

WITHOUT FIXES, WE MUST OPPOSE THE NEW NAFTA

When the new NAFTA was signed, the AFL-CIO warned that we would oppose the agreement without major changes. As we said in our March 2019 Executive Council statement, the labor movement will mobilize to defeat the new NAFTA if it is not changed to “meaningfully address what is wrong with the original NAFTA.” We urged the Trump administration to incorporate the changes we have insisted must be made to reverse a legacy of lost jobs in the United States and lower living standards for working people throughout North America.

Unfortunately, to date, the administration has failed to offer sufficient workable solutions to fix the significant weaknesses we identified. We are hopeful that the current engagement with the House Democrats’ Trade Working Group will lead to progress, but we will oppose any agreement that undermines the interests of working people. In light of the administration’s plan to submit the new NAFTA for a vote this fall, we reiterate that if changes are not made, the labor movement will do everything in our power to defeat it.

In our March statement, we laid out a specific list of concerns we have repeated numerous times in both public statements and in private meetings with the Office of the U.S. Trade Representative. The list begins with the need to strengthen NAFTA’s labor standards and include new tools to facilitate their swift and effective enforcement. The agreement’s labor standards should be based explicitly on the relevant International Labor Organization Conventions, which include the freedom of association, collective bargaining, equal remuneration, prohibitions on child labor, forced labor and discrimination, rather than vague references to the principles that underlie those rights.

Changes to the text must also include the elimination of loopholes, which provide that a party must demonstrate a violation was committed through a “sustained or recurring course of action or inaction” and “in a manner affecting trade or investment between the parties.” This requirement has proved insurmountable in the only case ever to be arbitrated under the labor chapter of a U.S. free trade agreement, and it must be removed. In addition, the provisions on forced labor, discrimination and migrant workers are intentionally weak and must be strengthened. Specific language also should be added to ensure nondiscriminatory consumer information laws, such as Country of Origin Labeling, are not considered trade violations.

The agreement itself must contain effective enforcement tools, including the ability of the United States to deny entry of any goods produced in violation of the new labor standards. There is ample precedent for this in the Peru Free Trade Agreement, which permits the United States to block the importation of illegally harvested lumber. This would match the relief afforded to businesses that find their intellectual property rights violated. Without this enforcement tool, companies will continue to exploit workers and treat any lesser penalties, such as fines or the loss of tariff-free entry, as a cost of doing business.

The proposed labor chapter of the new NAFTA also includes important provisions that require Mexico to end corporatist unions and their protection contracts, recognize independent unions, and establish independent labor courts. We have made it clear that Mexico must demonstrate both the political will and the capacity to implement these reforms before it enjoys any benefits under the deal. Without these changes, the new NAFTA, like its predecessor, will continue to give global firms free rein to exploit workers in a race to the bottom.

Measurable progress must be made in all these areas before the agreement takes effect. Unfortunately, there are early indications that progress in Mexico will be slow or halted altogether. For example, incumbent protection unions have filed hundreds of constitutional challenges against the recent labor reforms, and injunctions have been granted in several cases already.

Another glaring failure of the new NAFTA is its treatment of pharmaceuticals. Under the agreement, the monopoly power of Big Pharma is further enhanced, harming consumers in the United States, Mexico and Canada. We have said from the beginning that this provision must be dropped, but to date we have seen no evidence that the administration intends to do so.

The administration also has exaggerated the benefits of its proposed rules of origin, which will need to be strengthened and applied to sectors beyond autos if they are to have any positive effect at all. For example, while the content requirement rises from 62.5% under the existing NAFTA to 75% under the new agreement, the details of the new calculation are unclear. Further, the proposed rules only require that products be produced in North America, not in the United States, thus limiting the promised job benefits to America's workers.

The new NAFTA does include a provision requiring that a percentage of content be produced by workers making \$16 an hour—but requires that level be an average rather than a minimum, with the calculation including highly paid engineers and assembly workers. Many autos produced in Mexico already meet that threshold, as do most made in the United States, so the benefits may be limited. In addition, while the agreement covers steel and aluminum in autos, it does not require that all of the core components be produced in North America. As a result, auto parts produced from Chinese steel slabs could qualify for benefits.

Although the Mexican government prevents American rail employees from working in Mexico, U.S. officials last year allowed Mexican rail crews who do not meet U.S. safety rules to provide rail service 10 miles past our border. A new NAFTA must end this double standard and provide the same protections for American rail workers that their Mexican counterparts enjoy.

While President Donald Trump claims that the new NAFTA will stop outsourcing and create hundreds of thousands of jobs in the United States, the administration has provided no credible evidence to back that up. We are reminded that similar baseless claims were made when the original NAFTA was first negotiated and that other administrations have made the same empty promises when they presented similar FTAs to Congress. America's workers are tired of being misled when it comes to the so-called benefits of corporate trade agreements.

Without incorporating the changes we have been advocating for all along, the new NAFTA would do little to stop the continued outsourcing of jobs in a wide range of industries, from aerospace and autos to food processing and call centers. As we said in March, it is possible to negotiate a trade agreement that lifts wages and living standards in all three countries. The agreement we have before us will not get us there. If the new NAFTA is not dramatically improved along the lines we have suggested, we will have no choice but to forcefully oppose it.

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