Prepared Testimony of
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The United States-Mexico-Canada Agreement

Mr. Chairman. Ranking Member Wyden. Members of the Committee. It is an honor to appear before you today as you evaluate the impact of the existing North American Free Trade Agreement and seek to assess the US-Mexico-Canada Trade Agreement (USMCA) and evaluate what changes and additional provisions are needed.

My name is Michael Wessel and I am appearing today on behalf of organized labor. For many years I have been a staff liaison for the United Steelworkers union to the Labor Advisory Committee (LAC), one of the statutory advisory committees to the USTR and Secretary of Labor and currently serve as the staff chair of that committee because the President of the Steelworkers is the current LAC chair. I have been a cleared advisor aware of, and participating in, discussions regarding the negotiations of the USMCA, its possible ratification and implementation.

In addition, I appear before you today with a good bit of experience on this issue: I served on the staff of former Democratic Leader Richard Gephardt for more than two decades, having left as general counsel in 1998. During my tenure with Mr. Gephardt, I was intimately involved in the negotiations and review of the original NAFTA agreement.

So that I don't bury the lead: Organized labor wants NAFTA fixed. We have worked throughout the negotiations, in what we believe is a constructive, good-faith effort to find solutions, not just lodge complaints. During the negotiations, a group of labor leaders met on three separate occasions with the President to discuss the issue. We remain committed to working with Congress and the Administration to ensure that we reach a compromise that advances the interests of working people. We want to reform the existing agreement. We remain optimistic about the ability to resolve the issues. But we will not hesitate to oppose an agreement that fails to improve NAFTA and the current trade template in meaningful ways.

Much work remains: The current USMCA is not good enough because it does not include sufficient improvements to ensure that the terms of trade in North America will change, key among them the lack of swift and certain enforcement mechanisms to replace the current broken system in which labor complaints languish for years and labor abuses by our trading partners go unaddressed, seemingly condoned by Republican and Democratic administrations alike.

The negative impact of the existing North American Free Trade Agreement cannot be overstated. The inevitable negative outcomes were baked into its structure, which included an extensive set of rules establishing rights for multinational corporations, while providing no effective protections for workers, communities, and the environment. This imbalance has had a fundamental and corrosive impact on production, employment and wages in the U.S. As projected by many of NAFTA's opponents more than a quarter century ago, it has led to outsourcing of production and wage suppression in the U.S. Very few sectors have been immune to its impact. Even public sector workers – emergency responders, teachers and others – have faced the negative impact of NAFTA as they have had to deal with diminished resources

from tax bases eroded by plant closures, stagnating wages and lost jobs. Service sector workers have been adversely affected as well. For example, there are now nearly 700,000 workers in the Business Process Outsourcing (BPO) sector in Mexico, many serving the U.S. market, directly costing jobs for customer service call center representatives in the U.S. [1] Similarly, workers in the arts and entertainment fields have been harmed by NAFTA's failure to adequately protect the copyrighted works they help create.

Manufacturing companies in the U.S. continue to outsource production and jobs to Mexico. The auto sector now represents the largest contributor to the U.S.-Mexico trade deficit, fueled by U.S. auto assembly and parts manufacturers that have closed or cut operations in the U.S. and relocated them to Mexico. This has gotten much worse over the last decade. Between 2005 and 2016, the U.S. lost 10 light vehicle final assembly facilities while Mexico gained 8 and its share of total NAFTA production increased from 8% to 19%. Auto production in Mexico is now 3.2 million cars and light trucks with nearly 80% of Mexico's exports coming to the U.S.

Mexico's automotive workforce has grown from 112,000 in 1994 to 767,000 in 2016. Ninety-three percent of that growth is in the manufacture of parts. As vehicle assembly leaves the U.S. the parts jobs generally follow.[2]

The overwhelming majority of these Mexican workers are covered by so-called "protection contracts" which dramatically limit wages and compensation and deny them a fair opportunity to form unions to fight for safer workplaces, higher wages and improved benefits. The fabled Mexican middle class that NAFTA proponents argued would be a substantial new market for U.S. goods never materialized because Mexico's labor and economic policies and practices impeded its growth. Mexican manufacturing compensation today is one-tenth of U.S. compensation. [3] Instead of a thriving economy, with millions of potential customers for "Made in USA" goods and services, Mexico has become more unequal, drawing production from the U.S. and Canada, but failing to fairly reward Mexican workers.

