA and its expansion for a generation. Now we can work together, with our allies in Congress, to finally fix it.

THANK YOU

BlueGreen Alliance Testimony, Lee Geisse, Regional Program Manager

We know that it is possible to have trade agreements that don't engage the U.S. in a race to the bottom, but instead lift up our own workers and workers throughout the world. We applaud Congresswoman Kaptur's work on this issue and so many others that are vital to the future of Ohio's workers, economy and the environment! Thank you for bringing these folks together and inviting the BlueGreen Alliance to participate!

In 2006, the United Steelworkers and the Sierra Club formed this unique Alliance—founded with the belief that we no longer have to choose between good jobs and a clean environment; we can and must have both. In these 11 years, we've convened workers, environmentalists, and industry leaders to forge partnerships that help us find solutions to address historic problems like climate change in ways that create and secure quality jobs. Together, we are a powerful voice for good jobs, a clean environment, and a fair and thriving economy.

The North American Free Trade Agreement, also known as NAFTA, has been in effect since 1994. The current Administration has announced plans for its renegotiation, but without much detail. That renegotiation begins this month. For far too many, NAFTA has meant the loss of good, quality paying jobs and increased pollution, as the deal exacerbated offshoring and profiteering off the backs of workers and the environment. It's time for a trade agreement that levels the playing field and makes deep reforms to strengthen workers' rights and environmental standards. American workers should expect agreements that ensure that other countries have to play by the same worker safety and environmental rules that we do. Anything short of [this] would be a failure.

NAFTA's replacement must support good union jobs, livable wages, healthy communities, clean air and water, and a more stable climate. Through an open, public process, the U.S. can partner with other nations in mutually beneficial trade and climate agreements that are fair, protect workers' rights and jobs, safeguard the environment; ensure the democratic processes of sovereign nations are not overturned by unelected bodies; and raise the bar for consumer and public protections in all nations that are signatories. The BlueGreen Alliance recommends a new approach to trade that lifts up workers and communities. This requires fundamental changes to NAFTA, including:

1. **Creating a transparent and inclusive renegotiation process.** NAFTA renegotiations should not be done in secret but should be transparent and allow for public participation. This means inviting and incorporating public input on U.S. proposals for the agreement, and making negotiating texts available for public comment after each negotiating round. Workers, environmentalists, and other key stakeholders should be part of the process to make sure negotiators understand the impact of the deal on jobs and the environment. *It is critical that all stakeholders and the general public be involved in a transparent, fair, and participatory negotiating process.*
2. **Eliminating corporate courts that incentivize offshoring and undermine environmental protections.** NAFTA's Investor-State Dispute Settlement (ISDS) provision has created private courts in which foreign corporations can demand compensation for environmental protections and other democratically enacted laws before unelected, unaccountable, panels of corporate lawyers. By creating unique privileges for foreign investors, ISDS can incentivize offshoring and threaten the very safeguards we have democratically enacted. NAFTA's broad rights for foreign corporations, including ISDS, must be eliminated—mere tweaks will not be sufficient. *NAFTA's replacement must eliminate ISDS so as to safeguard workers and environmental and health protections.*
3. **Including strong and binding labor and environmental protections—including wage and climate standards—in the core text of the agreement.** NAFTA has enabled corporations to offshore production to take advantage of lower environmental and labor standards abroad. This has significantly impacted workers in both the manufacturing and service sectors. It has spurred the loss of good paying jobs, carbon leakage, and the export of pollution, while undermining domestic labor and environmental protections. To fix this, NAFTA's replacement should establish a binding floor of labor and environmental protections across North America. It should require signatory countries to adopt living wages for workers and to implement policies to fulfill important international labor and environmental agreements, including the Paris Climate Agreement and the International Labor Organization's conventions. These commitments should be included in the core text of the agreement and trade

sanctions should be used to penalize violations. *NAFTA must make a commitment to prioritize workers and the environment.*

4. **Creating a stronger, independent enforcement mechanism.** Rules mean nothing if they aren't enforced. In the history of the U.S. trade agreements, labor and environmental provisions have consistently been ignored. Even post-2007 trade agreements with labor and environmental provisions in the core text have failed to produce disputes over widely documented labor and environmental violations. To fix this, the agreement that replaces NAFTA must create a new, independent dispute settlement mechanism for enforcing labor and environmental provisions rather than replicating the failed system of the past. *Stronger enforcement is critical to ensure that the agreement is upheld and that it creates a fair playing field among all parties.*
5. **Protecting and promoting Buy American and green procurement policies.** Currently NAFTA requires that the federal government treat foreign bidders as if they were American bidders when deciding how to spend U.S. taxpayer money. It also includes rules that limit governments' ability to use "green purchasing" requirements that ensure government contracts support environmental protection. To protect and grow America's manufacturing and service sector employment, create taxpayer funded jobs in the U.S., and safeguard our air and water, *NAFTA's replacement should support domestic job creation and responsible bidding standards.*
6. **Strengthening rules of origin.** Rules of origin should benefit producers and workers across North America. For example, NAFTA's replacement needs to adopt more robust rules of origin that require automotive manufacturers to make a higher percentage of new vehicles and their parts in the originating country in order to qualify for tariff free trade. The agreement should ensure the signatory countries receive manufacturing, investment, and production benefits of the agreement. Under the current agreement, many countries that are not part of the agreement take advantage of loopholes to gain market access. *The rules of origin and regional value content need to be updated so that they can incentivize manufacturing and production domestically.*

We know exactly what causes outsourcing: low wages, exploited workers in unsafe working conditions, and weak, or non-existent, environmental, protections in other countries.

Americans, Ohioans, and working people everywhere need fair trade deals that put workers and the environment first and don't put corporate interests above our health, our rights, and our safety.

The promise of NAFTA being a job creator was hollow, and thousands of Ohio workers watched helplessly as this flawed trade agreement led to the outsourcing of middle-class jobs. While Donald Trump has promised to renegotiate NAFTA, the skepticism is that his billionaire, climate-denying cabinet, could actually make it worse!

