

**Hearing on Mexico's Labor Reform:  
Opportunities and Challenges for an  
Improved NAFTA**

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON TRADE  
OF THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED SIXTEENTH CONGRESS  
FIRST SESSION

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HOUSE COMMITTEE ON WAYS & MEANS  
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# *ADVISORY*

## FROM THE COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE  
June 21, 2019  
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CONTACT: (202) 225-3625

**\*\*\*Change in Time\*\*\***

### **Trade Subcommittee Chairman Blumenauer Announces a Subcommittee Hearing on Mexico's Labor Reform: Opportunities and Challenges for an Improved NAFTA**

House Ways and Means Trade Subcommittee Chairman Earl Blumenauer (D-OR) announced today that the Subcommittee is holding a hearing titled "Mexico's Labor Reform: Opportunities and Challenges for an Improved NAFTA." The hearing will now take place on **Tuesday, June 25, 2019 at 9:30 AM** in room 2020 Rayburn House Office Building.

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

#### **DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Tuesday, July 9, 2019**. For questions, or if you encounter technical problems, please call (202) 225-3625.

## **FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you require special accommodations, please call (202) 225-3625 in advance of the event (four business days' notice is requested). Questions regarding special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

**Note:** All Committee advisories and news releases are available at <http://www.waysandmeans.house.gov/>

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The Subcommittee met, pursuant to notice, at 9:30 a.m., in Room 2020, Rayburn House Office Building, Hon. Earl Blumenauer [Chairman of the Subcommittee] presiding.

\*Chairman Blumenauer. Today, the trade subcommittee is holding a hearing on Mexico's labor law reform. We have invited witnesses from the United States and Mexico with deep expertise in Mexico's labor laws, practices, and the interaction between the United States and Mexican labor markets.

I look forward to hearing from them today regarding their views on the reform itself and how to build into the new NAFTA effective monitoring and enforcement tools to ensure that Mexico continues to move forward with reform in the years ahead, and what success will mean for Mexico, Mexico's workers, the United States, and American workers.

The Mexican labor issues have been at the crux of the debate around NAFTA for nearly three decades. The controversy around the original NAFTA focused in large part on the impact of increasing trade with a neighboring country that has significantly lower labor standards than the United States.

While many supporters argue that NAFTA would lead to wage increases and a growing middle class in Mexico, unfortunately, those predictions have not come to pass. Instead, as Professor Shaiken's research has shown, Mexican wages for manufacturing workers have fallen in real terms, even though their productivity has continued to increase.

At the same time, studies have also shown that American worker's wages have fallen in real terms while our productivity has increased, not being shared with the American workers. 25 years of NAFTA have shown that Mexico's disappointments translate into America's disappointments. Hopefully, Mexico's successes will also lead to American success.

What is the key reason behind the lack of wage growth over the last 25 years? It

seems to me, simply put, that the voice of Mexican workers hasn't been heard because of a compromised labor justice system. Instead of negotiating collective bargaining agreements that would improve their working conditions and wages, workers in Mexico are often subject to so-called "protection contracts" before they ever enter their workplace.

The renegotiation of NAFTA presented a critical opportunity to address Mexico's labor system, something I highlighted along with my Democratic colleagues throughout these negotiations. The positive news on that front is that we have made some progress, clearly. I applaud Ambassador Lighthizer for negotiating a Mexico-specific labor annex that lays out the changes that Mexico needs to make in its labor justice system and achieve compliance with the labor chapter's standards.

I also applaud the Mexican government for passing labor reform legislation. That appears, at the moment on paper, to be consistent with that annex. All of these actions are positive steps, but we are only part of the way there. We have seen our negotiating partners pass new labor laws and make promises about seriously implementing reform after agreements take effect, but I have been disappointed with the results in Colombia, Honduras, and Guatemala, to name a few.

At the end of the day, in each of these countries, despite the fact that we have entered into trade agreements that requires the countries to meet higher standards for protecting worker rights, workers still struggle to exercise basic labor rights in the workplace. In those instances, we have not had effective monitoring and enforcement tools in the agreements to ensure that the country lives up to its agreement.

We are in the same position today with the renegotiated NAFTA. Mexico has just passed historic labor law reform. The testimony from our witnesses today highlights how significant those changes are and how difficult it will be to fully implement them. If we were to pass the NAFTA agreement in its current form, we would basically have to take

Mexico at its word or rely on a broken state-to-state dispute settlement mechanism that hasn't been effective when U.S. government has tried to use it and has never been used to enforce labor obligations.

The challenges presented by Mexico's labor reform suggests the new NAFTA does not contain adequate tools to ensure that Mexico's labor reform stays on track. We don't think failure is an option, nor is giving up. We are committed to replacing NAFTA with a substantially improved agreement. House Democrats are now engaged in improvements that we need on creative monitoring and enforcement tools to provide the certainty that labor standards will be respected in Mexico.

The renegotiated NAFTA presents a rare and valuable opportunity for the United States, one that is too important to rush. We have a chance to raise living standards across the continent, rather than leading to a race to the bottom on who can make goods with the lowest labor costs. We have called today's hearing as part of the Democrat's good faith effort to engage with the issues presented by this agreement. I look forward to continuing the engagement with stakeholders and the administration.

With that, I would recognize the ranking member, Mr. Buchanan, for an opening statement.

\*Mr. Buchanan. Mr. Chairman, thank you for holding this hearing on Mexico's labor reforms. I thank you, all the witnesses today, for taking your time and being here.

I am pleased to have this opportunity to discuss the historic and significant nature of Mexico's new law and its next steps for implementation. I believe that Mexico is firmly committed to implementing this new law and passing USMCA. It will help us ensure that Mexico faithfully implements these new reforms, levelling the playing field for American workers.

First, I want to congratulate Mexico for being the first country to ratify USMCA. It

is a 21st century trade agreement that sets new standards and high standards so that our companies and workers can compete and win globally.

I am a strong supporter of USMCA because it modernizes our trade relationships with our closest trading partners in a smart, effective, and seamless way. That includes areas like agriculture, services, intellectual property, digital trade. Delay in the congressional consideration of this agreement means that we don't see these considerable new benefits.

Secondly, USMCA contains groundbreaking labor standards that will improve labor conditions in Mexico and help level the playing field for American workers. USMCA includes advanced, comprehensive, and enforceable labor obligations that are incorporated in the core document attached to the agreement and subject to the same dispute settlement provisions as all other obligations, as opposed to NAFTA where the labor provisions were just on one side. In fact, USMCA labor provisions are the strongest of any trade agreement today.

By passing its labor legislation or ratifying USMCA, Mexico has, in my view, demonstrated a clear commitment to vastly improve its labor conditions and to free and fair trade, and the Mexican government has demonstrated in good faith to implement this new law thoroughly and effectively. In fact, I have a detailed and impressive implementation plan for the Mexican government that shows its commitment to making sure that each aspect of the law becomes a reality.

Mr. Chairman, I ask unanimous consent to put this plan in the record.

\*Chairman Blumenauer. Without objection.

[\[The information follows:\]](#)

\*Mr. Buchanan. Mr. Chairman I also suggest that we should hear directly from the Mexican government on its plans. I have invited the Mexican ambassador and any



appropriate officials from her government to brief us on a bipartisan basis.

There is no question that implementation in terms of these reforms will be a huge undertaking for Mexico and can't happen overnight. That is precisely because the new laws are so transformative. Mexico should not be punished for its ambition. Instead, the United States must stand ready to assist Mexico in ensuring that these new laws are implemented.

Put simply, there is no substitute for passing USMCA. Every moment of delay from Congress means that American workers, farmers, and businesses lose out on the benefits of this agreement and lose the ability to hold Mexico accountable to these new labor rules if needed. USMCA presents an opportunity to update our most vital trade relationship so that it works well for all Americans. It is also an opportunity to ensure that Mexico follows through with its commitment to drastically improving labor conditions which would help level the playing field for American workers.

Mr. Chairman, I look forward to working with you closely to achieve strong bipartisan support for USMCA as quickly as possible without delay. Thanks again for calling this hearing, and my thanks to the witnesses for taking the time for being here today.

I yield back.

\*Chairman Blumenauer. Thank you.

We do indeed have a distinguished panel of witnesses here today to discuss these important issues of shaping trade and other economic policies to support workers.

First, I would like to welcome Joyce Sadka, a professor and researcher at Instituto Tecnológico Autónomo de México. Following Ms. Sadka will be Gladys Cisneros, who is the Mexico country director for the Solidarity Center. We will hear then from Harley Shaiken, who is a professor and director of the Center for Latin American Studies at the

University of California at Berkeley. And finally, we would welcome Cathy Feingold, the international affairs director of the AFL-CIO.

Each of your statements will be part of the record in its entirety. We would ask that you summarize your statement to be five minutes or less. To help you with the time, there is a little timing light on the table. When you have one minute left, the light will switch from green to yellow, which is a signal to wrap up, and finally red when the five minutes have elapsed.

Ms. Sadka, would you please begin and turn on your microphone, if you haven't?

[Nonverbal response.]

Great. Thank you.

STATEMENT OF JOYCE SADKA, INTERIM HEAD OF THE LAW DEPARTMENT,  
PROFESSOR AND RESEARCHER, DEPARTMENT OF LAW, CENTER FOR  
ECONOMIC RESEARCH, INSTITUTO TECNOLOGICO AUTONOMO DE MEXICO

\*Ms. Sadka. Thank you very much for inviting me to present testimony. For the last 15 years, I have studied the enforcement of individual and collective labor rights in Mexico and have tested policies to improve enforcement. The results of this research have motivated several features of the new labor law.

The Mexican labor market performs poorly in many ways, including wages that are much lower than productivity and this is likely due to poor enforcement of labor rights. The data show extensive failures to enforce. In the Mexico City labor court, lawsuits take over three years, although the law mandates less than four months.

Settlement levels are very low by international standards. More than half of judgments favorable to the worker are unenforceable. The typical worker is uninformed

about her rights, has access to poor quality legal services, faces high levels of uncertainty in the courts, and receives substantially less than the minimum severance pay.

Meanwhile at the collective level, most collective bargaining agreements are really employer protection contracts. I carried out principle component analysis on a representative sample of federal-level CBA's and found that 76 percent of them were highly likely to be a sham.

Is Mexico's new labor law well designed to change this reality? I believe so. The reform moves labor justice to state and federal judiciaries, creates a compulsory conciliation stage, and institutes personal voting procedures to ratify CBAs. If implemented as written, these will be big steps towards improving the bargaining power of workers in Mexico. Besides complying with the constitutional reform in labor law and with the Free Trade Agreement, there are signs of a real commitment to apply this law.

First, the law was negotiated and passed with an unprecedented level of participation from all sectors and as such, it represents a new and radically different agreement at the national level on how to regulate and enforce labor rights. Second, the law addresses many issues beyond what the constitutional amendments or the treaty require, such as revamping notifications, mandating interoperable databases to verify the representativity of unions, modernizing and streamlining lawsuit procedures, and instating more effective enforcement of court judgments.

Implementation plans are just as ambitious. The timeline allows for a total of four years for full implementation, putting this reform squarely within the current presidential administration.

Some of the most important deadlines are 45 days to set up an interinstitutional counsel for coordinating the implementation, 90 days to produce a protocol for the verification of union elections, and 6 months to pass the organic statute of the Federal

Labor Conciliation and Registration Center. Within three years, all new state-level institutions start operating and within four years, they must be operating at the federal level. Finally, within four years, all CBAs in the country must be revised.

This transition is complicated due to its volume, with one million open lawsuits and more than half a million collective bargaining agreements. It requires close cooperation between branches of government and between the federal and state level where state capacity is often quite lacking.

The reform is also technologically challenging. The new law calls for online and electronic procedures, intelligent case management and assignment systems, sophisticated webpages, secure mailboxes, and interoperable databases across institutions.