This doesn't even account for the devastating impact of recent announcements, like General Motor's decision to shutter its Lordstown, Ohio facility while increasing employment in its Mexican operations.

U.S. workers in other industries have also seen their jobs outsourced to Mexico. Since NAFTA was implemented, over 40,000 aerospace jobs have been created in Mexico – many of them could have remained in the U.S.

Environmental concerns continue. As far back as 1991, documented evidence exists as to Mexico's lax laws and environmental enforcement acting as a draw for U.S. companies to relocate, to lower their costs – despite the environmental degradation and human impact that would result. In 1991, GAO documented the movement of furniture firms from Los Angeles to

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[1] Nearshore Americas, Infographic: How Competitive is the BPO Sector in Mexico? September 10, 2018, https://www.nearshoreamericas.com/infographic-bpo-sector-in-mexico/

[2] Testimony of Josh Nassar, Trade and Labor: Creating and Enforcing Rules to Benefit American Workers, before the House Ways and Means Subcommittee on Trade, March 26, 2018.

[3] The Conference Board, International Comparisons of Hourly Compensation Costs in Manufacturing, 2016 – Summary Tables, February 16, 2018, https://www.conference-board.org/ilcprogram/index.cfm?id=38269

Mexico because of, in part, higher environmental standards here in the U.S.[4] And, as GAO indicated in 2009, the labor and environmental provisions in U.S. trade agreements are essentially unenforced.[5] The Mexican people, and their new leadership, don't want Mexico to be a dumping ground. Indeed, they are dedicated to environmental stewardship. Unfortunately, many companies still seek to invest and operate there, bidding U.S. and Canadian laws against Mexico's developmental needs.

The current text undermines environmental protection and a just transition to a clean energy economy. The environmental chapter fails to address their weak laws and preserves NAFTA's offshoring loophole that allows companies to offshore jobs, climate emissions and toxic pollution to Mexico.

NAFTA's failings are well-known, which led the Administration to seek its renegotiation, which brings us here today.

I'm not here to re-litigate the original agreement but to talk about the current issues that have so adversely impacted domestic production and employment, the provisions of the USMCA that seek to address some of those problems, and what else needs to be done as Congress evaluates the agreement and works with the Administration to make it better.

Organized labor, via the LAC, engaged extensively with the Administration during this process – undoubtedly in a more robust way than with any prior Administration. At the end of my testimony, I provide citations to public reports of the LAC, supplemented by references to additional submissions, Congressional testimony and other documents. It is hard for me to see how organized labor could have been more engaged, more specific, and more responsive in these negotiations.

Since NAFTA passed, the Teamsters and other stakeholders have raised concerns about cross-border trucking and the threat to highway safety from Mexican-domiciled carriers. NAFTA gave the Mexican trucking industry unfettered access to American interstates. Under a non-conforming measure in Annex II of the USMCA, however, the U.S. government will be able to impose new restrictions on operating authority for Mexican carriers upon a showing of material harm to U.S. drivers or the U.S. trucking industry. This is an important improvement to the original agreement.

The Teamsters also engaged closely in the difficult dairy market access negotiations and support the final compromises, especially the additional market access for American made milk protein concentrates (MPCs) but also the survival of the Canadian supply management system.

However, as the LAC engages both publicly and privately, through the cleared advisor process, not every issue has been publicly addressed. As the heat of the negotiations and the debate intensify, there are claims that there is some moving of the goal posts. The members of this Committee are very experienced in the art of negotiation and know that it's a common ploy to say that new issues are being added to the agenda. To be clear, any comments as to "new

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[4] United States General Accounting Office, Few Wood Furniture Firms Moved to Mexico from the Los Angeles Area, May 8, 1991. Testimony of Frank C. Conahan, before the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the House Committee on Energy and Commerce.

[5] General Accounting Office, Four Free Trade Agreements GAO Reviewed Have Resulted in Commercial Benefits, But Challenges on Labor and Environment Remain, July 2009, https://www.gao.gov/new.items/d09439.pdf

issues" would be completely unfounded. Sure, new approaches to previously stated concerns may arise, but all the underlying issues that need to be addressed were raised at some point in the process; many of the concerns being raised countless times.