All of our partners and allies must commit to helping champions like Congresswoman Kaptur watch closely and ensure that the voices of working people are heard throughout this process to support—not undermine—good jobs, efforts to address climate change, and safe worksites and healthy communities!

Cheryl Johncox, Organizing Representative, Sierra Club

Thank you, Congresswomen Marcy Kaptur, for this very important hearing associated with the North American Free Trade Agreement Renegotiation. My name is Cheryl Johncox and I am a member of the national field team of Sierra Club.

For more than two decades, the North American Free Trade Agreement (NAFTA) has harmed communities across Canada, Mexico, and the U.S.—particularly people of color and lower income families—by undermining environmental protections, eliminating jobs, increasing air and water pollution, eroding wages, and fueling climate change.¹

To transform NAFTA from a polluter-friendly deal into one that supports environmental protection, any renegotiation must include, at a minimum,

1. **Eliminate rules that empower corporations to attack environmental and public health protections in unaccountable tribunals.** NAFTA's investor-state dispute settlement (ISDS) system has empowered multinational corporations to bypass our courts, go to private tribunals, and demand money from taxpayers

for policies that affect corporate bottom lines. Corporations have used NAFTA to challenge bans on toxic chemicals, the decisions of environmental review panels, and protections for our climate. They have extracted more than \$370 million from governments in these cases, while pending NAFTA claims total more than \$35 billion.² The cases are heard not by judges, but by corporate lawyers outside the normal court system. Broad corporate rights, including ISDS, must be eliminated from NAFTA to safeguard our right to democratically determine our own public interest protections.

2. **2. Add strong, enforceable environmental and labor standards to the core text of agreement.** NAFTA's weak and unenforceable environmental and labor side agreements facilitated a race to the bottom in which corporations could offshore jobs to exploit lower environmental and labor standards in another country. Any deal that replaces NAFTA must create a fair playing field by requiring each participating country to adopt, maintain, and implement policies to ensure compliance with domestic environmental laws and important international environmental and labor agreements, including the Paris climate agreement, and treaties protecting Indigenous rights. In addition, each country must make commitments to tackle critical conservation challenges related to illegal timber trade, illegal wildlife trade, and fisheries management. These commitments must be included in the core text of the agreement and made enforceable via an independent dispute settlement process in which trade sanctions are used to correct labor and environmental abuses.
3. **Safeguard energy sector regulation by overhauling overreaching rules.** NAFTA's energy chapter, written before awareness of climate change was widespread, must be eliminated.. Other NAFTA rules allow renewable portfolio standards, low-carbon fuel standards, and other climate-friendly energy regulations to be challenged for impeding business and hurting corporate bottom lines. Such rules must be narrowed to protect climate policies in each country.
4. **Restrict pollution from cross-border motor carriers.** NAFTA encouraged a rise in cross-border motor traffic without doing anything to mitigate the resulting increase in harmful vehicle emissions.⁵ Any deal that replaces NAFTA must require cross-border motor carriers to reduce emissions in order for their goods to benefit from reduced tariffs. In addition, all cross-border commercial vehicles must be required to comply with all state and federal standards to limit pollution.
5. **Require green government purchasing instead of restricting it.** NAFTA's procurement rules limit governments' ability to use "green purchasing" requirements that ensure government contracts support renewable energy, energy efficiency, and sustainable goods.⁶ NAFTA's replacement must *require* signatory governments to include a preference for goods and services with low environmental impacts and fair labor practices in procurement decisions.
6. **Bolster climate protections by penalizing imported goods made with high climate emissions and lax labor standards.** NAFTA allows firms to shift production to a country with lower climate standards, which can spur "carbon leakage" and job offshoring.⁷ To prevent this, and encourage greater climate action from high-emissions trading partners, each country must be required to impose a border tax on imported goods made with significant climate pollution, and unfair labor practices.
7. **Add a broad protection for environmental, labor and other public interest policies.** NAFTA's many overreaching rules restrict the policy tools that governments can use to protect the environment and other broadly-shared priorities. NAFTA includes no provision that effectively shields public interest policies from such rules – only a weak "exception" that has consistently failed to protect challenged policies.⁸ Instead; any deal that replaces NAFTA must include a broad "carve-out" that exempts public interest policies from all of the deal's rules.

Any NAFTA renegotiation must be conducted through an open process that invites the public to help formulate U.S. positions and to comment on negotiated texts after each negotiating round. Bolstered by resurgent support for a new trade model, we commit to push *for* this environmental overhaul of NAFTA, and *against* any polluter-friendly deal that masquerades as change.

Amy Hanauer, Policy Matters Ohio

Representative Kaptur and others, thank you for the opportunity to testify today alongside these strong community leaders. I'm Amy Hanauer and I run Policy Matters Ohio, a policy research institute dedicated to creating a more vibrant equitable, sustainable and inclusive Ohio. Find us online at www.policymattersohio.org

Trade and jobs in Ohio: Key principles to improve outcomes for workers

NAFTA and other trade agreements have eliminated jobs in Ohio and the United States. Manufacturing remains an essential part of Ohio's economy, despite its downturn. Smart policy can strengthen Ohio manufacturing while making our economy greener and stronger. Some key recommendations include:

- Invest in infrastructure, particularly clean energy
 - Invest in solar panels and wind turbines
 - Structure these projects carefully, prioritizing good jobs and diverse workers
- Support American manufacturing through proven programs
 - Support manufacturing extension programs
 - Buy American when spending public dollars
 - Support smart worker training
- Improve trade agreements
 - Increase worker protections
 - Improve environmental standards
 - Eliminate special courts

As we have long documented at Policy Matter, the North American Free Trade Agreement and other trade agreements have not accomplished what they were supposed to in Ohio. Our current trade rules favor multi-national corporations and their investor over workers and citizens. As a result, these policies have reduced the quantity and quality of domestic jobs, thereby exacerbating wealth inequality. Many multinational corporations that once employed people here have instead located in places with lower wages, fewer environmental regulations, and weaker labor regulations. NAFTA rules made that shift easier.

One reason these deals have been so destructive is that they transfer power away from citizens and to international investors. They bar nations, states, and cities from enacting labor and environmental policies that protect the public. They block local governments from using policy to boost demand for domestic products, such as local sourcing.