The law came into effect 54 days ago. The counsel for coordination was installed early by day 30. It approved internal bylaws and a national strategy proposing staggered implementation of courts and conciliation centers in a group of states each year. The strategy calls for the creation of indicators to measure progress and quality and requires a public progress report from the secretary of labor each six months.

This is a good reform, and there are convincing signs of strong willingness to implement it, but implementation is complicated, especially in a difficult economic scenario and with severe cuts in public spending. Monitoring as well as aiding in the transition, especially in the development and use of specific milestones and indicators, may be crucial to the success of this reform.

Thank you.

[\[The prepared statement of Ms. Sadka follows:\]](#)

STATEMENT OF GLADYS CISNEROS, PROGRAM DIRECTOR, MEXICO,  
SOLIDARITY CENTER

\*Ms. Cisneros. Chairman Blumenauer, Ranking Member Buchanan, the members of this trade subcommittee, thank you for your leadership and for the opportunity to share observations on the evolving labor rights situation in Mexico.

I am currently the Mexico director for the Solidarity Center, the largest U.S.-based international worker rights organization that has over 20 years of uninterrupted presence in Mexico. The Solidarity Center works with the independent labor movement and with labor advocates who courageously support worker organizing efforts in one of the most complex rights environments in the hemisphere.

The Solidarity Center appreciates the broad focus of this hearing on Mexico's recent labor law reform, as discussion of labor issues of Mexico is too often limited to the discussion of the wage disparity between Mexico and the United States. While this gap is significant, on average, Mexican workers only make 1/10 of what U.S. workers make, manufacturing workers.

It is critical to understand that Mexico's stubbornly low wages are the intentional outcome of policy and practice. They are enforced by an industrial relation system that denies Mexican workers their right to freedom of association and robs them of the ability to demand better pay and better working conditions. This system has relied for decades on practices designed to suppress worker voice and to control organizations, the collusion of government institutions and corrupted business and union leaders and imposes serious consequences for workers who dare challenge the system.

At its most extreme, although not uncommon, is the practice of employer protection contracts, explained by Dr. Sadka. For example, at a BMW vehicle assembly plant in San Luis Potosi that only began production three weeks ago, BMW management signed a protection contract with the employer-controlled CTM Union back in 2014, which set

wages five years before the plant began operations or hired any workers.

Once in place, a protection union is extremely difficult to remove. Workers must petition labor authorities for an election to vote out the existing union. These elections are often delayed or interfered with or are met with violence.

In the case of the tech seed parts plant, a plant owned by Fiat Chrysler, workers forming an independent union endured four years of procedural delays before obtaining their union vote, but they did defeat the incumbent CTM Union almost one year ago. However, the CTM filed a legal challenge immediately and has continued to directly negotiate with the company, even despite another board resolution just this May that upheld the original election result.

Meanwhile, at the PKC wire harness plant in Northern Mexico, labor authorities took six years to schedule a union challenge vote that was requested by the independent miner's union. When the election finally took place last November, the vote was suspended after a few hours because thugs entered the company premises and destroyed a ballot box. This case is still in dispute.

To highlight another example of the challenge to freedom of association in Mexico, at the Goodyear Tire plant in San Luis Potosi, most of the workers there are under 30 years old and they were lured to Goodyear with promises of professional growth opportunities, higher wages than other plants, and a decent work environment for a reputable company, but most of those workers were forced to sign contracts, individual contracts for lower wages than they had been promised, which top out at roughly \$2.17 an hour.

By April 2018, they had had enough. 600 young workers staged a wildcat strike to protest their working conditions, their low pay, and to protest against the CTM union and their plant that signed a protection contract before the plant opened. Their demands included representation by a democratic union. Although the management ultimately

agreed not to retaliate against these workers, two months later, the company proceeded to hire a union-busting law firm and fired 57 workers that they identified as strike leaders. None of these workers have been reinstated.

Workers reported that the plant managers that day allowed CTM goons into the factory to intimidate the workers, and labor authorities have done nothing to help them. These cases, many of which are ongoing, illustrate how deeply entrenched the protection union model is in Mexico.

Mexico has moved in the right direction with this labor reform. Workers, for the first time, will get to directly elect their union officers and they will now ratify their collective bargaining agreements, all through secret ballot votes. Union elections will be subject to tighter timelines. Jurisdiction over labor disputes will move to independent courts, and the problematic tripartite labor boards will be replaced, but reshaping labor institutions steeped in malpractice and replacing them with new structures will require major investments in time, financial, and human resources, which have not yet been budgeted.

Employers and employer protection unions are already fighting back. In fact, almost 100 legal constitutional challenges, mostly at the state level, have already been prepared by CTM-affiliated unions. Regardless of the outcome of those cases, we must remember that protection unions will not disappear easily. They have spent decades establishing their hold on Mexico's labor relations, perfecting techniques for how to coerce votes, crafting secret agreements with employers, all the while participating in national and international labor spaces as legitimate defenders of worker rights.

These reforms speak to the dire lack of democracy in labor relations and are designed to give workers agency in deciding representation for their own. If this labor reform is to succeed, it not only needs proper technical assistance and financial resources to

be distributed, but it needs to place the workers in their workplaces who live this reality day in and day out to put them at the center of implementation.

Thank you.

[\[The statement of Ms. Cisneros follows:\]](#)

STATEMENT OF HARLEY SHAIKEN, PROFESSOR AND DIRECTOR, CENTER  
FOR LATIN AMERICAN STUDIES, UNIVERSITY OF CALIFORNIA, BERKELEY

\*Mr. Shaiken. Thank you, Chairman Blumenauer, Ranking Member Buchanan, and members of the committee. It is an honor for me to be here, and I would like to start by saying I believe that a vibrant trade relationship with the United States and Mexico is vital for both countries, and a new trade agreement is a real opportunity.

We need rules of the game to govern trade about what is critical -- is that the gains of trade be also shared by workers and communities in the United States from Stockton, California to Flint, Michigan to Buffalo, New York. NAFTA channeled those gains largely to investors and corporations.

It was painful for far too many workers and communities. Economist Joe Stiglitz in his new book flags a critical problem we face in the United States that NAFTA has made worse. "Stagnant or declining wages at the bottom, an eviscerated middle class, and top wages that are soaring."

The central issue for considering USMCA, in my view, is labor: the impact of plant location and outsourcing in Mexico on U.S. workers' jobs and wages. Manufacturing workers are directly in the line of fire, but all workers from nurses to teachers to service workers to government employees are impacted.

I would like to briefly touch on three things. Mexico, the United States, and the



agreement.

First, Mexico. Trade multiplied six-fold under NAFTA, but this growth was fueled by a destructive labor paradox. Workers have produced more and earned less under NAFTA. Why? Two forces: no labor rights in the export sector, nearly impossible for workers to form unions, and government policy to suppress wages. As a result, Mexican wages are now below China and among the lowest manufacturing wages in the world.

To give a sense of what this means, a senior auto worker in Flint, Michigan earns \$30 an hour. A senior auto worker in Ramos Arizpe, Mexico under General Motors earns less than \$3 an hour. Is it much of a mystery why Lordstown is being shuttered and why some of that production will be going to Ramos Arizpe? There is a possibility here for all to gain, but not under the current rules. The auto sector is particularly critical because it is about a third of total exports.

Second, this dismal picture is also a U.S. story. These aren't simply low wages. They are suppressed wages. In a highly linked economy, it serves as a magnet for investment and leads to shuttered factories and shuttered communities in the U.S. In the auto sector under NAFTA last year, we had a \$95 billion trade deficit, the largest U.S. trading deficit in this sector in the world. More than our deficit with Japan and South Korea combined. That reflects this distorted trading relationship, and it is in no one's interest.

Finally, a new trade agreement must benefit U.S. workers and communities, and a clear route to doing that is to ensure that Mexican workers no longer have suppressed wages.

Two critical changes in the USMCA, in my view, are essential prior to ratification: an improvement in the labor language and more effective enforcement, and most fundamentally, demonstrated reform on the ground in Mexico in the export sector. The

Mexican government has shown a real commitment and has done impressive things. The forces against change are already ferocious. To gain leverage for Mexico to ensure reform actually takes place, pausing ratification until it is demonstrated in the exports sector is essential.

Thank you.

[\[The statement of Mr. Shaiken follows:\]](#)

STATEMENT OF CATHY FEINGOLD, DIRECTOR, INTERNATIONAL  
DEPARTMENT, AFL-CIO

\*Ms. Feingold. Thank you, Chairman. Good morning.

On behalf of our 55 affiliates representing more than 12.5 million working people, the AFL-CIO appreciates the opportunity to offer our comments this morning.

As the international affairs director at the AFL-CIO, I have overseen many of the federation's submissions under labor provisions of FTAs. From submissions under NAFTA's side agreement to submissions concerning Guatemala, Bahrain, Honduras, and Colombia, I have witnessed firsthand the ineffectiveness of our current labor enforcement model and how it fails workers.

Workers who dare to speak out and await justice often face increased violence, harassment, and blacklisting in their sector. Over the course of 25 years, the AFL-CIO and other interested parties have filed approximately 40 complaints under a NAFTA side agreement and none of them went beyond ministerial-level of consultations. There are still five non-NAFTA cases that are open and pending.

The Guatemala case was the only case to proceed to dispute settlement in more than 24 years. The decision took nine years from the filing of the submission and underscored

the weakness in our ability to enforce labor provisions and bring justice to workers.

Given the ineffectiveness of the side agreement and subsequent labor chapters in other free trade agreements, the AFL-CIO advocates for an improved NAFTA labor chapter that would strengthen labor standards as well as enforcement and ensure each of the three countries abide by the ILO conventions and the reports interpreting those rights. We need an agreement that can be fully enforceable.

As we have already heard from other panelists, there are enormous challenges to overcome in Mexico, ranging from legal challenges -- there are currently about 96 constitutional challenges to the labor law reform -- to limited resources. The passage of the labor law reform and ratification of ILO Convention 98 by Mexico on the right to organize and bargain collectively are really important steps, but implementation remains in the distance.

Given these many challenges already highlighted around implementation, it will be critical to ensure that the new NAFTA includes strong, effective monitoring and adequate funding to make it happen. Yet the proposed new NAFTA relies on many of the same flawed enforcement mechanisms of previous FTAs, including the ability of parties accused of violating their obligations to block the dispute settlement process from advancing by refusing to reach consensus. This problem had already been resolved in later FTAs, so its reemergence in a new NAFTA represents a major retreat in the fight to ensure effective enforcement.

Additionally, under the current model, a party must demonstrate that a violation was committed through, "sustained or recurring course of action or inaction in a manner effecting trade or investment between the parties." This, again, remains in the current text of the new NAFTA and has proved insurmountable in the U.S. versus Guatemala case, the only case ever to have been arbitrated under the labor chapter.

We must learn from the failures of the U.S. versus Guatemala case. Therefore, we strongly recommend the removal of footnotes 8 and 11 that contain this language. The labor obligations in the new NAFTA must also be supported by an independent enforcement mechanism with innovative tools and penalties to change the culture and promote a strong commitment to the protection of worker rights. All parties should work together to develop a model that would allow for the inspection of facilities suspected of violating labor standards and apply penalties for violations.

Workplace inspections could be conducted in industries that are widely known for labor violations including agriculture, mining, manufacturing, along with entities in the production chain, exporters of services, and their subcontractors. If facilities are found in violation, a country could take actions to deny preferential tariff treatment to all goods imported from that facility. Now, this is a really important step, but many products already have very low tariff rates, so we really need to look at further consequences.

That is why we believe that any good found in violation of a trade agreement, not just a violation of force labor, should be denied entry at the border. This proposal could easily be modeled on the U.S.-Peru FTA's Forestry Annex, which gives the U.S. the authority to verify that Peruvian lumber has been produced legally and by conducting offsite inspections.