Today, I want to address some issues that must be addressed for an agreement to promote the interests of domestic producers and workers – manufacturing and service sector workers, who have seen their jobs outsourced to Mexico or faced the pressures of the NAFTA to their detriment. My comments will be far from comprehensive. Indeed, the LAC's original submission to the USTR identifying labor's views spanned 88 pages. While I will not address every issue here, my failure to address an issue does not signal that it does not need to be addressed. Every issue impacts the lives, livelihoods, health, safety and future of workers here in the U.S. and in Mexico and Canada.

It is vital to understand that, like every single trade agreement in the past, the USMCA is being oversold by its proponents. While it makes good strides to curtail access to private justice systems for multinational investors and includes a number of other "first ever" innovations, much work remains.

The USMCA cannot be viewed in isolation. As work on USMCA continues, we cannot ignore the continuing trade problems with China and other countries. We cannot ignore the fact that there is a significant infrastructure deficit or that our tax policies create incentives to offshore production. We cannot ignore a multitude of other policies that have undermined the interests of working people. In this light, try as they might, the economists will be unable to prove the macro-economic merits of the USMCA.

At the same time, as organized labor has said – repeatedly – we are committed to working with the Administration to improve the existing agreement. AFL-CIO President Trumka and many other labor leaders have publicly supported the negotiations and, as it relates to the labor text, indicated that it improves upon the existing framework of standards, but must be strengthened and coupled with accessible and timely implementing, monitoring and enforcement provisions. If we cannot be certain that the labor provisions will be effectively and timely enforced, even improved standards are of little use. They won't help discourage outsourcing, raise wages and working conditions in Mexico, and they won't help restore balance between labor and employers in the U.S.

However, even if we were to achieve all our goals, we will not oversell the final product to our members. They have lived with the devastating impact of NAFTA for a generation -- they are rightly skeptical, and their leaders will not mislead them.

Given the chance to improve upon the existing agreement, if it makes ***meaningful*** and effective changes that will be implemented, monitored and aggressively enforced, and that will significantly address the outsourcing that continues across industries, we should take those steps. We have worked to address the flaws in the new NAFTA and the substance of those changes and our experience will drive our decisions, not partisan politics.

Since the first days of this Administration, Ambassador Lighthizer and his team have been highly accessible, engaged and open to honest dialog about what a good USMCA must contain. They have taken our advice seriously – even when they have strongly disagreed with it – something prior USTR teams – on both sides of the aisle – failed to do. They have earned and deserve the engagement that exists which is why organized labor remains engaged. And it is

why Speaker Pelosi created a negotiating group to work with the Administration to achieve a product that can garner broad and bipartisan support. This is one of the few policy issues that could actually be on a potential track to resolution.

The positive impact of the USMCA's current provisions, however, are not going to be achieved simply through the existing text of the agreement and won't be resolved with minor word changes and enforcement proposals that lack specificity, automaticity, and teeth. While there is a lot of pressure to achieve a quick result, this process should not be rushed. There is a shared desire to reach a successful conclusion and we believe progress is being achieved.

Chairman Grassley. Ranking Member Wyden. I and others from organized labor have met with your staffs and appreciate their time, commitment and openness. We appreciate that they have traveled to Mexico to learn more about the specific concerns we have raised. Continued substantive engagement, rather than the politicization of USMCA is more likely to achieve positive results. We remain committed to putting in the time, energy and engagement on a substantive basis.

So, with that long introduction, let me address several specific issues.

First is the issue of the labor text, Mexico's commitments under the Labor Annex and the need for a robust implementation, monitoring and enforcement regime. That is the single most important issue which, over the long-term, will result in a more balanced trade relationship and will begin to address the significant impact NAFTA has had on suppressing and reducing wages and promoting outsourcing of jobs.

These changes will not stop outsourcing of U.S. jobs, but, over time, they may help reduce the pressures. As Mexican workers and free and independent labor unions are able to jettison the hundreds of thousands of so-called protection contracts and exercise their fundamental rights to freedom of association and collective bargaining, we will see their wages and conditions of employment improve.

Right now, the vast majority of major workplaces in Mexico are covered by protection contracts. In many instances, workers never had a hand, or a say – or sometimes knowledge of – the contracts they are covered by. The contracts are called protection contracts because they protect the economic interests of employers, not employees. Producers often are handed a contract as they decide to invest, even before the footers for the factory are poured or the office site is chosen.