NAFTA was promoted as being broadly helpful to Americans and our trading partners. But the economist Susan Helper recently testified that NAFTA slowed wage growth in U.S. industries and regions. This hurt not just manufacturing workers, but also service employees, as displaced manufacturing workers sought jobs in restaurants and retail and as laid-off workers had less to spend in the economy. In Mexico as well, wages stayed mostly flat even though productivity increased. Mexican manufacturing wages remain well under 20% of US manufacturing wages.

The Economic Policy Institute found that NAFTA cost the U.S. 683,000 jobs from 1994 to 2010. Manufacturing, as a sector, lost the most, 60.8 percent. Geographically, Midwest states like Ohio took the hardest hit. NAFTA also displaced Mexican small farmers and business owners, and did not raise wages relative the US. Despite that, the treaty became a model for the World Trade Organization, China trade normalization, and other deals. AS a result of all of these, economist Jeff Faux estimates an additional net loss of 2.7 million U.S. jobs and economist Josh Bivens found that the typical American with just high school degree loses \$1,800 a year.

Manufacturing has declined, but remains an essential part of Ohio's economy. One in eight Ohio employees works in manufacturing. We had 687,000 manufacturing workers in 2015: only California and Texas have more. Average wages of \$1,119 a week were 24.9 percent higher than in other sectors. Ohio manufacturers contributed \$108 billion to the economy in 2015, 17.8 percent of the total for the state. So that sector is responsible for one in every six dollars and one in every eight jobs in Ohio. The typical worker with a high school diploma and no college earns \$2.99 more per hour in manufacturing.

While the sector has generally lost employment over the past several decades and in the most recent recession, some signs point to a partial recovery. Good policy, including trade policy, can make this more likely. There are clear things we can do to improve policy so that workers and the environment on all sides of the border are better protected.

At Policy Matters, we recommend three large policy priorities to address these issues:

- Invest in infrastructure, especially energy: America's infrastructure is crumbling around us and we are completely underinvested in infrastructure that would reduce energy use and address other environmental problems. We should get to work now, upgrading, maintain and building infrastructure that would strengthen our communities and make our planet more sustainable, and we should make sure that American products are used throughout these projects. To name a few priorities:
 - We should install solar panels on every public building in the United States, buying from American companies and having unionized tradespeople do the installation. Right here in Cleveland there are entrepreneurs selling solar panels and they argue that even here in snowy Cleveland, many residential solar installations now pay for themselves in less than a decade and commercial systems will pay for themselves in less than six years. Representative Kaptur is a longtime champion of this approach, and Toledo, with its extensive glass-making history, has a strong supply chain that could play a key role in this work.
 - We should be installing wind turbines wherever appropriate, using Ohio's substantial supply chain to produce component parts for these turbines. Here in Cleveland, we continue to want to see the Lake Erie Economic Development Company project build the first fresh water wind farm in the country on Lake Erie. WE got some great news just this week that this project cleared another hurdle and is moving forward – but movement has been much slower than needed because public policy at the federal and state level just don't incentivize this kind of job-creating energy-generating investment.
 - These projects should be structured carefully. There are sound principles at the website millionsofjobs.org that I encourage you to look at, but some of the elements we support include supporting direct public investment, not tax giveaways for corporate subsidies and making sure that these projects are union-built, have inclusive workforces that represent the diversity of the communities in which they're being done, and have worker and environmental protections. SA mentioned, all of these projects should pay decent wages, should source from US made products, and should prioritize the needs of disadvantaged communities – both urban and rural. Finally, these projects should be paid for through fair, progressive taxes so that the wealthiest Americans and giant corporations who reap the greatest economic benefit from public goods pay their fair share.
- Support American manufacturing through proven programs:
 - Manufacturing Extension Partnerships (MEPs) help manufacturers work together to solve problems and find solutions to assist their sector. They assist with research and development, commercialization, joint marketing and branding, worker training, identifying new technology, share investments like makerspaces, and reshoring. The federal government should deepen investments in MEPs. Instead President Trump's budget proposal threatens to entirely eliminate this modest but successful program. Similarly, the manufacturing innovation institutes that have been so successful, including one in Youngstown, face 70% cuts in the Trump budget.
 - Buy American: We should Buy America provisions for all public spending at all levels of government. Senators Rob Portman and Sherrod Brown have both voiced support for these important provisions and I would urge you to join in that support. The Trump Administration should apply Buy America to all federally-funded infrastructure projects. President Trump's intent in this area is not entirely clear and we should encourage him to make good on promise he has made to support American products. While Buy America rules apply to some federal infrastructure programs, many taxpayer-funded projects still lack rules requiring the use of American-made projects. Brown's proposed legislation would ensure Buy America rules apply to all federally-assisted projects.
 - Invest in worker training: The Workforce Investment and Opportunity Act, WIOA, trains and educates workers, focusing on career pathways and apprenticeships. By incorporating a strong understanding of the labor market, WIOA is transforming the workforce system for those who face significant barriers to employment. The act pushes the public sector to better serve low-skilled, low-income adults so they can

achieve not just self-sufficiency, but real economic mobility. Ohio trains have been working hard to take advantage of these new approaches. For Ohio workers who face barriers to employment and tough job markets, it's essential that we all deliver. Yet, this program too is on the chopping block under the Trump Administration. The Trump budget calls for cuts of approximately \$1 billion from the WIOA program. The cuts represent about a 40 percent reduction from current funding levels and would have devastating impacts on states and local communities seeking to address the real needs of businesses and jobseekers. Instead of cutting WIOA, we should be enhancing it.