U.S. Senators Sherrod Brown and Ron Wyden are currently working on a comprehensive proposal that contains many of these recommendations, and we both support and appreciate their efforts. We also see this initiative as complimentary to a text that includes strengthened language on labor standards and enforcement. We have a unique opportunity to get it right this time. We look forward to working with you.

Thank you very much.

[\[The statement of Ms. Feingold follows:\]](#)

\*Chairman Blumenauer. Thank you.

We will begin questioning. I will recognize myself. Ms. Sadka, I understand that there are perhaps more than 700,000 existing collective bargaining agreements if I heard you right, of which the majority are likely to be protection contracts.

I am a bit astounded at the timeline the Mexican government has proposed for reviewing all of these agreements. If I understand correctly, the government hopes to identify all of the existing agreements in the first year and a half, and then use the remaining portion of the four-year timeline to ensure that each agreement is subject to a – free, personal, and secret vote by the workers. Is it even possible for the Mexican government to complete this task within four years?

\*Ms. Sadka. I think it is possible. Very difficult. I think the technology will be very important here. Getting a scan of 140 million pages, which is about how many pages would be in those contracts, is virtually impossible but getting each state to give a list of the contracts with some basic data in some kind of platform that the federal government can create is possible.

And recall that the revisions are meant to be carried out by the unions with inspections and presence of the federal authorities, but it is the unions themselves that have to carry out these revisions. So, if they don't carry them out, their contracts will be extinguished because they will not have been reviewed on time within the four years.

\*Chairman Blumenauer. Thank you.

Ms. Cisneros, I understand that in addition to your time in Mexico, you spent part of your career focusing on labor rights in Colombia. I have significant concerns regarding our track record on labor rights under the FTA in Colombia. They have made some positive changes at first, but still not in compliance with labor obligations and may have even taken steps backwards in recent years.

Colombia still remains an incredibly dangerous place for union organizers and workers. Can you discuss the effectiveness of the enforcement tools under the U.S.-Colombia Free Trade Agreement when it comes to labor? Can you talk about whether enforcement through the FTA's mechanisms or a 301 investigation could make a difference even now? And what would you make of the fact that this administration and USTR has failed to bring an enforcement action against Colombia on labor?

\*Ms. Cisneros. Thank you, Chair. I left Colombia several years ago, so I can only speak to the experiences that we had with workers in that moment who were attempting to use the Colombia labor action plan as a new tool for them to enforce newly enshrined rights. There, we found that it was surprisingly easy to pass legal reform. You could change a law, you could have a new protocol, you could have new instructions.

What was much more difficult was the deep cultural change that has to go through every layer of government and practically society, including business. You have to have stiff penalties for noncompliance, and workers have to be in a position to invoke those tools. Otherwise, none of these new legal changes really can, you know, kind of kick in.

I think what was the most disheartening was, you know, workers began to imagine a different kind of reality for themselves in Colombia and started to equip themselves, you know, with these potential new tools, but when they chose to exercise them, the response they would get from employers was virtually the same, and then when they presented that to the government, it was very difficult to get the government action to kick in.

It took a couple of missteps, but then we did have some success in applying the new subcontracting laws and getting workers moved over into full time, permanent employment and, you know, it was a slightly different legal change in that context. The political will from the government to make this sustained practice and overhaul, again, not just institutional practice, but really their behaviors proved incredibly difficult to overcome, and

when you don't institutionalize it in that way, then perhaps you get a change in government.

It is very easy to revert to past practice, and so from what I understand lately in Colombia, we have seen a lot of backsliding. I think as my colleague, Cathy Feingold, pointed out, this is a moment that we have that is unique and we really want to get it right this time.

\*Chairman Blumenauer. Thank you.

Ms. Feingold, all of our witnesses have highlighted the resources, the funding, assistance, and time that it will take to fully implement this reform. It will be a historic undertaking. I believe that, given this work and the forces of Mexico pushing against implementation, effective oversight is going to be a key aspect to assure that Mexico is able to live up to its promise.

I am concerned that the renegotiated contract doesn't provide us with the tools we need. As Ms. Cisneros had just described, our current model of labor enforcement does not appear to be working. Can you talk about how we should be thinking about effective monitoring and enforcement moving forward, and what some options are for improving the renegotiated NAFTA?

\*Ms. Feingold. Thank you very much for that question because I think this is the crux of what we are trying to change in this agreement.

On monitoring, I would say that currently, as a few GAO reports have signaled, monitoring happens by unions and outside organizations. We don't have enough ongoing monitoring happening either by USTR or the Department of Labor. So, we think we do need a whole other system so that monitoring -- you know, we get a lot of pressure as we work up to these trade agreements, and once the trade agreement is signed, there is not a lot of effective monitoring.

And so, we have put in proposals, we have ideas on maybe you would need an

ombudsperson or some type of structure that would ensure you would have ongoing monitoring and an ongoing kind of system of getting reports and documentation because this can't just be, you know, sort of a one moment in time where we are all focused on Mexico because we have to be in it for the long haul. So, we absolutely need new structures that would go to monitoring.

On enforcement, as I have mentioned, we have found that enforcement relies on, as Gladys mentioned, political will. You know, how much political will is there really to enforce an agreement once it has been signed. We think that stopping products at the border is going to be key in this kind of enforcement.

For many companies, a tariff, if they only have about a two percent tariff, that would not be a particularly large consequence if a product is found being made in violation of our trade agreement, so we need to be experimental. We need to try new forms of enforcement that really lead to consequences. There has to be a consequence.

If you are supporting thugs to go in and undermine a union election, if there is violence in your plant, if there are discriminatory practices, we have found time and time again that this is just incorporated into the cost of doing business and that businesses often, you know, don't feel that these agreements are actually going to cost them anything. And so, that is why we feel if it is found that products are being made in violation of this chapter, they should not be able to enter our country until it is resolved.

\*Chairman Blumenauer. Thank you very much.

Mr. Buchanan.

\*Mr. Buchanan. Thank you, Mr. Chairman.

Steny Hoyer said on the floor a little bit ago that, I think I am just paraphrasing, but, "NAFTA is not perfect, but the USMCA is a lot better. It is an improvement from where we are at." You know, you had mentioned, Professor, that someone from Mexico makes



\$3 an hour and someone from Flint makes \$30 an hour.

I grew up outside of Flint, and my uncle worked at Buick for 30 years, was active in the union, my parents both worked in the unions for 30 years -- my father anyway, but those were hard-fought battles over a lot of years in the U.S. You know, we are talking about Mexico. We are not talking about Canada. So, in some ways, I want to say this in the right way, we need to get real.

They have got real challenges. My sister lives in El Paso beside Juarez. They have got big, big challenges. To think that you are going to fix and get all this dialed to anything close to what we have, it is going to be a long time. However, I think there is progress that can be made. I do think that what we have got is a new an improved version from what we have had before.

I am looking at their implementation schedule. I don't know how someone mentioned 700,000 agreements that got to be worked through. They are going to have to have the funding. We are actually cutting expenses in the country, so I think, you know, let's have a real conversation here, and I think we are talking about making progress.

I think our neighbors, and just my opinion, it is important that we have a viable Mexico as a neighbor because we can see a lot of the challenges on the border. That is not going to go away in my mind unless they have a viable economy themselves.

Professor, you mentioned we need to get to an agreement, but let's just talk about, you know, your thoughts of what that looks like, and I would say this. I mean, it seems like you have got three options: you either cancel NAFTA, which is \$1.3 trillion in economic activity, you know, which there has been some talk about that as a possibility. I can't imagine it.

You stay with the current NAFTA, or you get something, I think, that is somewhat new and improved making some progress, fight for what we can get, but it is not going to

ever be perfect or anything any of us are going to be terribly excited about in a sense that way other than it is one of the largest free economic zones in the world. \$1.3 trillion. Our jobs on our side is about 12 to 15 million jobs that it creates through that, but I would like to ask all of you.

I mean, what are the options? I mean, we are where we are at. I think if we delay it for a long time or just go through the process for a couple of years, I think we are hurting American workers and jobs, creating more uncertainty in Mexico and hurting them, and I argue that, you know, I want my neighbors. It is different with China and Japan. I will be as competitive as anybody there aggressively, but at the same token, they will probably sign whatever we put in front of them within reason, just my opinion, because they want a deal.

I met with the Mexican ambassador. They need this deal as maybe Colombia did, and Panama did. South Korea, that is a different scenario, but the bottom line is I want to get your thoughts, in terms of, where we are at. I think what we are talking about is making, I think, substantial progress, but again, so when I say being real, I am not trying to insult anybody. I am just saying we are where we are at. You are not going to move \$3, they said something about 17.2 percent increase. You are going to pick up 50 cents. It is a long ways from someone in Flint or Detroit area making \$30, \$35 with benefits.

So, let me ask you, Professor. You mentioned we need to get ideally, I am paraphrasing, to an agreement, but at the same token, you know, what is your thoughts on what that agreement looks like and how long that takes because I think there is also a fact of uncertainty in leaving this thing just set out there for a long time.

So, do you want to respond to that?

\*Mr. Shaiken. Congressman Buchanan, I think you are raising some excellent points. It is essential we be focused on something that could actually happen. Before, I

thought you spoke very well about the commitment of the new Mexican government to reform. I believe that is sincere about what they have accomplished to date in terms of the agreement. I also think that is accurate.

There is no way under any scenario that \$3 an hour is going to go to \$30 an hour in the next 4 years, the next 20 years perhaps. The issue is beginning to link in Mexico rising productivity to wages going up versus down. That is what directly impacts workers in the U.S.

What I am proposing is reluctantly, but I believe it is the only clear path to ensuring the reform translates from what has been said and what has been accomplished, very meaningful but on paper, to something that happens on the ground. The leverage that we have to influence is prior to ratification. This is the single most important issue in Mexico today.

It will not be the moment the agreement is ratified. It doesn't mean that anyone in the government is insincere when it comes to this, but the only actor that can truly produce reform is the Mexican government and by waiting until in the export sector, here we are talking about two years, perhaps. Perhaps significantly less. Some demonstration --

\*Mr. Buchanan. Professor, thank you. He is --

\*Mr. Shaiken. Oh, sure --

\*Mr. Buchanan. -- telling me it is time is up, and I yield back.

\*Mr. Shaiken. We are used to three-hour time blocks.

[Laughter.]

\*Chairman Blumenauer. Okay.

Mr. Pascrell?

\*Mr. Pascrell. Thank you, Mr. Chairman.

25 years after, and still counting, NAFTA's passage, I know the system failed to

improve labor standards. It failed to break the most, and I would say the most collusive and corrupt relationship between labor management and the government of Mexico, but I heard none of the witness talk about the pinnacle of The Bermuda Triangle with not just the Mexican government, and these protection unions, and by the way, it is not just the majority, it is 93 percent all fall under that. Independence is not in the labor movement in Mexico.

The third part of the triangle are corporations, which they made the deals to begin with not only from the United States, but from other countries in Mexico. So, we need to lay it all on the table.

We know poor labor standards have led to a tremendous amount of outsourcing of American jobs. It is not immigration that put people out of work. It is the deals that were made to keep the Mexican worker not even down on the farm. Not even down on the farm.

And so, our relationships, not only in industry, but in agriculture have collapsed. So, you can pass all the legislation you want because there were certain things in the first NAFTA that said, "You have to do things this way so that everybody gets a fair shot." That didn't happen, right, Professor Shaiken? It did not happen.

So, we know the chronology of NAFTA negotiations. It started over two years ago. It didn't just happen last week, and there is a major problem here. I was more optimistic three months ago than I am now of getting to yes, and some people say, "We want to get to yes any way we can." They don't have that, though. "Any way we can."

I am pleased that Mexico passed new laws, but they need to be implemented. You folks didn't know better than us. We need to know real change is underway, not unlike the Peruvian trade deal when Peru made some changes. They have gone back on some promises themselves since, but I think it was a good model to look at, and the May 10th agreement still stands, in my mind, as a protocol that we can look to and get to some

conclusions. That is my opinion.