The experience of the workers at Nabisco provides a textbook example of the problems that exist.

Earlier this decade, Mondelez-Nabisco invested over $500 million in a new plant in Salinas Victoria, Mexico. Before the facility was even complete, Nabisco started laying off workers in the United States, many in the iconic Oreo line, to be replaced by production in Mexico.

In June of 2015, Mondelez-Nabisco closed a bakery in Philadelphia, laying off 450 workers. In 2016, Mondelez laid off 600 workers at its flagship bakery at the Chicago Nabisco plant, to be replaced by production in Mexico.

It was largely believed the Salinas facility was operating under a protection contract, which most workers didn't even know existed, much less had a say in.

When the Bakery, Confectionery, Tobacco Workers, and Grain Millers (BCTGM) union in the United States requested and received a copy of the protection contract -- a rare feat to obtain these secretive contracts -- it was found the workers in the Salinas plant had a 3-tier scale. The highest pay rate converted to $1.29 per hour, the middle rate to $1.14 per hour, and the lowest, a mere 97 cents per hour.

While Mondelez-Nabisco pays Mexican workers less than 10% of their U.S. counterparts, the price of Oreos and other baked goods produced in Salinas aren't any cheaper on U.S. shelves. It's clear U.S. consumers and workers are not the ones benefiting from these outsourcing scenarios.

Fixing NAFTA requires that these examples – of which there are too many to account for – be addressed.

The Labor Chapter and Annex, properly implemented, monitored and enforced, and coupled with greatly improved labor standards will hopefully improve conditions – over time. The USMCA allows Mexico a four-year window in which to implement the changes. During that period, existing contracts will remain unless and until they are renegotiated. And, even with the advent of a freer and more independent union movement, it will still be difficult. Four years is a long time for workers to wait to achieve their rights, and the fruits of an equitable bargain. Moreover, effective and independent unions will not just appear – they will need nurturing and support to grown in the context of decades of labor suppression.

While the Labor Chapter and Annex to the USMCA includes improvements over current law, there are still significant issues that must be addressed.

Some want to shift the debate immediately to implementation, monitoring and enforcement. But the threshold question is: What are the standards that underly the commitments?

The agreement, through a footnote, appears to limit the ability to utilize International Labor Organization (ILO) standards and jurisprudential guidance to inform what the USMCA and its provisions are supposed to guarantee to workers. By failing to simply refer to the relevant ILO conventions, this footnote introduces needless confusion over the substantive meaning of the labor rights each party has agreed to adopt and enforce. Organized labor has called for the removal of the footnote since its adoption many years ago. It is outdated and inappropriate. Eliminating the footnote will not require the U.S. to change its labor laws. This remains an important issue.

There are also limiting terms in the text that should be eliminated specifically the phrases "in a manner affecting trade" and in a "sustained or recurring course of action". USTR did address some of our concerns but the retention of those terms, and the potential negative impact on workers merits their deletion. These limitations do not apply to NAFTA rules addressing investor rights, banking rules, telecom rules and the like. They have historically been a way of singling out labor and environmental rules for lesser enforcement.

Workers' rights impact the operation of markets. Free markets require free labor rights so that workers can freely associate and bargain for the wages and compensation that their skills and

aptitude merit and that reflect the proper balance of power in the workplace. While a worker may not produce a good destined for export, his or her income determines their demand which is vital not only to fuel domestic consumption but to enhance the appetite for imports. Requiring a showing of how a product or service is related to trade is inappropriate.

Second, and even more troublesome, is the question of why a violation of workers' rights must occur through a sustained or recurring course of action or inaction. No one contemplates that a single, minor workplace grievance will rise to the level of triggering a trade complaint. On the other hand, there are egregious, single actions which can and do have a chilling impact on the free exercise of rights. For example, the shooting of a worker by anti-union thugs can and has stopped an organizing effort it its tracks. Under the standard in the agreement as it now stands, a single murder would not be actionable, no matter what its impact on organizing efforts. Again, this limitation should be removed.

Moreover, we are concerned that the footnote designed to clarify the definition of "sustained or recurring" could instead create new barriers to effective enforcement, as there are myriad ways that a government could fail to enforce workers' rights, meaning that proving that multiple violations were "the same or related in nature" may prove challenging.