- Improve trade agreements. This encompasses three primary provisions.
 - Increase worker protections. NAFTA has reduced bargaining power for workers in both the US and Mexico. Workers and their representatives have little ability to object to sweatshop conditions or labor law violations. At most they can call for consultations that have no enforcement mechanisms. Investors have much more power to object and much stronger mechanisms to do so. Worker representatives from all countries in an agreement should be brought in to propose standards. I encourage this committee to consult the AFL-CIO (2017) and the Roosevelt Institute (Tucker, 2017) about how best to remedy this in renegotiation.
 - Improve environmental protection. Environmental protections in NAFTA are relegated to side agreements with no enforcement provisions. This is why we've seen more use of polluting fossil fuels, less protection of greenspace and forests, and more deeply problematic mining since NAFTA. Other testimony today provides more detail on how best to address environmental concerns, but minimally, those who breathe the air, drink the water, and suffer from global warming should have as much power as multinational corporations to raise their issues. (350.org et. al, 2017)
 - Eliminate special courts for investors. NAFTA established special courts where firms can challenge government policies that affect their investments. These "investor-state dispute settlement" (ISDS) mechanisms undermine democracy and national sovereignty. This system should be eliminated so that citizens again have the ability to advocate for the laws they think will best protect their communities

In sum, there is much that federal policy can do to create fair trade, to promote American manufacturing, and to improve job quality and availability. We decide the kind of economy we want to have and we can choose one that does more for our families, communities, and planet. We appreciate your interest in exploring and further those policies.

Donnie Blatt, Assistant to the Director, United Steelworkers-District 1

I would like to thank the sponsors for holding this event, UAW Local 1250 and its officers and of course our great Congresswoman Marcy Kaptur. Congresswoman Kaptur has been a great public servant for many years and has been a great friend to the United Steelworkers, not only in her Congressional District but all over Ohio and our Nation. I want to thank her personally for her role in the re-negotiation of the North American Free Trade Agreement (NAFTA). The United Steelworkers have been involved in the trade debate since NAFTA was inception in 1994 and we are happy to include our voice going forward to again try to make trade competitive and fair for all workers, not just in the United States, but for the workers of our trading partners as well.

As an International Union that represents workers in a wide range of sectors, not just steel but aluminum, tire and rubber, glass, paper, auto parts, fabrication, public sector and many more. We have a wide range of knowledge on trade and how trade affects not only the U.S. workers, but also the communities where they live. The biggest problem with NAFTA and similar trade agreements is that it allowed for multi-national corporations to shift jobs wherever workers can be exploited and environmental regulations are the weakest. Even with the promises of great economic growth for all the U.S. Labor Department certified nearly 1 million manufacturing jobs has been lost just with the NAFTA agreement alone.

With NAFTA and other NAFTA-style trade policies such as Permanent Normal Trade Relations with China (PNTR), the Central America Free Trade Agreement (CAFTA) and the Korea-US Free Trade Agreement (KORUS), the United States has closed roughly 60,000 manufacturing facilities here at home. To put things into perspective, this represents 3 times the number of people that live here in Brook Park, OH. If you would go around Brook Park today, every man you would see would be equal to 3 manufacturing facilities closed, for every woman you would see would be equal to 3 manufacturing facilities closed and for every child you would see would be equal to 3 manufacturing facilities closed. The 60,000 closed facilities equates to around 5 million lost manufacturing jobs. This number represents the entire population of the states of Montana, Idaho, Wyoming, North Dakota and South Dakota combined. It's not just about manufacturing jobs, the U.S. has also experienced job loss in the sectors of computer programming, call centers, engineering and service sector jobs as

well and many other employment sectors. In Ohio alone, since NAFTA, we have lost over 300,000 manufacturing jobs which is more than every man woman and child that lives in the city of Cincinnati.

Along with the jobs that are lost directly in manufacturing, there are effects to the local community. First, because manufacturing jobs typically pay more than other jobs in the area, when they are lost there is a natural downward pressure that is put on wages and benefits to remaining jobs in the immediate area. Secondly, the combination of the lost manufacturing jobs and the downward pressure on the remaining jobs means less money for the community tax base, which affects the schools, police and fire departments, roads and bridges and other public services. This means the public sector workers are left struggling to maintain a decent standard of living for their families. Donald Trump has been right to highlight NAFTA and the impact it has had on our trade deficit. Yet his administration has failed to propose the bold changes needed to properly replace NAFTA, reduce our trade deficit, and create more manufacturing jobs that would raise wages for workers at home and abroad, as was promised.

There are conditions needed in future trade agreements that the Trump Administration has not committed to, to make trade fair and a level playing field. First, we need a strong and enforceable labor and environmental standard that will not only lift wages and protect jobs here at home, but will lift working conditions abroad. So far the Trump Administration only seeks to use the weak and unenforceable standards from previous agreements. Second, we need to end investor state protections that make it easier for multi-national corporations to shift jobs overseas and end investor state dispute settlements that allow corporations to sue the United States taxpayers because of a law that may protect its citizens yet may increase corporate production costs. Third, we need stronger rules of origin laws and close the back door that allows parts made in China and Vietnam and assembled in the United States and labeled made in the USA in order to get tariff relief protection. Tariff deduction should not be granted unless the majority of the product is made here at home. Lastly, we need to end the NAFTA ban on "Buy America" so tax dollars can be used as much as possible to create jobs that local communities desperately need. The White House plan to renegotiate NAFTA is vague on these four points. If the NAFTA renegotiations process is going to benefit American workers we have to hold the White House more accountable for these promised changes and more.

Finally, the NAFTA renegotiations cannot be done behind closed doors with corporate advisors dictating the terms of the Agreement. This creates too many conflicts of interests. They must be transparent and exposed to public scrutiny. The United Steelworkers stand ready to lend their voice and resources to ensure these points are part of any NAFTA renegotiations. Thank You Congressman Kaptur for your work and your consideration.

NAFTA Hearing, Mark Payne

I am here to talk about manufacturing in Cleveland and the effect NAFTA has had on our Site. At one time our Site had over 14,000 workers. Our Aluminum Plant phased out 2005 and the equipment was loaded up and sent to Cifunza, Mexico.

Our Casting Plant phased out in 2010 and its work was sent to Mexico and Tupy, Brazil. Engine Plant 2 Phased out in 2012 and is now sitting idle. This Plant won the Shingo Award for best quality!

What is the common denominator here? **Bad Trade Agreements!!!!**

We battled against the EPA Restrictions in the Casting Plant. We fought against low wages from other countries.

How do you compete against poverty wages? Against lax EPA standards from other countries? Against a lack of investment in America?