We do have some positive signs, but everyone singing from the same hymn sheet doesn't mean they will be on key when the vote comes up here. We heard again today that the most optimistic scenario for implementing the labor reforms will take longer than the ambitious four-year timeline Mexico gave itself. So, let's look at that.

Mexico has over, we have heard the Chairman say, 700,000 collective bargaining agreements to review. They were likely negotiated without knowledge or input just as the original contracts and do not provide for any rights beyond minimum legal standards. That is what it is. Take a look at it and read it.

Mexico has yet to appropriate one penny to start implementing what they voted on. The new Congress. The new President. "Sounds good. Good. I like it. I like what they say." A lot of people like what was said 25 years ago. These "ifs" keep growing. News just yesterday that old corrupt unions filed these 100 challenges. We hadn't even started yet. So, the law shows it will take more than just good will and a few pennies to make change.

And, you know what I am concerned about really most of all? In my record checking is pretty good on labor unions, but I sense a quiet silence from many unions about this negotiation. Be careful getting to yes.

Thank you, Mr. Chairman.

\*Chairman Blumenauer. Thank you.

Congressman Kind?

\*Mr. Kind. Thank you, Mr. Chairman. I want to thank our witnesses for your testimony today. I too agree. I think Professor Shaiken, you highlighted that it is so important that we have a constructive economic and diplomatic relationship with our southern neighbor especially, and I think the problem that we are having currently with

immigration flows will only be exacerbated as long as the economic disparity continues to exist between the U.S. and Mexico and the triangle region economies, and so I think moving forward with no trade agreement would be disastrous in that regard.

But Ms. Feingold, let me ask you. I think there are lessons to be learned from the Guatemala labor case. How long it took, the standard that is being applied, the sustained and recurring actions, I think, is language that is problematic as a former special prosecutor myself. Being able to show that proof, and footnotes 8 and 11 are something that we are going to -- but another problem that we have seen throughout the history of these agreements is the panel blocking issue.

Is there a way that we can best address that? Because I think this agreement falls short as far as correcting that. I would have felt more confident if they had just taken the enforcement chapter out of the Trans-Pacific Partnership and included that in this, but they didn't do that for whatever reason.

So, what is your recommendation as far as how we can best address panel blocking?

\*Ms. Feingold. Thank you very much.

We think you should take it out. We do not understand why we have gone back in terms of panel blocking. If a party is not upholding its obligation, there should be a panel and it should be addressed there. And so, we agree. We think it should be taken out. This had been advanced in other free trade agreements, and so we believe that is the best way to --

\*Mr. Kind. Now, the administration has shown a proclivity to unilateral action, and under USMCA, they are talking 301 action being taken. Your thoughts on that?

\*Ms. Feingold. We do not think that is the appropriate path to addressing the issues in Mexico.

\*Mr. Kind. Well, some of us worked hard on the Trade Enforcement Act to get

included in it the prohibition of imported goods based on forced or slave or exploitation of child labor. Why do you think that provision, the tools that we have been giving administrations now aren't more aggressively utilized? We have had some success in blocking certain Chinese products, but why aren't we looking at the Trade Enforcement Act as a potential enforcement mechanism?

\*Ms. Feingold. I think that is right. I think we should be effectively using some of the tools that we currently have, especially around products made with forced labor, but again, it goes back to the resources, the political will, and that this is going to take an actual structure to make it happen. To make sure that people at the border feel empowered that there is actual monitoring going on in facilities.

And so, I think we have some existing models. They haven't been implemented in the way we would like to see it. I think now is the moment to take those models and make them actually work.

\*Mr. Kind. Well, I am glad you raised the resources issue. I have been raising the alarm in regards to the administration's budget request that they submitted, and especially the impact on the Bureau of International Labor Affairs. That is the entity at DOL that is in charge of monitoring and enforcing labor violations.

The administration's budget cut it by \$48 million, from \$67 million to \$19 million. Should that engender much confidence in us that we have a current administration that even cares about labor enforcement and will do an adequate job if we move forward on this agreement?

\*Ms. Feingold. The AFL-CIO actually has joined with the USCIB to say very vocally that this is a huge problem. We have to make sure that ILAB is properly funded. Not just properly funded but, given the challenges that we are hearing about Mexico, we need increased resources at ILAB, and we need to increase resources, I should say, at the

Department of Labor.

You know, we are going down with wage an hour, right? The statistic that just came out recently is that we are spending 10 times as much on immigration enforcement as we are on wage an hour, and I think that is a serious message about the priorities that we have, and so let's make sure that we are properly funding our labor ministry, the ministry in Mexico so that we can get the work done.

\*Mr. Kind. Professor Sadka, let me turn to you.

You had mentioned in your testimony, your written testimony too, about the need for technical assistance with Mexico in order to implement the labor reforms. I happen to agree. I think obviously, Senators Wyden and Brown, too, want to have some type of capacity building entity there to help Mexico do what they have passed and promised to do.

What would that look like, and what should our ask be of the administration to embrace that role? And then finally, is Mexico even open to having another government or country like ours coming in to help them with this technical assistance or capacity building?

\*Ms. Sadka. The second part of the question is easier to answer. Yes. They are quite willing to have the U.S. help with implementation.

I think that technical assistance essentially means setting up a model for how the new institutions have to work. It means getting involved in looking at the organic statute of the Federal Center for Conciliation and Registrations. It means helping them set up all the communications they have to have between databases.

For example, in order to verify the representativity of a union, the law mandates an interoperable database with the Social Security Administration in Mexico. There are not resources, nor is there a clear plan about how technologically they would set this up. They have a deadline to set it up within less than 18 months from now. So, the idea would be to



set up specific goals that have to do with the law, the organic statute, with the interoperable databases, with the case management systems, and make sure that the indicators that the --

\*Mr. Kind. Let me just intervene because we are running out of time --

\*Ms. Sadka. Sorry --

\*Mr. Kind. -- and I would love to follow up as far as the details of this, but should there be a proper role for Canada or any other international organization to help with the TA and capacity building with Mexico, so it is not just us?

\*Ms. Sadka. Yes, I think so. I mean, if this is USMCA, it could be Canada, but also ILO would be a very good resource.

\*Mr. Kind. Great. Thank you.

Thank you, Mr. Chairman.

\*Chairman Blumenauer. Thank you.

Mr. Schweikert?

\*Mr. Schweikert. Thank you, Mr. Chairman.

Look, in having read through the testimonies, it is a wonderful listing of the sins of the past, and also the sins that occur today.

Is it Professor Sadka? I really appreciated your writings, and we actually even looked up a couple of the things you have written because you actually have some real interesting optimism in your writing, but I want to go down the rabbit hole a little bit on being a little more technical because I fear a lot of what I am reading here is sort of stuck in almost a previous century of enforcement.

You know, let's send people in to go look at a facility, but you know, it is the joys of being on an airplane 10 hours a week. In some of the reading, Professor, I am going to ask you, let's walk through what, as a private university you are at, or an NGO, or other organizations can do if now, there is a requirement of data platforms that are private and

secure. My ability as a worker to be able to file complaints and those things electronically, safely, and privately.

Is there an opportunity now for labor information, labor enforcement, labor abuses entering this century and is this sort of a new vision and what do we do as a U.S. Congress to help? But what do more private organizations do to help build that electronic platform for labor protection?

\*Ms. Sadka. So, private universities and NGOs and civil society in general have been doing work on this in Mexico. I have developed myself components that will have to be part of this case management system and electronic database system. Of course, it has to be done at a much larger scale, but I think we already have a lot of the elements of the design, and I think that it is true that monitoring has to become modern, and I think there are ways to certify these kinds of systems today, so when you have an electronic case management system, not only does the system produce data, but it can also be monitored. It can be certified. The safety of mailboxes and notifications can be --

\*Mr. Schweikert. Can you actually explain, because I think that is important for everyone to understand the concept of a secure mailbox to be able to file something or to document? Will you walk everyone through that concept?

\*Ms. Sadka. Yeah. So, the law says that all conciliation centers and the labor courts have to create and use secure mailboxes for each of the parties and that means that after the first summons or notification takes place, all other communications with the parties happen online, and that means the documents can be submitted online, objections can be made online. In fact, the very first part of the lawsuit until the first hearing is all online.

\*Mr. Schweikert. Wasn't there a discussion in the Mexican Senate, a testimony of much of that also being publicly accessible?

\*Ms. Sadka. Yes. Under the transparency law, public versions of all the information is accessible. That is how I do my research. I get access to the actual case files.

\*Mr. Schweikert. And isn't that platform, in many ways, a much more powerful --? And I don't want to head down sort of the arguments of, you know, technology and cultural imperialism. "We are going to come in and rebuild your systems and those things." But for a society to see the breadth of what is going on in labor standards, labor complaints, what is working, what isn't you can do that at a much larger scale than having a team to go run around and look at certain facilities.

\*Ms. Sadka. I agree; you can do it at a much greater scale, but you also have to do monitoring on the ground, and you would use the system and the statistics --

\*Mr. Schweikert. -- to find where to go --

\*Ms. Sadka. -- to vocalize your monitoring.

\*Mr. Schweikert. Okay.

Mr. Chairman, look. Particularly reading the documentations of, we will call it, the abuses of the past I think there should be almost a bit more joy that there is almost a revolution happening in this area.

I will ask all of us to be a bit more forward thinking of do we sort of step back into enforcement models that we have used for the last multiple decades, and then we come here and complain that they are not working. Or maybe there is actually a moment here where the use of data and technology and openness and transparency is actually our solution.

And with that, I yield back, Mr. Chairman.

\*Chairman Blumenauer. Thank you.

Congressman Kildee. You were here first.

\*Mr. Kildee. Oh, okay. Thank you, Mr. Chairman.

\*Chairman Blumenauer. You will be followed by Mr. Panetta.

\*Mr. Kildee. Okay.

\*Chairman Blumenauer. Oh, I am sorry. No, no, no. Congressman Davis.

\*Mr. Kildee. I yield to Congressman Davis --

\*Chairman Blumenauer. Hit me in the head. I am sorry.

\*Mr. Kildee. You could get a lot of volunteers for that work, you know.

[Laughter.]

\*Chairman Blumenauer. Yes, get in line. Get in line. Sorry, Danny.

\*Mr. Davis. Thank you very much, Mr. Chairman, for calling this very important hearing, especially as it gives us the opportunity to review some of the complexities of what becomes any NAFTA agreement. So, I think we are going to hear recurring themes.

Ms. Feingold, I noted several months ago in the AFL-CIO executive committee statement and in the labor advisory committee report that proceeded it that it is the view of the U.S. labor movement that the labor standards in the revived NAFTA text signed on November 30 some of the flaws of past U.S. trade agreements and thus will not result in real improvements in worker's wages or conditions.

Given the labor terms in the United States, FTAs have been premised on the same language since 2007 and the May 10th deal on strengthened labor standards made between Congressional Democrats and then-President George Bush and have not resulted in any successful enforcement actions. Can you describe what elements of the existing text require improvements if the new agreement is to provide meaningful standards and if those standards are going to be truly enforceable?

\*Ms. Feingold. Thank you very much for that important question.

We believe that the current language which includes a reference to the ILO

declaration, we would like to see the actual conventions and the actual case law that goes along with those conventions as being used in our agreement. It is more specific. It lays out what freedom of association actually looks like, what the commitments under Convention 98, like what Mexico just ratified, would actually look like, and so we think that would be an important step forward.

Again, in terms of enforcement, I think it goes back to, you know, once you have signed a piece of paper, there is a huge gap still in Mexico after they signed commitment to uphold Convention 98, so it is a process of making sure you have got your own laws and compliance with those ILO conventions, making sure you have got the ability to enforce it, we have heard about the challenges to enforcing freedom of association, and so it goes back to some of the previous conversation we have had about how you actually would enforce that, and I think it gets to the transformation of the industrialization systems in Mexico.