It's important to recognize that, while the 2015 Trade Promotion Authority refers to these terms, TPA has never been treated as a word-for-word blueprint for trade agreements. TPA only requires that Presidents give their best efforts to achieve the TPA objectives. Moreover, TPA was written two years before the arbitral decision in the Guatemala workers' rights case made clear for all to see that these terms serve as a barrier to enforcement. Congress should support the elimination of those provisions in the text.

This, of course, raises a separate issue: Does the text of the agreement need to change? The short answer is yes. Many of the most recently-negotiated agreements signed by the U.S. were amended after signing but before approval by Congress. We need to get it right, not shackle ourselves to an unacceptable approach. For organized labor the question is whether any changes will be treated as core agreement language that is not severable from the other provisions of the agreement.

These are among the standards that must be addressed in the agreement that will subsequently need to be effectively implemented, monitored and enforced.

Of course, standards that are not implemented are worthless. Many of the changes Mexico has adopted in its labor reforms are not yet in place. As noted above, the Mexican government has proposed a four year window for implementation, with key actions – such as the verification that collective bargaining agreements have worker support – left to the initiative of incumbent unions. The new legislation requires Mexico to set up a new system of courts and a new government agency to handle conciliation and contract registration, which will require the hiring and training of thousands of judges, inspectors, conciliators and other skilled professionals but to date, no funds have been authorized or appropriated to support the implementation.

Yet already the protection unions and their supporters have counter-attacked, filing more than 400 requests for injunctions against the new legislation. Some courts have already granted injunctions, generating legal uncertainty and potentially slowing the implementation process even further.

On the shop floor in Mexico, **nothing** has changed yet as a result of the reform.

In the past, we have seen action plans announced but not fully implemented before compliance has been certified allowing for trade benefits to flow. That is unacceptable. Implementing the laws with concrete steps, resources, personnel and commitment must occur before the agreement enters into force.

The last administration certified that Colombia had met the terms of its action plan, thereby granting the benefits Colombia so desperately wanted. But in fact, Colombia had only partially implemented its action plan. The premature certification stunted further labor improvements in Colombia and dealt a set-back to workers hoping to exercise new rights. We cannot allow that to happen again and certification requirements must be adopted, with appropriate oversight, to ensure that the agreement's terms are being properly met, not that political favors are being granted. The certification requirement is an important substantive provision that has not yet been drafted.

There must also be adequate resources and a concrete implementation plan for what the U.S. will do. We have had extensive discussions with the USTR over the past two years on the components of such a proposal and the need for mandatory, assured and significant funding for a protracted period to support implementation of these new labor commitments.

Mexican workers have not had the labor rights they deserve. This agreement may help if it is coupled with the resources to provide on-the-ground support. Our own government needs to expand its activities in this vital area. There are a large number of documented labor rights violations occurring on an ongoing basis which are not being addressed. That sends a very negative message as to what the future might hold.

We need to treat facilitating workers' rights in Mexico the same way that the business community has treated trade facilitation provisions.

Coupled with these improvements, the agreement must include much stronger enforcement provisions. Right now, as the Committee knows, any of the three signatory countries may block an arbitral panel from forming which, essentially, means that no enforcement case can proceed. In the context of workers' rights, as virtually every case in the past has been subject to dilatory and disabling tactics, it's a recipe for disaster.

While the Ambassador's concerns about panels imposing obligations on the U.S. that were never negotiated are shared, we must abandon the principle that the labor standards in U.S. trade agreements are fully enforceable. We cannot allow our trade partners to short-circuit the state-to-state dispute resolution process by blocking arbitration panels. A functioning dispute settlement panel is necessary but not sufficient to improve on the disastrous U.S. record of labor non-enforcement. Even if panel blocking is eliminated, the enforcement mechanism would then duplicate the mechanism in CAFTA, which relies on labor unions to investigate and report on violations, includes no effective deadlines, allows for endless delays and places no obligations on any party to actually enforce the rules they mutually negotiated. State-to-state dispute settlement must be supplemented with more specific and effective mechanisms, such as those outlined by Senators Brown and Wyden in their enforcement proposal.

As the existing agreement states in Article 23.2(3) "The Parties also recognize the goal of trading only in goods produced in compliance with this Chapter." That fundamental principle must be

effectuated through additional provisions in the agreement. Just as goods produced in violation of a company's intellectual property rights can be blocked from entry, so should the products produced in violation of the workers' rights provisions. The interests of workers are just as, if not more, important.