Across from our Union Hall once stood our Casting Plant, it is now just an open field...Was it dirty work, yes, **but it was our work!!!**

Our workers know the effects of a bad Trade Agreement!

But, we did not have a Level Playing field!

Trade Agreements seeks to drive down our wages in a race to the bottom. The current Mexican auto worker wage has even fallen under NAFTA, from \$3.95 an hour to \$2.93 an hour.

With fair competition we have proven that we will excel in the global marketplace. But we must have a living wage for a fair day of work. We must invest in America.

The problem is our Trade agreements "perception" of progress, without making any. The problem is our trade agreements reward Companies that take work out of America.

Are the Trade agreements unlocking the opportunities for America or are we just widening the lane for our jobs to leave America?

Trades Agreements has cost Ohio over 323,000 manufacturing jobs. Under NAFTA the trade imbalance in the auto sector has grown from \$3.5 billion in 1993 to \$45.1 billion in 2016.

Ford will say that they were only following their "Way Forward" Strategy. For Cleveland NAFTA has been a job killing strategy.

No one can tell me that low wages mixed with lax EPA standards was not a part of Ford's "Way Forward" decision to relocate our work.

Nothing stings worse than having your jobs moved to another country produce the product you used to make, and have that same product brought back into this Country for us to buy.

In Cleveland, we are slowly coming back, we produce the 3.5 and 3.7 V-6 Ecoboost engines and we were able to accomplish a "reverse NAFTA", bring work from Spain to Cleveland when we launched a new 4 cyl engine. We are also slated to produce the engine from the New Ranger/Bronco vehicles coming out in 2019.

Work coming back to Cleveland is like LeBron James coming back to the Cavs. They should have never left! Ohio is a great place for work to come to...no social unrest, just hard working men and women from a blue collar town, building quality engines.

In closing, I want to thank Congresswoman Marcy Kaptur for fighting the good fight and for supporting good paying jobs in America once again. Congresswoman, Spread our message! The UAW has your back!



AMERICA'S UNIONS

AFL-CIO Proposal for NAFTA Labor Chapter

A. Scope and Definitions

1. **Basic Labor Rights to Ensure Level Playing Field:** Parties are obliged to ensure, in law and in practice, all workers in their territory, regardless of the workers' citizenship, immigration status or national origin, the rights and freedoms guaranteed in the eight ILO Core Conventions (C87, C98, C29, C105, C138, C182, C100 and C111). In cases in which there is a dispute regarding the level of protection required, the Secretariat and any dispute settlement panels shall refer to ILO conventions, reports, and recommendations for guidance.
2. **Acceptable Conditions of Work to Ensure Level Playing Field:** Parties are obliged to ensure acceptable conditions of work, in law and in practice, covering all workers in their territory, regardless of the workers' citizenship, immigration status or national origin. The term "acceptable conditions of work" includes all measures pertaining to wages and benefits owed whether by law or by contract, including payments made on behalf of workers to public and private retirement and health arrangements; hours of work; worker representation; termination of employment; gender-based violence; and occupational health and safety, including the right to compensation for workplace injuries and illnesses.
3. **Floor Wages to Ensure Level Playing Field:** Parties agree that all workers—regardless of sector—have the right to receive wages sufficient for them to afford, in the region of the signatory country where the worker resides, a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing and other essential needs, including the ability to save for retirement and emergencies. Parties agree that it is a violation of NAFTA to export products whose production in one of the signatory countries, at any point in the supply chain, involved the payment, to any worker involved in the production process, of remuneration for a standard workweek that was insufficient to meet this standard. Enforcement of this provision shall be subject to the procedures outlined in Sections C and D.
4. **All Workers Covered:** Given the impact of systemic abuse of worker rights on the ability of all workers in an economy to make fair wages, the work of all workers in the economy shall be deemed trade-related and therefore subject to the obligations of this chapter. Lesser coverage would create loopholes that would drive down wages and working conditions in other sectors and in trading partner countries.
5. **No Derogation:** Parties agree not to reduce labor standards, provide formal or informal exceptions to any employer, whether or not to induce a particular investment, or fail to enforce such standards as to any obligation covered by this chapter. Any tolerance of lesser application or enforcement will create loopholes that will drive down wages and working conditions for all workers.

6. **Threats and Violence Against Workers are Unacceptable:** A threat, act of intimidation or an act of violence against a worker or workers exercising, or attempting to exercise, any of the rights and freedoms protected by this agreement shall be considered a violation of the underlying right or freedom being exercised or attempting to be exercised. Failure to investigate any such threat, act of intimidation or act of violence or failure to prosecute identified perpetrators of any such threat or act shall be considered a failure to enforce the underlying right or freedom and therefore a violation of this chapter.
7. **No Forced or Child Labor:** All trade in goods made, in whole or in part, by forced labor or the worst forms of child labor (as outlined in ILO Convention 182) is banned outright, regardless of the source of such goods. Parties also agree that no Party shall procure goods, regardless of the source of such goods, made with forced labor or the worst forms of child labor. Customs procedures shall be improved to better trace goods' production lines to better identify products made with forced labor and the worst forms of child labor. Such goods shall be seized at the border.
8. **Access to Justice:** Parties shall ensure that all persons have appropriate and timely access to tribunals for the enforcement of the Party's own labor laws. Parties shall ensure that cases are resolved without undue delay.
9. **Adequate Inspections:** Parties shall ensure that their domestic laws and regulations provide for adequate and timely access to labor inspectors from any level of government, that denial of lawful access carries meaningful punishment, and that efficient processes are in place to allow unions to seek timely inspections to follow up on alleged violations of this Chapter. In cases in which there is a dispute regarding the level of protection required, the Secretariat and any dispute settlement panels shall refer to ILO Labor Inspection Conventions for guidance.
10. **Non-Derogation by Misclassification:** Parties shall ensure that no person wishing to be protected by this section shall be excluded from such protections by virtue of being classified as a temporary worker, fixed-contract worker, subcontracted worker, "independent contractor" or the like. Persons in positions of management as defined in national law, and consistent with ILO guidance, may be excluded from such rights. Parties shall establish legal mechanisms, such as joint and several liability for labor and employment law violations, to help effectuate this obligation.
11. **Non-Derogation by Employer-Dominated Unions or Unions Controlled by the Parties:** To guard against employer-dominated unions or unions controlled by the Parties, unions must be responsible to their members. All Parties must have laws in place requiring that unions provide members with timely access to union bylaws and collective bargaining agreements.
12. **Place of Posting:** Parties shall ensure workers are entitled to all rights and benefits of their primary work location (including but not limited to minimum wages and other applicable wage, hour and benefit requirements), regardless of their citizenship, immigration status or national origin, and that adequate effort be made to ensure that workers are provided with access to information in their primary language and in printed format, if requested.