\*Mr. Davis. Thank you. Thank you very much.

Ms. Cisneros, you are on the ground working directly with the independent unions, working with entities that would seek to enforce the new agreements. It seems to me that part of the problem is things are going to start from scratch. That you are going to have to create a whole new agency to go through all of the processes of what is needed to advance the thinking.

How effective do you think this can be, especially what kind of real timelines do you think that we are talking about or thinking about or realistically must look to for change to occur in a meaningful way?

\*Ms. Cisneros. Thank you, Representative Davis. I think four or five years makes sense to build institutions perhaps in name, begin to train people, but what we are talking about is a deeper cultural shift and shifts in practices, and those are going to be more

difficult to achieve.

In the short term, the measures in the labor law are designed to first weed out, to discard sham contracts, unions that claim to have representation of workers but perhaps are phantom unions or ghost unions or contracts that were done entirely behind the backs of workers without their input, without consultation, and perhaps they have never even seen it which is very common in Mexico.

So, with the first cut of this or the first consequence absolutely will be that some of those will disappear, which means that in Mexico, we might see a reduction in its union density rate. What we need to look at in the medium and longer term is how you replace that with authentic democratic structures and that is going to be a brick by brick, piece by piece building process if it is to be authentic and democratic and led by the workers themselves.

\*Mr. Davis. Thank you very much, and I yield back, Mr. Chairman.

\*Chairman Blumenauer. Thank you.

Now, Mr. Kildee.

\*Mr. Kildee. Thank you, Mr. Chairman, and thank you to the witnesses for testifying today, and I particularly appreciate the occasional reference to my hometown of Flint. I am sure my colleagues may have heard me mention my home community from time to time, and in listening to the conversation, there was a reference to the fact that these changes take time and even in the U.S. labor movement, it took some time, but it took more than time, you know?

A quick lesson in Flint labor history would remind folks that, in 1936, 1937 when the workers occupied the factories in the sit-down strike, there was an effort to remove those workers from the factory. In fact, there was a battle, the Battle of the Running Bulls with the Flint police going after the workers and Governor Frank Murphy sent in the

National Guard, many thought to remove those workers from the factory and actually, the National Guard showed up to protect the workers.

My point is that it takes more than just the letter of the law. It takes a government that is willing to take significant steps to enforce the laws on the books and in the case of the 1937 sit-down strike, February 11, when we finally got that agreement, had it not been for the fact that Governor Frank Murphy, who later ended up on the U.S. Supreme Court, by the way, sent in the National Guard to protect those workers, took decisive action.

So, what I am concerned about is not just what it says in the letter of the law, but what the commitment is of the government to take the steps that are required in order to enforce the law and to protect workers.

So, I guess starting maybe with Mr. Shaiken, if you could comment. When Ambassador Lighthizer was before us, I asked him about working with us to help protect American auto workers. Absent additional either language in an agreement or additional measures, how much confidence do you have that agreement as written would protect American auto workers?

\*Mr. Shaiken. I have very low confidence that the agreement as written would. In fact, the most perfect language in the agreement is essential, but not enough. It all depends on what happens in Mexico.

\*Mr. Kildee. Right.

\*Mr. Shaiken. I think the commitment of the government is strong. I think the initial actions are positive, but the forces arrayed against it are very powerful and not about to walk away. The corrupt existing official union structure, corporations that benefit from this, and there is actually a third factor. Mexico has weak institutions in this area. The state capacity itself must be built. That is a tall order. The World Justice Project, an initiative with the president of the American Bar Association, came out with their 2019

report. On the court system, Mexico ranked 99th out of 126 global countries, below Uzbekistan, Guatemala, and Sierra Leone.

Now, there will be new courts created that are central to the reform. What is their prognosis? So, my feeling is this can be done. I believe the Mexican government seriously wants to do it. It is in their interest to do it. It creates a consumer-led society in Mexico if workers are paid more, but the best leverage we could put into that mix is to make it the precondition not what happens after the agreement is ratified.

\*Mr. Kildee. Yeah, and I guess that is the real focus of some of my concern because obviously at one point or another, we are going to have this binary choice between the existing North American Free Trade Agreement and this new agreement, but the question is at what point do we have confidence that the Mexican government is going to take the necessary steps?

So, I guess with the remaining time, perhaps Ms. Cisneros and Ms. Feingold, briefly comment on where do you think we should be placing that threshold moment? What is the proof point for us? Not just when the laws are passed, but what is the proof point for us when we feel confident that implementation will be robust, and enforcement will be strong?

\*Ms. Cisneros. Because so much of this centers on precisely that political will, it is our belief that there are current cases, some of them I outlined in my testimony, where the government could very positively intervene to send the right kind of messages and begin to have a more proactive approach to how it will enforce freedom of association.

Workers need to be able to bargain to change the rules of the game in Mexico, so if they were to take a serious look at some of those outstanding cases and apply some of the current law mixed with some of the new provisions, that could set a very important precedent for how this moves forward.



\*Mr. Kildee. Thank you.

\*Chairman Blumenauer. Thank you.

Mr. Marchant.

\*Mr. Marchant. Thank you, Mr. Chairman, and thank you to the witnesses and the Chairman for having this meeting. I think that after reading all of the newspaper articles and watching TV and trying to put myself in the position that my constituents are right now. Texas, a thriving trade-oriented district that frankly loves NAFTA. I mean, I will have to tell you that when we go home, some of the opposition we get is, "Why in the world would you change NAFTA? We are doing so well under NAFTA. Why in the world do you want to do this?"

It is my job then to explain to them how many new jobs will be created under this trade pact, how much more progress has been made towards getting a more fair labor system and accountable labor system in Mexico. Are we going to have a labor agreement that immediately works? Is that going to be the trigger? Are we going to stay with the current system? And if we stay with NAFTA and don't pass USMCA, how will you bring about all of the ideas that you have today? How will you bring them about under the current system we have?

Is the law that Mexico just passed, is it sufficient for you to have the platform to get everything done that you want to get done? Professor Sadka?

\*Ms. Sadka. That is a very good question. Sorry. That is a very good question. I have been wanting to say that I don't think delaying for several years is a good idea, and the reason is the Mexican government has been able to pass this law because of the pressure for passing USMCA, and if the delay is too long, the Mexican government is facing a complex situation at home, and they will lose credibility vis-à-vis the protection unions and all of the forces inside the country that don't want this to work.

So, I think that we can't bring about the change just with the Mexican law. I think that passing the USMCA is important. However, I think that while doing it as quickly as possible, it is important to take into account the concerns about changing certain elements that have to do with enforcement, with guidelines, and let's say inspections, indicators that have to be reviewed on a regular basis --

\*Mr. Marchant. Yeah, and I understand that. You have made it very clear, and I now understand better the goals that you guys have set up. I think they are good goals. I am more of a guy that is trying to figure out how do we satisfy this? How do we give you the confidence that we are better off on the other side of the fence than to stay on this side of the fence and not have this agreement? And I am a yes. I think that is obvious. I think it is the best thing we can do. I think it moves this issue down the road.

But Ms. Cisneros, what would your response be to that?

\*Ms. Cisneros. It is actually quite a complicated issue.

Mexico, absolutely. The level of the government, level of business certain members of the general populous generally support signing this new trade agreement, but Mexico has had a very complicated history with NAFTA itself.

\*Mr. Marchant. Yes, ma'am.

\*Ms. Cisneros. And very popularly is not universally embraced. So, you are looking at, you know, a contentious issue within Mexico to a certain degree, and you are looking at an opportunity to push towards a higher standard for Mexican workers. To go back to the first question for Mr. Blumenauer, my experience in Colombia was absolutely what we have described, which is you can check off a box. You can create a law, but what comes after and what gets behind it? Will employers feel as though they said what they had to say to get what they wanted, but they don't really have an intention to comply? Because the consequences for noncompliance, frankly, are not all that frightening to them.

\*Mr. Marchant. Thank you, Mr. Chairman.

\*Chairman Blumenauer. Thank you very much.

Mr. Panetta?

\*Mr. Panetta. Mr. Chairman, thank you for this hearing. Ranking Member Buchanan, all the witnesses, thank you very much for your time here today, as well as your preparation for being here today and all of your expertise and everything you have done. Thank you, thank you, thank you.

Following up on that, Ms. Cisneros, there has got to be a difference, though, between the government of Colombia as it was and the government of Mexico today, especially the will to make changes. Am I correct in that, and if so, how?

\*Ms. Cisneros. I believe that to be true. However, many of the same structural challenges they have are the same. So, you are going to have counter pressure. There are too many people who profit off the current system that are very comfortable with the current system. Good intentions are a part of it. We are seeing that reflected in a fairly progressive labor law reform that addresses many of the core concerns that we had been manifesting over time.

Again, what will be their ability to effectively implement it? If what they encounter is sheer resistance, that is going to make it very complicated for the positive outcomes that we all expect from this and workers especially expect from this to be true.

\*Mr. Panetta. Okay. Okay, thank you.

Ms. Feingold, obviously USMCA is an improvement over NAFTA. I think we all can agree upon that and look. And to be frank, I think there are many people up here on the dais on both sides that do want to get to yes, but obviously, we do believe that there needs to be certain improvements, and one of those improvements as you have heard and as you know well is enforceability.

Now, you mentioned in your testimony the importance of an independent enforcement mechanism, and I think today verbally, you said an actual structure that, you know, ensures that USMCA's labor provisions are followed, particularly one that relies on inspections. You mentioned it, and obviously we are familiar with the Brown-Wyden proposal, and that would encourage cooperative inspections of facilities suspected of violations.

Give us a rundown if you could on obviously how it could go about doing that. How it could improve the USMCA on enforcement?

\*Ms. Feingold. Great. Thank you very much for your question. Unfortunately, the other representative left, because I think, you know, the notion of technology and the interplay is absolutely important.

First of all, there needs to be a space for workers themselves to safely define what is happening. They are the best people on the ground, so people can parachute in with their clipboard and look and everything can get cleaned up. We know that well. That system does not work. You need empowered workers, so that is the first thing.

You need independent unions, workers who feel empowered they can speak out about what is happening in their facility. They are going to be the first steps. So, we need to process whereby they can, you know, carefully say, "This is a problem." Identify it, and then that triggers an inspection in that facility. So, that needs to be a guarantee. Currently, we don't have many workers in that situation where they feel like they could safely call out their employer that that is happening.

I also think you need a structure that is dedicated to USMCA because USTR or ILAB is dealing with lots of trade agreements and enforceability and it is not happening very well. So, we have put forward the idea of an ombudsperson or that kind of structure that would be responsible for staying focused on the USMCA as, you know, how it is

moving forward and the enforceability. So, those are just some ideas, but happy to discuss further.

\*Mr. Panetta. Okay. Good, good, good.

You also talked about workplace inspections occurring at different rates in different industries. Would it be beneficial, though, to focus on one particular industry over the other? Is there any one in particular?

\*Ms. Feingold. I would say that we would, especially because we represent various industries, we would want to see, you know, an aerospace, manufacturing, auto, a diversity of workplaces we would want to see inspected. I don't think it is going to pay off just to do one.

\*Mr. Panetta. Okay.

\*Ms. Feingold. And then try to improve it, and then everything runs over here, and you still have egregious worker rights violations. What we are trying to do is fix the system as a whole, and so you are going to have to have it across various industries.

\*Mr. Panetta. Understood. Now, if, you know, by chance and hopefully that if something comes about from the Brown-Wyden proposal, aren't we going to have to bring it to the other partners and make sure that they are committed to such a proposal as well?