Access to medicines is another critical issue that must be addressed. The agreement advances the rights of pharmaceutical companies to the detriment of patients. There is simply no reason why Canada and Mexico should have to adopt more lucrative provisions for the drug companies at the expense of their people. The provision would also tie Congress's hands in reforming laws that unfairly privilege brand name drug companies – leaving too many U.S. families unable to afford their medicines and leading to spiraling costs in programs like Medicare and Medicaid.

Every worker knows that the cost of health care is part of their overall compensation. The rising cost of prescription drugs has helped drive the price of health insurance to unacceptable levels. To maintain their coverage, and protect their family's health, many workers have to forgo wage increases and their retirement security at the bargaining table as a tradeoff for health coverage. This reduces their disposable and future income.

Story after story highlights the exorbitant cost of prescription drugs and the USMCA's gift to the drug companies was not only unnecessary, it will have a devastating impact on people in all three countries.

Just last month Florida passed legislation allowing for the importation of prescription drugs from Canada and other countries. The ability of Floridians to afford the cost of their prescriptions through this mechanism – something the Administration apparently supports[6] – would be undermined by USMCA.

Most problematically, provisions in the current agreement would lock in excessive monopoly protections for biologic drugs that would keep life-saving biosimilars off the market. Bipartisan legislation (H.R. 3379) is currently pending in Congress that would reduce from 12 years to 5 years the amount of exclusivity afforded to biologics. That legislation would be blocked by provisions in this agreement that set a minimum of 10 years of exclusivity for biologics.

In addition, the USMCA does not exclude chemically synthesized polypeptides from the definition of biologic drugs—as current U.S. law does—thus appearing to risk the possibility that the agreement would force us to deem these drugs biologics and, thus, afford them additional exclusivity. Chemically synthesized polypeptides include important treatments for diabetes, osteoporosis and other conditions, and we cannot afford to raise prices on those drugs moving forward.

These provisions must be eliminated.

The rules of origin in the USMCA are being advanced as a way of promoting manufacturing in North America. They still need improvements and their impact on the U.S. is uncertain.

[6] Associated Press, June 11, 2019, "Florida Governor Signs Bill For Foreign Drug Importation, by Curt Anderson "DeSantis said President Donald Trump supports the initiative and has directed the U.S. Health and Human Services Department to approve it."

This may sound strange in light of the agreements' provisions increasing the rule of origin in the automotive sector from the existing 62.5% to 75%. Indeed, because of the change in the method for calculations, the existing NAFTA 62.5% standard, based on more recent trade agreements and the method in the USMCA is actually lower – somewhere in the neighborhood of 52-53%.

So, why wouldn't the increase to 75% result in huge job gains for the U.S.? It's because the standard applies to North American content. The higher standard may incentivize auto assembly companies to resource auto parts that they are presently obtaining from Asia and elsewhere but, with the dramatic cost benefits of producing in Mexico, many auto parts producers will continue to relocate there rather than produce here.

And, despite several conversations and requests, there still are a number of specific definitions in the rules of origin for the automotive sector that are in question. We have met repeatedly with USTR to try and obtain answers and are awaiting responses.

The USMCA does include a new Labor Value Content (LVC) relating to the automotive rules of origin. This is a novel and creative approach that, for the first time, ties content to a wage standard. As a concept, this is something organized labor welcomes, but still has questions about and believes needs to be improved. The provision essentially requires that 30% of an auto's content consists of parts made by workers making an average of $16 an hour.

Let me provide an example that fuels our concerns. The Ford Fusion is made at a plant in Hermosillo, Mexico. According to American University's Kogod School of Business' Made In America Auto Index 2018, each of the three models produced at that plant has a level of content produced in either the U.S., or Canada that already meets the 30% level.[7] Presumably, the jobs in the U.S. or Canada equal or exceed the $16 per hour average figure required by the LVC.

To be fair, the Administration disputes this analysis, indicating that it is based on faulty methodology. We have asked for specific information as well as suggested that they contact the authors of the studies to correct any inaccuracies. As the companies do not share their sourcing, production or other similar information with us, we cannot independently perform an analysis. So, this data, and information produced by others is forcing us to continue to evaluate the proposal.