B. Recruiting Foreign Labor

1. All migrant workers (regardless of immigration status) are to be afforded the same rights and remedies available to nationals.
2. Prior to hiring, each employer and foreign labor contractor/recruiter who engages in foreign labor contracting shall ascertain and disclose to each recruited worker in writing, and in a language the worker understands, definite information on:
 - a. His/her rights under law (including the right not to be charged fees per subsection 3. below) and means of redress for violations;
 - b. Terms of employment, including worksite, compensation, job description, period of employment and employee benefits (e.g., housing, transportation);
 - c. Terms of any work visa, including duration, family provisions, renewal procedures and overseeing government agencies;
 - d. Existence of any union in the relevant sector (and contact details if applicable);
 - e. The nature of any training related to the condition of employment; and
 - f. Other relevant information.
3. Parties shall ensure foreign labor contractors/recruiters are prohibited from charging fees to workers. Employers shall pay the transportation and subsistence costs during the period of travel and recruitment, and any fees charged by the contractor/recruiter. Workers who report being charged fees at any point in the recruitment and employment process shall have recourse to prompt recoupment of fees from employers, while maintaining their visa eligibility.
4. Parties shall ensure that under no circumstance may an employer or labor contractor/recruiter take possession of a worker's passport, visa or other travel documents.
5. Parties shall establish and maintain a functioning public registry system, available in real time, of job offers in relation to employers offering jobs and their relationships to all labor contractors/recruiters who are recruiting workers, so as to prevent fraud and other violations and afford workers a channel to search for available jobs and verify the legitimacy of job offers and terms of employment.
6. Lowering standards or failing to enforce any laws, regulations, or policies covered by this Section shall be a violation of this agreement.
7. Limiting access to legal services, due process or justice systems on the basis of immigration status shall be a violation of this agreement.
8. Retaliation against workers who exercise their rights under this Section shall be a violation of this agreement.
9. Parties are responsible for ensuring their laws reflect these standards for labor contractors/recruiters and that laws include penalties sufficient to deter violations. In addition, Parties must establish or maintain a process to bar employers and contractors/recruiters from accessing work visas if they violate the terms of this Section, including, but not limited to, the use of visas to drive down wages and working conditions.

10. Chapter 16 Reform: The TN and TD visas [which lack rules to prevent labor exploitation] shall be phased out. Those currently working abroad on a TN visa shall be given an option to establish permanent residence or return to their country of origin after a period of not less than three years. The decision to remain or return should be made by each individual TN worker, not his or her employer. This agreement shall not create any new visa categories or guarantee levels of access to any Party's labor market for any specific type of migrant worker. Each Party's relevant ministries should determine annual visa allotments based upon actual labor market conditions.

C. Establishment of an Independent Labor Secretariat

1. There shall be established a NAFTA Labor Secretariat to address transnational labor issues, to monitor and enforce this chapter, and to provide research on:
 - a. Best practices for any area covered by this agreement that affects the lives and livelihoods of working people.
 - b. The contribution of NAFTA toward the creation of stable, secure, family-supporting jobs.
 - c. Wage, job, union, community and public well-being effects of NAFTA. The Secretariat shall report at least biennially, or more frequently if requested by the Working Group, on such issues as positive and negative impacts of NAFTA on labor markets, including the transfer of production between nations and the effects on displaced workers; wage effects of NAFTA, particularly in sectors and industries impacted by significant transfers of production; and community effects of NAFTA, including impacts on local tax revenues, municipal services, and community enrichment or impoverishment. The Secretariat shall indicate when negative effects are sufficient to warrant policy intervention by the Parties and shall recommend solutions.
 - d. The Secretariat will be responsible for providing regular, independent and public reports on compliance with this chapter of NAFTA.
 - e. In addition to reports referenced in subsection (d), the Secretariat shall research and report on noncompliance alleged by any interested party in submissions made to the Secretariat. The Secretariat shall create an effective mechanism to receive such submissions, which shall be language appropriate. The Secretariat shall establish technical assistance protocols to ensure members of the public of whatever means and background are able to present submissions.
 - f. Reports in response to submissions made under subsection (e) shall be completed within 180 days. The Secretariat may grant itself extensions on reports if necessary. Each extension may consist of a maximum of 30 days and must be published, together with the reasons therefor.
 - g. The Secretariat shall immediately refer submissions alleging violations of Section A.3 to the Expert Wages Panel described in Section D.9.
2. When, pursuant to subsections (1) (c), (d) or (e) above, the Secretariat finds good cause to believe that a Party, employer or recruiter is not in compliance with the chapter, it shall create recommendations for improvement and shall provide technical assistance, where necessary or appropriate, to effectuate the recommendations and bring the Party, employer or recruiter into compliance. Such recommendations and technical assistance will be publicly available, and stakeholders must have a reasonable opportunity for consultation and advice in their development.

3. When, pursuant to subsection 1(g) above, the Secretariat receives report from the Expert Wages Panel affirming the payment of less than decent wages at any point in the supply chain for a good exported from a NAFTA Party, the Secretariat shall work with the relevant government official(s) and the employer(s) in question to raise wages to meet the standard set out in A.3. If such standard is not achieved within one year of the initial finding, the Parties shall cause to be affixed to affected goods (exports from the NAFTA Party where final assembly is performed, which are made in whole or in part in violation of Section A.3) a label specifying, as applicable, in English, Spanish and French:
 - a. "This good was made in [NAFTA Party] in a facility in which workers receive less than a decent wage." or
 - b. "This good was made with components made in [NAFTA Party] in a facility in which workers receive less than a decent wage."