\*Ms. Feingold. Absolutely, and we believe that is how it should happen, and I know that we have heard the Mexican ambassador herself has raised the issue about being able to do it here in the U.S. and the AFL-CIO would say, "That is fine. Perhaps, you know, we want to look at migrant workers and agriculture in our own industries," which has been raised by the Mexican government. So, we would support that proposal.

\*Mr. Panetta. Understood.

I yield back. Thank you.

\*Chairman Blumenauer. Thank you.

Mr. Higgins?

\*Mr. Higgins. Thank you, Mr. Chairman.

When the North American Free Trade Agreement was negotiated, the explicit stated goal was the integration of Mexico at developing economy with the highly developed, high-wage economies of the United States and Canada. Throughout the agreement, they characterized that as wage convergence. For each of you, has that objective been met?

Professor Sadka?

\*Ms. Sadka. No, clearly.

\*Mr. Higgins. Ms. Cisneros?

\*Ms. Cisneros. No. Wages have been actively suppressed.

\*Mr. Higgins. Professor?

\*Mr. Shaiken. While the best standards have been merged for business and intellectual property rights, wages are significantly lower than when NAFTA was passed.

\*Mr. Higgins. Ms. Feingold?

\*Ms. Feingold. Wages have been suppressed.

\*Mr. Higgins. The minimum wage in Mexico today is \$5.10 up from \$4.70 a day in the year previous. That is about 64 cents an hour. Unionization among working population Mexico has decreased from 22.4 percent pre-NAFTA to 11 percent today. The GDP growth in Mexico has been about one percent and the poverty rates today are higher than they were pre-NAFTA.

You are familiar with the Maquiladora factories? There is about a million workers working in about 3,000 of them. The conditions have been characterized, even by objective observers, as deplorable, inhumane. United States manufacturing jobs prior to NAFTA were 17 million. That is 5 million jobs that were lost, and 53,000 American manufacturing businesses have closed.

The first U.S. trade agreement was with Israel in 1985. The second was with Canada in 1988. The Canadian Trade Agreement to the United States and Canada made a lot of sense. You know, Canada is an economy of almost \$2 trillion. It is a mixed economy. There is a profound respect for worker rights, for the environment, for human rights. The U.S. economy is a \$21 trillion economy, 70 percent consumption, the richest economy in the world. Of course, everybody wants to trade with the United States.

And the other things we did? We betrayed our own workers. There was language in the North American Free Trade Agreement that talked about trade adjustment assistance, and what that said to the manufacturing worker where I live in Buffalo: you are going to lose your job, and we are going to give you a little money to appease you. It is not real money. It is not real worker training, and I want a commitment on the part of this administration to do a robust trade adjustment assistance, because I know what is going to occur. There is going to be continued job losses.

The economy has changed profoundly in the last two and a half decades, but you know when you are a large economy like the United States, there is going to be a loss of workers when you are looking at trying to prop up a Mexican economy that is developing. Its leaders won't even help themselves. They are corrupt.

These people don't have access to unions. They don't have access to representation. They get exploited along the northern border of Mexico and the southern border of the United States. The environment has been destroyed. These people make nothing.

The cost of living is 30 percent higher in that area as well, so I think this administration has a long way to go before based on fact and nothing more -- not politics, not anything -- based on fact relative to wages, relative to worker rights, relative to the environment to convince us that a few NAFTA is in the best interest of all of us.

Ms. Feingold?

\*Ms. Feingold. Thank you very much. You know, I think that is an important analysis. So, a few comments.

One is around the Maquiladora, or the export processing zone. That was a very intentional model, and it is a model that has been expanded around the world. It is a model that results in tax incentives so companies move there. Our own corporations here made some very clear choices about moving out of Buffalo and moving into places where they knew that there would be no free unionization there, that wages would be suppressed, that there would be no worker organizing.

Those were intentional decisions, and so again, corporations can and should be held accountable for those decisions, but it is an economic model that continues to expand. On TAA, we agree with you. TAA has not served the interest of working people in the way it should. I think that we need to look at trade policy as just one piece of the full policy landscape that working people need. They need labor law reform. They need health care. So, I think all of that, the analysis is very important.

Thank you.

\*Mr. Higgins. Thank you.

\*Chairman Blumenauer. Mr. Smith?

\*Mr. Smith. Thank you, Mr. Chairman.

I just want to ask a quick question to the entire panel. Are the labor provisions in USMCA better than the labor provisions in NAFTA? Just yes or no.

\*Ms. Sadka. Yes.

\*Ms. Cisneros. Yes.

\*Mr. Shaiken. Yes.

\*Ms. Feingold. Yes.

\*Mr. Smith. Are the environmental provisions in USMCA better in USMCA than



they are in NAFTA?

\*Ms. Sadka. I believe so.

\*Ms. Cisneros. I couldn't speak to that. I am sorry.

\*Mr. Shaiken. I think the challenge is greater, so I would say no.

\*Ms. Feingold. Agreed. Not really.

\*Mr. Smith. Okay. The last witness. Why, "Not really?"

\*Ms. Feingold. Well, I think first of all, you know, we are comparing a very different -- we had a side agreement, so nothing was enforceable in the first NAFTA and 25 years later, we know we have a real crisis on our hands, a real environmental crisis, and so there were requests to make a more robust environmental chapter, which I don't think was realized in this NAFTA and given the current crisis that now the world understands 25 years on, I think we do not have the most effective environmental --

\*Mr. Smith. So, the fact that NAFTA did not have any environmental regulations within the agreement and USMCA does, it clearly is better than NAFTA.

\*Ms. Feingold. It is better than the very weak NAFTA.

\*Mr. Smith. That is all that I asked was yes or no if it is better, and you said, "Not really." So, the fact that NAFTA had no environmental requirements, it was just a side agreement, and USMCA does have it within the agreement, it shows that it is better.

So, that is my whole point, Mr. Chairman, is that we know without a doubt Republicans and Democrats will agree that USMCA is better than NAFTA. I mean, eight out of ten Republicans and Democrats will say that. The American workers, the American farmers need the benefits of this trade agreement. They need a vote. We need a vote in the House.

Two months ago, ITC confirmed this is a great agreement for American workers. USMCA will increase the U.S. employment by thousands of jobs and increase GDP. On

top of that, Mexico's labor obligations in the agreement will further protect U.S. workers by ensuring a more level playing field. You all agreed to that.

Members of even Democrat leadership have confirmed this is better than NAFTA for everyone. They agree that this is a good agreement, but yet, we have not had a vote. We need to get to have a vote. Everyone agrees that thanks to U.S. leadership, the labor provisions in this agreement are groundbreaking. In April, Mexico successfully passed the legislation to update its laws. Last week, they became the first country to ratify the agreement and Mexico has confirmed it is ready and willing to work with the U.S. on implementation.

Democrats want enforcement. Republicans want enforcement. How can we ask Mexico to comply with a trade agreement that we have not yet even passed?

In our hearing last week, the ambassador said to me, "The whole exercise is meaningless without enactment." His words could not be truer. USMCA is a strong trade agreement that will benefit every American worker and farmer, but American workers will receive no benefit from this agreement until it is in place.

Every day that we delay, American consumers, farmers, and businesses lose. The ink on USMCA is dry and the American people are urging Congress to act. Let's take a vote.

I yield back, Mr. Chairman.

\*Chairman Blumenauer. Thank you very much.

Ms. Murphy?

\*Ms. Murphy. Thank you, Mr. Chairman, and thank you all for your testimonies today, and thank you, Mr. Chairman, for holding this hearing as well as the two previous subcommittee hearings on this issue. I think it reflects a genuine desire for us to get to yes, but to work on the issues that remain.

You know, Democratic concerns around workers and labor rights and the remaining issues on this agreement, which is important, but also has significant impact. Those concerns should not be construed as delay tactics.

We have a responsibility in this Congress to make sure that we have the best possible trade agreement and we also need to be able to move forward and build broad bipartisan consensus for this trade agreement, and so, characterizing working on these concerns and doing our jobs as members of Congress isn't helpful in getting us to move forward on this.

With that, what I would like to say, too, is that, you know, we really have to commend Mexico for passing historic legislation, but implementation of that labor reform is going to be complicated, and we need creative tools and ideas to ensure that implementation stays on track down the road because we all know that if these reforms aren't implemented correctly, the broken state-to-state dispute settlement in the new NAFTA does not provide Congress or workers the confidence that this agreement can and will be enforced.

Ms. Cisneros, given that implementation of the labor law reform is slated to take a few years, what concrete milestones and improvements should we look for in the short term to be able to assess if Mexico is heading in the right direction?

\*Ms. Cisneros. Thank you for that question, Representative Murphy. I think I have colleagues who are happy to elaborate on this as well.

I think one indicator could potentially be outlining some outstanding key cases that could be resolved in the immediate term as a measure of good will and to set the right kind of precedent. We could also look at indicators that include a reduction in ghost unions, a reduction in phantom contracts. We could also track responses to new labor cases that come up, particularly those related to freedom of association and with the practice of trying

to unseat an undemocratic union and replace it with a more authentic democratic organization.

So far, Mexico does not have a good track record of that. Those are very compromised elections that are subject to a lot of interference and delay, and so concrete measures can be, you know, in the next two years, how can we gauge whether or not the law was followed to a T? Were the timelines established complied with? Were there any workers who can testify as to how they were treated?

I have no doubt that a CTM union could hold a vote of any sort and manipulate it to come out in their way. They are experts in this tactic. This is why they have as many contracts as they have currently. So, how can we go in and verify to make sure that workers tell us, "Did somebody push you to vote a certain way or another, or was it free and unfettered? And did you do it, you know, directly and individually in a secret ballot? You know, through a secret ballot."

Those will need to take the shape of independent verifications with a robust inspection system. So, we can absolutely put that in place and put in a couple of test cases that would allow us to see the effectiveness of the new law.

\*Ms. Murphy. In addition to some of the independent actions that need to be taken, Mexico presumably will need to make some investments in order to implement these new labor reforms as well. What do you expect Mexico to appropriate for the reforms? What do you think is the right amount?

Mm-hm, yes, Ms. Cisneros.

\*Ms. Cisneros. So, the secretary of labor has thrown out a ballpark figure of about \$117 million over the course of the next four years to fully bring the new federal center for conciliation and union registry, so this is part of what replaces the old tripartite labor boards. They have thrown out a ballpark of \$117 million to do the judicial branch reform.

They are talking about a sum over \$250 million.

Now, this does not include money that should be allocated to help workers, to do public awareness raising, to do retraining of employers, for example. There is a lot of room in Mexico for training on creating a culture of negotiation. Employers buy and sell contracts. They do not sit down and negotiate and listen to workers and their demands and find a pathway to get in consensus.

So, all of that needs to be created basically from scratch and will also require additional resources.

\*Ms. Murphy. Thank you, and I yield back.

\*Chairman Blumenauer. Thank you.

Ms. Sewell?

\*Ms. Sewell. Thank you, Mr. Chairman.

I want to thank the panelists for being here today. Currently, this committee is taking a close look at the new agreement with Canada and Mexico and while I believe there are improvements to the old NAFTA agreement, it is not this committee's job to rubber stamp this administration's deal. It is our job to assess this administration's work and identify areas that can be improved. That is why we are here today, and I really want to thank the Chairman for organizing this panel for us.

At this time, we are actively engaged with the USTR in good faith negotiations to ensure that workers from all three countries benefit from the new deal. Democrats have been clear that strong labor enforcement provisions are necessary to ensure that the constitutional reforms Mexico has ratified will lead to actual change.

I know all of you want that to happen on the ground. It needs to have really lasting significant structural changes on the ground. At the end of the day, I know the Democrats' proposals will improve the agreement and I remain optimistic that the USTR will work

with us to get a deal done.

My first question goes to you, Cathy. In your statement, you spoke about the confederation of Mexican workers, or the CTM and other protection contract unions that oppose recent reforms. Are you concerned about them? The PRI party and other political forces in Mexico that benefit from decades of old labor regimes. It seems to me that they will be trying to prevent the implementation of the reform policies in Mexico, and what can we do to empower the reformers in Mexico?