In addition, the LVC is based on an average, not a minimum. Thus, for every worker at a factory producing an auto component that will be factored into the LVC making $28 an hour, 3 more could be making $12 an hour and the average requirement of $16 would still be met. In addition the requirement is not indexed to inflation.

As I noted before, the creativity and direction of the USTR's proposal is appreciated. But our duty is to engage in a detailed examination of the proposals and their potential impact on our members.

A related issue pertains to the requirement that 70% of the steel and aluminum for autos be sourced from North America. Unfortunately, the underlying definition behind this requirement does not require that the steel be melted and poured in North America or that the analogous definition relating to aluminum apply. Thus, carbon steel slabs could be imported from China,

[7] American University, Kogod School of Business, Made in America Auto Index 2018, Research by Frank DuBois, https://www.american.edu/kogod/research/autoindex/2018-autoindex.cfm

rolled into sheet and made into body panels and the "steel" would qualify as "originating" under the USMCA. I don't think that meets anyone's common-sense definition of what it means to have the steel and aluminum be made here and it should be fixed.

And, for me, it is hard to understand why major automotive firms would support the USMCA if it imposed any significant new costs on them or forced them to alter their production plans. Their goal is profits. They are not charitable enterprises. If they are not complaining, this should give us all pause.

The draft Statement of Administration Action (SAA) also needs to be altered to limit the authority of this or future administrations to change the rules of origin without Congressional input and review. The draft SAA sent to Congress gives the Administration sole discretion to make changes to the rules.

As an overlay enforcement proposal, which we have raised with the USTR throughout the process, there needs to be a robust verification and validation infrastructure supporting these provisions. We have seen too many circumvention schemes in the past that have not been a priority for CBP or others to uncover. Workers deserve to have trade agreements that are enforced and that they can have confidence in.

This infrastructure should include regular and detailed public reporting requirements, based on the Steel Import Monitoring and Analysis (SIMA) System[8] but should be extended to cover aluminum products. Both steel and aluminum were covered by the President's Section 232 investigations and ongoing review of trade flows in those products is necessary.

And other industries must be included.

An additional issue for Congress which has been raised with the USTR but merits more attention, is the analysis needed to support the six-year review of the USMCA. Originally the Administration had floated the idea of a mandatory sunset if the agreement was not living up to the promises that had been made. For organized labor, this was a significant proposal that would guarantee that, if mistakes occur, that workers would not be burdened with those mistakes forever.

The sunset is now fashioned as an evaluation. That's a critical missed opportunity. But, the debate about the review must be supported by robust data, and not mere political rhetoric. Concrete and comprehensive data collection and publication should occur to inform Congress and the public as the six-year review approaches. Among the information that must be collected and published is the exact impact of the auto rules of origin on workers and production here in this country. What is the outsourcing of U.S. production and how are supply chains altered and what is the impact on jobs, wages and compensation? These, and many other data sets must be developed and available for review.

There are many other issues in the context of the USMCA that merit attention which I have not raised here, but which are addressed in the public and private submissions of organized labor and its affiliate unions. Environment, currency, country of origin labelling, protections for migrant labor and a variety of other issues are addressed in our submissions.

[8] The Steel Import Monitoring and Analysis System is maintained by the US Department of Commerce, https://enforcement.trade.gov/steel/license/index.html

And Mexico must set a course for action. Part of that will be dispensing with the dozens of cases that have been filed by the protection unions themselves to overturn the recent labor reforms which seek to implement the USMCA commitments. Mexico must also fund and implement a credible enforcement strategy to address violations in key sectors immediately, not four or six years down the road.

The agenda is broad and deep. Organized labor has many different interests, but it is united in wanting an improved NAFTA that will support and promote a rising standard of living for workers in all three countries. We are committed to that task.

I will do my best to answer your questions. Where I do not have the expertise, I will seek to provide you responses in writing, after consultation with my colleagues. And, as the discussion about the USMCA continues, I and my colleagues stand ready to work with you.

Thank you.

Selected Supporting Documents

NAFTA Negotiations Recommendations, Docket No. USTR-2017-0006, June 12, 2017, Testimony of Celeste Drake on behalf of the AFL-CIO (also included as appendix in September 18, 2018 document below) - https://aflcio.org/sites/default/files/2017-06/NAFTA%20Negotiating%20Recommendations%20from%20AFL-CIO%20%28Witness%3DTLee%29%20Jun2017%20%28PDF%29_0.pdf

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