Employers who come into compliance with Section A.3 may petition for a re-evaluation of the wages paid in such facility. If the Expert Wages Panel finds that wages are being paid in compliance with Section A.3, the Secretariat shall notify the Parties that the labels no longer are required. Should the facility(ies) in question remain out of compliance at the end of the second year after the initial finding, the Secretariat shall recommend to the NAFTA Parties importing such goods that they levy a duty equal to the difference between the wages received by the affected workers in the relevant facility(ies) and the wages they would receive if the facility(ies) complied with the Floor Wage obligation in Section A.3, plus a 20% penalty. The collecting Parties shall cause the funds so collected to be distributed to the affected workers who are receiving less than the wages specified in Section A.3. The duties shall continue as described in this section until such time as the Expert Wages Panel confirms pursuant to the procedures specified in Section D.9(b) that decent wages are being paid in the facility(ies) in question.

4. In order to perform its work monitoring, investigating and providing technical assistance for any item described in subsection (1), Secretariat staff shall be free to visit and monitor workplaces within the Parties, to interview workers free from employer or government monitoring and interference, and to visit, observe and assist relevant government offices tasked with securing the rights and freedoms protected under this chapter in a timely manner. Secretariat personnel shall be empowered to recommend to employers and labor officials on-the-spot changes to workplace conditions to bring employers into compliance with the provisions of this chapter, and to otherwise help effectuate the rights of workers and responsibilities of Parties under this chapter.
5. When the Secretariat determines that meaningful progress toward effective implementation of its recommendations has ceased, and if the Party remains out of compliance with this chapter, the Secretariat shall begin dispute settlement procedures subject to [the Dispute Settlement Chapter] of this agreement. For greater transparency, the Secretariat shall report publicly at least annually on the progress of each open case, including the reasons that case does not yet qualify for closure and, if applicable, the reason why it has not yet been referred for dispute settlement.

6. Cases referred for dispute settlement shall proceed under the terms of that chapter, with no differences, including with respect to penalties, except that the arbitrators shall have expertise in international labor law, or human rights law, or both. The arbitrators shall base their decisions on ILO guidance, including Conventions, reports and recommendations, and may seek technical assistance or request expert reports from the ILO Committee of Experts at any time. The work of a dispute settlement panel may be delayed for a reasonable period, not to exceed 75 days, while it seeks such expertise from the ILO. Should the ILO decline to provide such advice, dispute settlement processes shall resume immediately.
7. As with any other matter that proceeds to dispute settlement pursuant to the Dispute Settlement Chapter, a panel may authorize sanctions in the form of suspension of benefits. In such a case, the panel is directed to authorize such benefits to be suspended as to the specific workplaces identified as problematic in the case; and if that is not practicable, then by specific employers where lack of compliance is documented; and if that is not practicable, then in specific industries in which the lack of compliance subject to the dispute is concentrated; and if that is not practicable, then in specific sectors in which the lack of compliance subject to the dispute is concentrated. The workplaces, industries and sectors thereby will be motivated to come into compliance. The amount of the suspension authorized shall be dissuasive enough to encourage resolution at the initial stages of the dispute and shall bear a relationship to the number of workers affected, the severity of the noncompliance, the length of the noncompliance, and the potential for such noncompliance to induce a race to the bottom by motivating other employers to reduce wages, benefits, safety conditions or other workplace standards. Further, dispute settlement panels are authorized to escalate the level and the breadth of the suspension, or both, if, year on year, the Party has not come into compliance.
8. So long as the Secretariat continues to find good cause to believe that a Party remains out of compliance with the terms of this Chapter, it shall proceed through the steps described in this Section (C) to achieve compliance.
9. Should the Secretariat bring a case that results in a dispute settlement panel authorizing a suspension of benefits against one Party, the other two Parties shall suspend benefits as described Section C.7.
10. If a Party chooses not to suspend benefits as authorized in Section C.9 or to impose duties as authorized in Section C.3, above, that Party shall publish in writing the reasons therefor. Where Parties decline to suspend benefits or impose duties, the Secretariat may define other remedies. Further, when any Party declines to suspend benefits, interested parties, including workers and unions, may pursue remedies in the domestic courts of any Party, each of which shall have jurisdiction to decide the case and order damages at law.
11. Experts in labor and human rights law, including former officers and staff of the International Labor Organization, shall staff the Secretariat. In no case shall more than 40% of the staff consist of any of the following groups: U.S. nationals, Mexican nationals or Canadian nationals. Staff shall be considered employees of the Secretariat, and shall not be considered employees or officials of any Party. Staff may not simultaneously be an employee, or an elected or appointed officeholder of any Party government, or political subdivision thereof, during the term of Secretariat employment.

12. The Secretariat shall establish and maintain an office of the public advocate to assist interested parties with submissions, promote robust stakeholder participation, ensure affected workers may participate in dispute settlement proceedings, and the like. It shall be the mandate of the public advocate to ensure income and language do not pose barriers to workers and unions seeking to ensure NAFTA Parties comply with obligations.
13. No Party shall have veto power over Secretariat activities, nor shall a Party control, prevent or delay Secretariat activities or the publication of Secretariat reports or recommendations.
14. The Secretariat shall be funded by the Parties on a pro-rata basis, with each Party contributing to the budget consistent with the size of its GDP compared with the size of the GDP of the entire NAFTA.
15. The Secretariat shall have at least one office in each Party, which must be accessible to the public. Staff may rotate between the offices in a manner to be determined by the executive director.
16. The executive director of the Secretariat shall be approved by a majority vote of the Working Group, and must receive affirmative votes from members from each NAFTA Party as well as from each sector (labor, employers, civil society, academics and government).
17. The executive director shall serve an initial term of three years. To promote balance, no executive director may serve more than five consecutive years, and no series of executive directors who are nationals of the same Party may serve consecutive terms totaling more than five years.
18. Interested parties, including workers and unions, are authorized to use the domestic courts of any Party to compel action from the Secretariat if either of the following occur:
 - a. 18 months after an initial submission pursuant to Section 1(e) above, the Secretariat still has not published an initial report; or
 - b. 30 months after the publication of a report pursuant to 1(f) above, the conditions complained of have not materially improved and the Secretariat has not initiated Dispute Settlement.
19. Interested parties, including workers and unions, are authorized to use the domestic courts of any Party to seek damages at law or to compel action from the Secretariat or the Parties if either of the following occur:
 - a. 13 months after an initial finding by the Expert Wages Panel that less than decent wages are being paid in a relevant facility(ies) in violation of Section A.3, the situation has not been remedied and notification labels are not being affixed to covered exports pursuant to Section C.3 above; or
 - b. 25 months after an initial finding by the Expert Wages Panel that that less than decent wages are being paid in a relevant facility(ies) in violation of Section A.3, the Expert Wages Panel has not found the relevant facility(ies) in compliance and either or both importing Parties are not levying duties as authorized in Section C.3.