\*Ms. Feingold. Thanks so much for that really important question.

Absolutely. I think we are seeing a very concerted effort of pushback. We have got 96 constitutional challenges, which they are challenging that this even undermines the freedom of association, so that is going to be, I think, the first task. Making sure that there is pushback against that. We are absolutely seeing the need. This is you are undoing a system that had employers, a political party, and unions coming together.

We need to be supporting what is now an emerging independent, democratic trade union movement. We need to build the capacity. There is a new federation that Senator Napoleon Gomez has formed. There is also the UNT of Mexico, and so, we need to do everything we can to support their capacity. We had Gladys mention that there are test cases that we need to support, backlogs in cases. I think that will be a really important first step to making sure that this process moves forward.

But let us be clear that if we do not get this right, we will give away all leverage to making sure that these reforms actually happen, and so for our partners, this is really important that we get it right, we create the space for them to do the work they need to do to build an effective labor movement in Mexico.

\*Ms. Sewell. Joyce, can you add to that what your thoughts are about how we can get this right on the ground?

\*Ms. Sadka. Yes. I think that the strategy, the national strategy that Mr. Buchanan mentioned a while ago already talks about indicators and milestones, but they have not yet been specified. So, one thing that can be done that I would add to this mix of this discussion is the Mexican government has to issue the protocols that explain how they are going to do things.

They need to specify what the indicators are that they will use to measure the implementation and the quality of the new justice system, and then we have to see those actually being verified with the frequency that the Mexican government itself has set up as a goal.

\*Ms. Sewell. So, we all know that reforms don't happen overnight, but what signals from the Mexican government are you looking for that will demonstrate that they are taking labor reform seriously? Perhaps that could be answered by Ms. Cisneros?

\*Ms. Cisneros. I understand that the Mexican government has created its new technical coordinating council. Dr. Sadka mentioned that in her testimony. They have also begun to draft some of those protocols well ahead of schedule. So, they are happy to announce that everything is going smoothly, and it is on track.

You know, our concern is more derived on the ground floor workers, nothing has changed. I know it has only been seven or eight months. I know it has only been since last September since they ratified ILO convention 98.

\*Ms. Sewell. Yeah, but they are only giving four years for the complete implementation, so --

\*Ms. Cisneros. -- exactly.

\*Ms. Sewell. -- I guess what is your assessment as to what incentives can be? What can we, who are obviously as policymakers quite concerned that we want these reforms to go into place? What can we be doing to make sure that we are helping Mexico

implement them?

\*Ms. Cisneros. No, that engagement is absolutely necessary because as I mentioned, the structural backlash they are going to receive is quite strong. They are straddling different competing priorities in terms of how they grow their economy and stabilize and calm the investment community and how they proactively defend worker rights.

One of the problems in Mexico has been the government interference in labor union affairs. So, the government has taken a hands-off approach to labor disputes which we think in the short term are not effective or helpful.

\*Ms. Sewell. Thank you very much, Mr. Chairman.

\*Chairman Blumenauer. I appreciate the line of inquiry from my last two colleagues. I mean, this is a point of maximum impact that we have, and we want to make sure that things that look better are actually going to happen. The way that you are zeroing in on this and what our witnesses have helped line out gives us a sense of what we might be able to do and our conversations with the administration continue on an ongoing basis. We are having another one this afternoon.

So, this is part of a process, getting it right, because this will be our last chance. We will live with it if we pass it and be frustrated if we do not address these questions.

\*Ms. Sewell. Exactly, Mr. Chairman. Thank you very much.

\*Chairman Blumenauer. No, thank you for your inquiry. It is very helpful.

Mr. Holding?

\*Mr. Holding. Thank you, Mr. Chairman, thank you for your leadership, and thank you for holding this hearing.

I was strongly encouraged by the hearing we had with Ambassador Lighthizer last week and believe there is a great opportunity before Congress and especially this



subcommittee, Mr. Chairman, to work on passing the USMCA. These benefits extend to all sectors of the U.S. economy and with respect, our hearing topic today, these benefits also extend to Mexico's workers.

Every day that we delay the implementation of the USMCA, we delay the realization of the vast improvements that the administration has locked in. It is important that this agreement is implemented and then enforced. Not just some sections, but all of it needs to be enforced. As we all know, NAFTA only contains a limited side agreement for labor, which isn't enforceable on par with other NAFTA obligations.

On the other hand, USMCA is a vast improvement over NAFTA and it incorporates these labor forms into the text of the agreement and subjects them to dispute settlement. In addition, the USMCA contains the most robust labor standards that the world has ever seen in a trade agreement, but here, we are sitting idly by while we could and should be working to ratify this agreement.

There are several improvements in the labor chapter of USMCA, including the language, clarifying that the right to freedom of association includes the right to strike. It includes commitments on forced labor, violence against workers, including migrant workers, and on sex-based discrimination.

I was also encouraged when I saw the document from the Mexican Ministry of Labor entitled, "The National Strategy for the implementation of the labor justice system." This is a detailed road map of Mexico's implementation of their labor law reforms. I think we all agree that Mexico's action is no small feat. The successful passage of the overhaul of their labor laws and the ratification of the USMCA showed commitment on behalf of the Mexican government to improve the conditions of their workers.

The USMCA is a tool to make sure that Mexico goes through these reforms. USMCA allows us to compel the Mexican government to do so and without USMCA, we

lose this tool, and in the same vein, without USMCA, the Mexican workers lose this tool as well.

Now, Mr. Chairman, I am sure that you are aware that the U.S. International Trade Commission, ITC is a nonpartisan, independent agency, and they analyzed the agreement in detail, and the ITC found that USMCA will increase GDP, employment, and wages in the United States, as compared to what we have under NAFTA. The ITC projects gains in output, exports of jobs in all sectors of the economy. Manufacturing services, agriculture, as well as a reduction with our trade deficit with Mexico and every day, we would delay in consideration of the USMCA, we were putting off these meaningful benefits that we could have.

So, Mr. Chairman, I do appreciate you convening this hearing, and I look forward to working with you on USMCA and all the other issues that we deal with on the Ways and Means Committee because not only are we committee colleagues, but we are neighbors, and we both have a love of fruit cakes.

[Laughter.]

Which I look forward to every Christmas. My sister makes them. I am not going to say whether they are better than yours. They were a different style. The --

\*Chairman Blumenauer. And exempt from tariffs under NAFTA.

\*Mr. Holding. Excellent, excellent, excellent, and I would like to point out for the folks here in the hearing room, we are having the hearing today in the Sam Johnson room. Sam Johnson is a tremendous colleague. We all miss him dearly, but I do want to point out for the benefit of the Chairman and the other members that we do have an important North Carolinian portrait here in the hearing room.

It is Bob Doughton. He was Chairman of the Ways and Means Committee for over 20 years and he was the Chairman during the Franklin Roosevelt administration, and the

reason he is in the social security hearing room is because he was the Chairman that presided over the formation of social security and he was from the western part of North Carolina. He had barely a high school education, but he came here and made an incredible difference, and we would not have social security in its form today but for farmer Bob Doughton from North Carolina.

And with that, Mr. Chairman, I yield back.

\*Chairman Blumenauer. Well, and we appreciate the providing the context for our hearing, and we appreciate that very much.

Ms. DelBene?

\*Ms. DelBene. Thank you, Mr. Chairman. I am hiding over here. Thanks to all our witnesses for being here today. I really appreciate it. This is a very important hearing, and your feedback is very helpful for us.

I wanted to start with you, Professor Shaiken. In your testimony, you stated that successful implementation of Mexico's labor reforms will be costly in resources, let alone political will. Moody's last week said that they forecast growth in Mexico will slow to 1.2 percent in 2019 from 2 percent in 2018 and said that spending cuts may be needed to meet President Obrador's target of posting a primary budget surplus of 1 percent GDP this year.

The U.S. can clearly help with capacity building, but in order to make sure Mexico has the financial resources and political will to move forward with the labor reforms, it is very important that the U.S. doesn't take any rash actions that could further destabilize the Mexican economy. And so, I wondered do you think it is important that we secure commitments from the administration that won't impose blanket tariffs on Mexican imports due to immigration, and do you think that destabilizing the Mexican economy will make it harder to implement labor reforms?

\*Mr. Shaiken. I agree on all of that. These are very serious issues. The tariffs in

relation to immigration reform are very damaging to Mexico economically. That has impacted in the ratings that have come out, and in the impact in financial markets. So, all of this is critical. The lack of resources is a very serious issue. The Mexican government has a cut of funding for all NGOs in the country, has removed some funding from early education in the country because of a lack of resources.

So, these issues going forward definitely impact the ways in which any labor reforms will be implemented on the ground.

\*Ms. DelBene. And isn't uncertainty a big part of that? It is not knowing day to day whether there will be a stable environment? That impacts the economic forecast as well.

\*Mr. Shaiken. Absolutely. Uncertainty is a critical factor. It is part of the motivation of the Mexican government to have this passed quickly, but the reality is that NAFTA remains in place. Trade doesn't halt for a moment. New investment will take place, but the leverage to ensure some signs of what reform actually looks like on the ground, I think, remain critical.

The Congress had an important role in the minds of many Mexicans who followed this in the passage of the constitutional amendment and in the passage of the implementing legislation, both of which are significant achievements. Our experience with NAFTA is that leverage evaporates once the agreement is ratified. So, my feeling is it is important to get an agreement, but it is important for some demonstration as a precondition.

\*Ms. DelBene. Thank you. Also, one of the key censuring that our trade agreements benefit United states workers and farmers is strong enforcement, which has been particularly difficult when it comes to our labor obligations and we know that there has always been a lot of tough talk on enforcement, but the results over the past two years have been disappointing. There are four active cases: Colombia, Honduras, Peru, and the

Dominican Republic in which labor representatives have alleged that our trading partners are not in compliance with their obligations, and the administration, including USTR, have yet to take meaningful action in these cases.

Ms. Feingold, you know, I raise these issues because basically, there is some element of trust. You have got to trust that enforcement will happen, and Mexico may be able to block a dispute settlement panel from forming, but the administration says then they will use section 301 authority to address the issue. Putting aside the issues about using that as a unilateral enforcement mechanism, you know, can you comment on your experience with the administration enforcing labor provisions in our existing agreements and can we rely on trust as a way to see enforcement in the future?

\*Ms. Feingold. Thank you.

The quick answer is no, because we have seen it fail time and time again. I would just raise Colombia because recently, I was just down there, as was Secretary Acosta, looking at what has been happening in Colombia and the Duque administration just passed a national development plan rolling back some of its commitments that they have internationally on improving their labor standards, and we haven't spoken publicly about that.

And so again, Colombia keeps showing us time and time again they take one step forward and then roll back, and we don't have any way of really effectively enforcing those failures here from the U.S. perspective, and so, we need to get it right. It can't just be about trust. It needs to be in the agreement. It needs to be funded and it has to be, you know, effectively done before it gets signed. We need to see some forms of progress, some test cases, as Gladys mentioned.

\*Ms. DelBene. Thank you. I yield back, Mr. Chairman.

\*Chairman Blumenauer. Thank you very much.

Mr. Rice?

\*Mr. Rice. Thank you.

Professor Shaiken, what you were talking about earlier, first of all, let me apologize to you that I only just came into this hearing. I would have liked to have been here, but for some reason, my Democratic Chairmen decided to schedule two hearings at the exact same time, so I had to choose which one I was going to be at, so I apologize. I didn't hear any of your testimony and if I say anything that sounds ignorant of what you said, I am sorry.

So, you were mentioning earlier that the uncertainty related to potential tariffs on Mexico might hurt their economy and make it harder for them to live up to their obligations under this agreement. Let me ask you, if we dawdle with this agreement and let it hang out here for months in the uncertainty that that generates, will that not have an adverse effect on Mexico's economy?