D. Creation of the NAFTA Wages and Standards Working Group

1. The Parties shall establish a Wages and Standards Working Group that may consider issues upon its own accord or in response to reports produced by the Secretariat. The Working Group shall include representatives of trade unions, employers' organizations, civil society groups, academia, and government from each Party. The Working Group shall be chaired by an independent eminent person with labor expertise, without voting power, for an initial term of three years. The chairperson shall not hold any elected or appointed office in the government of any Party.
2. The Working Group shall meet at least once a year. Decisions of the working group must include a majority of each sector represented. When the Working Group fails to reach consensus, its published recommendations must include the diversity of opinions of Working Group members. The Working Group shall develop its own rules of procedure, taking into account existing practice of social dialogue.
3. The Working Group shall study, review and consider the impact of the NAFTA on wages, benefits, labor rights, working conditions, inequality, disparities and the creation of stable, secure, family-wage work in order to prevent a race to the bottom, and instead create a cycle of continuous improvement.
4. The Working Group shall be tasked with investigating and reporting on policies that support or promote a degradation in equity, standards of living or quality of life matters, including tax policies and infrastructure investment, in any Party or locale within NAFTA.
5. The Working Group shall consider in its deliberations and recommendations the annual public infrastructure spending reports produced by the Parties [as recommended by the AFL-CIO in its NAFTA Renegotiation Recommendations].
6. If the Working Group determines there is evidence that as a result of, or potentially as a result of, NAFTA:
 - a. Wages, benefits, labor rights, working conditions, social protections, or the creation of stable, secure, family-wage work are stagnating or falling anywhere in the NAFTA countries;
 - b. Gender, racial, ethnic or other socioeconomic disparities are growing;
 - c. Income or wealth inequality is increasing;
 - d. Disadvantaged populations are not sharing in economic growth; or
 - e. Parties (or political subdivisions thereof) are engaging in harmful race-to-the-bottom policies,the Working Group shall have the authority to do any or all of the following:
 - f. Recommend changes to NAFTA labor provisions or to national laws, or both;
 - g. Recommend actions to the Secretariat;
 - h. Recommend that the NAFTA Free Trade Commission meet; and
 - i. Develop recommendations for renegotiation of NAFTA.

Any such recommendations shall be public.

7. The Working Group may request information or reports from the Secretariat at any time. The Secretariat shall respond promptly to information and report requests.
8. The Working Group shall monitor the work of the Secretariat. On the basis of sufficient evidence, the Working Group shall have the power to launch an official complaint to the Executive Director of the Secretariat for the Secretariat's shortcomings and failures to deliver on its mandate. Upon receipt of such a complaint, the Secretariat must reply within 30 days in writing, with measures to be taken to correct the shortcoming or to explain the reasons for rejecting the complaint.
9. The Working Group shall be advised by an Expert Wages Panel. The panel shall be composed of seven people who possess appropriate academic credentials and a record of research and publication demonstrating substantial expertise in relevant fields, including, but not limited to, wage and welfare economics, labor markets, wages and benefits, public health and calculations of costs of living, and who have not been employed by or received significant compensation from a for-profit corporation or labor union at any time in the past five years.
 - a. The Panel shall publish biennially, or more regularly if directed by the Working Group, advice for amending national wage laws and rates in order to improve standards of living in the NAFTA region. The Working Group shall consider and include this advice in any recommendations made pursuant to Section 4 (above).
 - b. The Panel shall be tasked with analyzing submissions referred from the Secretariat that allege that goods or services have been traded between NAFTA parties that fail to meet the commitment in Section A.3. For each referral received, the Panel shall perform a cost-of-living analysis and pay practices investigation specific to the exported goods in question and issue a report to the Secretariat within 90 days. The report shall state the panel's conclusion, in the affirmative or negative, as to whether pay practices by relevant employers yielded remuneration, at the time of the alleged violations, insufficient to meet the standard referenced in Section A.3, and also providing the data and analysis supporting the panel's conclusion and indicating the extent, as well as the fact, of any violation. The panel's reports must be endorsed by at least five of its seven members.

E. Collective Bargaining

The existence of international labor standards does little to enhance cross-border labor relations, as these standards are framed for employment relations within one jurisdiction. Thus, we need a framework that could give employers and workers the ability to address labor relations matters across borders. The NAFTA must specifically allow workers in unions employed by a common employer in two or more NAFTA countries to jointly organize unions and negotiate binding collective agreements. As part of the NAFTA, employers with more than 500 total employees, with at least 50 employees in two or more NAFTA Parties, shall recognize and bargain with, if established, a supranational [also known as transnational] labor organization [which may take the form of a partnership, alliance, coalition, international union, etc.]. Such organizations must have the opportunity to negotiate a binding enterprisewide agreement, which individual workplace agreements could build upon, with greater specificity at the workplace level. Supranational labor organizations also will have the authority to engage in other concerted activities for the purpose of collective bargaining. In no case may such agreements authorize wages below the floor wage level for the region in which a workplace is located. Enforcement of such agreements would be subject to the national and subnational laws of the applicable jurisdiction. Failure to provide for this supranational bargaining shall be a violation of this chapter. Further, investors of a Party seeking to assert rights under the investment provisions of NAFTA may be denied such rights unless and until recalcitrant Parties come into compliance with this supranational collective bargaining provision (E).