\*Mr. Shaiken. Congressman Rice, it will.

\*Mr. Rice. Thank you, sir.

\*Mr. Shaiken. I think it can be minimized, but clearly, I think there would be an impact.

\*Mr. Rice. All right, and the things that I see that are the biggest benefits to the United States under the terms of this new agreement are the increased *de minimis* rules on products going into Mexico, the automobile rules on origin, the minimum hourly wages for autos, the increased access for American agriculture into Mexico and Canada, the sanitary rules for Mexico, Mexican agriculture coming into the United States, and then these labor rules.

What did America give up in this negotiation? You know, one side gives up this, other side gives up that. What did we give up from the old NAFTA? What did we concede?

Ms. Sadka? Professor Sadka?

\*Ms. Sadka. I am not an expert on the NAFTA itself, but I think that most of the concessions in the U.S.-Mexican negotiation happened on the Mexican side.

\*Mr. Rice. I agree.

Ms. Cisneros, what did we concede? Anything? I hope you --

\*Ms. Cisneros. I also haven't deeply studied it. I live and work in Mexico, so that is --

\*Mr. Rice. I don't think we conceded anything.

Professor Shaiken?

\*Mr. Shaiken. I think conceding is maybe the wrong way to look at it. On that level, the U.S. conceded very little, but what it failed to gain I think is very important, and the rules of origin may be much overrated in terms of their actual impact. The Mexican minister of commerce --

\*Mr. Rice. Thank you, sir.

Ms. Feingold, what did we concede? I don't think we conceded anything.

\*Ms. Feingold. I would say again, I would reframe it and say that we have put in place things that will be a win for workers in all three countries, and that is the way we should be looking at it. What wins for workers.

\*Mr. Rice. But my point here is that American workers are better for all of these things. They are better off. They will be better off. It tells all these things that I listed here, to help the playing field in the favor of American workers, and I believe that one reason why our middle class has shrunk, perhaps the biggest reason, one reason that in the last 30 years, one reason why they have not had a substantial wage gain in the last 30 years is because we have allowed trade agreements to tilt the playing field away from them, and these are small but significant tilts back in their favor, and I think American workers can

compete with anybody if the playing field is level, and I totally agree that we need to make sure these labor terms are enforced.

But that being said, the estimates are that this will create 200,000 American jobs, billions of dollars in economic impact. What has Mexico done? You know, we are all worried that they might not enforce it, right? They were first to the table to renegotiate, eager to do it, they enacted labor reforms as we wanted months ago, or a month or two ago, they provided an implementation timetable, and they ratified the treaty last week. I mean, they are moving at lightspeed compared to us. We are wringing our hands, and they are proceeding, and they are doing things that are going to bring 200,000 jobs to this country and billions of dollars in investment.

Ms. Cisneros, you said, I think it was you -- I am sorry, I just came in -- that this was our last chance to make sure that they complied with these labor terms. Isn't that what you said?

\*Mr. Cisneros. I think that was my colleagues.

\*Mr. Rice. Who said that? Somebody said that. Somebody said that.

Well anyway, I don't think it is. I think a unique feature of this agreement is the sunset provision, where we will go back and look. It is not, you know, the reinstatement of this agreement as opposed to the old NAFTA. It is not permanent. There is a sunset provision specifically for this reason that we can go back, and we can look, and see that whether these things were done, the things that were promised were enforced or not, and I think it is a good addition to the agreement.

And with that, Mr. Chairman, I yield back.

\*Chairman Blumenauer. Thank you.

I apologize they were scheduled concurrently. That wasn't my decision, but I do think when you have an opportunity to review their testimony, you will see that there are



deep concerns that what is on paper in the past has not been achieved, and what we are doing here is establishing a foundation when this is our opportunity, and we are having another meeting with Mr. Lighthizer this afternoon to be able to see if there are things we can do to strengthen, for example, enforcement, be able to help in terms of capacity building, and have the understanding. Not having to wait for a sunset provision in the future but do it now when there is maximum leverage and the testimony was that when the agreement's passed, we lose that leverage. People suddenly are not as compliant, and we have seen that in Colombia and we have seen that in Peru.

So, we are trying to establish that foundation, but I will note your concern about the concurrent scheduling. I am really sorry about that.

\*Mr. Rice. And Mr. Chairman, my only question related to what you just said is look at what Mexico has done. First to the table. First to enact the labor reforms, they gave us a time schedule, and they even ratified the treaty while we twiddle our thumbs. What else can we expect them to do?

\*Chairman Blumenauer. And that, of course, is my point, that they are eager to do this. We want to be able to make sure we have the provisions when they are interested in this, as opposed to moving past this moment when there may not be the eagerness. But I take your point.

Mr. Estes?

\*Mr. Estes. Thank you, Mr. Chairman, and thank you to the witnesses for joining us today.

As mentioned earlier, you know, last week, Mexico took some monumental steps forward in terms of becoming the first country to ratify USMCA, and I want to acknowledge Mexico's leadership on this and their commitment to advancing this critical trade deal. The passage follows some sweeping labor reforms that Mexico enacted in April

to help meet some of those new standards set in the USMCA.

Now, with these two major steps Mexico has taken to advance USMCA while we sit back and delay a vote in Congress, and I personally believe that these good faith efforts on the part of Mexico need to be met with some action. It is our turn now in Congress.

You know, today at this hearing, you know, we have focused on how it will impact Mexico and one of the things I don't want to lose sight of is how much it impacts positively all three countries that are involved in the agreement. This is an important decision we have, and I am hopeful after the discussions about some of the benefits of USMCA on Mexico today, my colleagues and I can focus on, "How do we advance the deal in our own country?"

You know, it was mentioned several times by panel members that there were worker issues under the NAFTA organization and structure, and that is why it is important that we keep pushing on USMCA to help improve some of that process that is happening today and making some of those things better.

You know, just as a sideline, you know, USMCA increases a couple of provisions. One, just the overall labor content requirement that is required to be in one of the North American countries, which obviously is a benefit for not just U.S. workers, but also Mexican workers. It also requires increases in wage income to follow some of those standards and requirements that are in USMCA.

You know, we have highlighted today some of the labor reforms in Mexico's past as part of the deal will increase wages in Mexico by an estimated 17 percent, and also some of the protections have been put in place for Mexican workers and union membership, as we have talked about today. There is, what? An estimated 700,000 unions, a lot of which maybe are unions in name only, as opposed to a legitimate structure of how we have set up unions and how we view unions in the United States, but there is important reforms that are

going on to help Mexico and to highlight the potential impact of the deal for American workers.

Like all agreements, there is probably some things that could be done differently. For example, increased enforcement provisions across all titles would probably be beneficial, including labor provisions. But overall, USMCA builds upon NAFTA and according to the International Trade Commission as we see through this, there is an estimated 176,000 more jobs, increasing the economy by \$68 billion in the United States as well as just helping exports and imports, increasing both of those. It is going to open new markets for American agriculture and boost a way just for American manufacturing with a potential focus on the auto industry.

Some of the lesser talked about provisions, including setting new standards for agriculture, biotechnology, and digital trade; obviously, those are issues important to my district, and protecting intellectual property. The USMCA strengthens in some of those patents and copyrights and trademarks. Now, some of those things are critical, considering that the 25-year-old NAFTA didn't even mention the internet in terms of that and how that impacts things. So, we want to make sure that those protections apply to workers across not just Mexico, but also the United States as well.

So, as we have seen by the passage of the labor reforms and the USMCA, Mexico's recognizing benefits of this deal for its workers and its economy, and I don't believe Canada is far behind, either. As that process moved forward, I agree with my colleagues that we need to ensure that we keep moving forward, that USMCA is enforceable, should be among our top priorities.

That includes keeping Mexico accountable for their sweeping labor reforms as well, but I believe the best way to do that is to move forward, pass USMCA to help make sure that we show that we are a willing partner. We really want to commit to help make this

process work. And, by ratifying the USMCA in Congress, we can show our commitment to the deal and have more opportunities to help hold Mexico as well as Canada accountable for the deal.

So, I want to thank the Chairman for the opportunity to discuss this issue here today, and I know the USMCA is a great standard for future trade deals, and I look forward to working together in a bipartisan way to finalize this deal and unleash these benefits for American farmers, workers, manufacturers, and ranchers across the country.

Thank you.

\*Chairman Blumenauer. And we appreciate your joining us.

Mr. Arrington?

\*Mr. Arrington. I am down here, Mr. Chairman.

\*Chairman Blumenauer. I see you.

[Laughter.]

\*Mr. Arrington. This is a great angle because I can just look right down the line at your bright, shiny faces.

Thank you all for coming. Thank you, Mr. Chairman, for letting me participate in the hearing.

First, I want to celebrate the fact that wages have increased and have grown at a faster rate in this country than we have seen in 10 years, and mostly at the lower end. Do you all celebrate that with me? It is a big deal. I celebrate the worker doing better.

I think we have philosophical differences. That is all they are. I think some of my Democratic colleagues have a different strategy for how to help the worker than I do, but I think the lessening of the burden to our job creators and giving folks more money in their pockets has created a climate and an economic environment, and quite frankly, a major economic boom to this country, and the workers are winning.

And so, I want to build on that. My sort of Texas two-step was freer markets, less tax and regulatory burden, and fairer trade, and I think this President has done an awesome job, and I was encouraged by the last panel of union and labor reps who echoed that sentiment and really bragged on Ambassador Lighthizer for the excellent job he did in negotiating what is a lot farther than I am even comfortable with, quite frankly philosophically.

Now, I do think, in terms of getting parity so that there is fairness, so that we are operating with the same, sort of playing by the same rules, operating under the same conditions, I think that is important, but they by all accounts and mostly, I am talking about from the sort of union and labor rep community, the deal is substantially better.

Now, I get it. There is this issue of enforcement, but just on principle, with all the many labor provisions added outside of just the four or five or whatever the core provisions for TPA, I am talking about the worker conditions, the right to strike, the secret ballot-related voting activities for unions, et cetera, do you guys think that this is a much stronger, in principle, agreement for labor than the previous NAFTA?

Anybody can take it, or just kind of go down with yes or no, please, if you can.

\*Ms. Sadka. In principle, it is.

\*Mr. Arrington. Okay. Yes, in principle. Can we just go down the line real quick? Just yes or no. Is this in principle a better deal with the provisions --

\*Ms. Cisneros. It would have to be implemented to know if any of it comes true.

\*Mr. Arrington. Okay. So, in principle, is this a better deal? On paper, in principle?

\*Mr. Shaiken. In principle, yes, implementation critical.

\*Mr. Arrington. Here is the question I have. Sir, if you will just keep the mic. I am sorry, I can't see your name, and I am sorry I am late, but we had two hearings at the

same time.

With all the in principle substantial improvements in labor and other provisions, environmental, but let's focus on labor, what happens if we don't pass this? We default to what? To NAFTA?

NAFTA didn't even include labor in the core agreement. It was just a sidecar deal. It is unenforceable anyway completely. So, I mean, if we just default to NAFTA, then we don't do anything for parity between our workers and theirs, and we don't do anything to increase the quality of life and the worker conditions in Mexico, which by the way, the bipartisan U.S. Trade Commission estimated that the unionized workers wages would increase in Mexico 17 percent if we could implement this and enforce it.

Of course, I also agree with my colleague from South Carolina who said, "There is a mechanism for us to hold them accountable and come back to the table and evaluate whether they are doing what they said they would do in enforcing them." But my point is, and I want you to comment if you would, sir, what happens if we default to this nothing burger labor sidecar agreement in the current NAFTA deal?

\*Mr. Shaiken. We have the status quo right now. A lot of trade, growing trade. The difference is we all agree NAFTA is bad, but if we ratify USMCA and it is not right, it locks NAFTA in in practice --

\*Mr. Arrington. And my --

\*Mr. Shaiken. -- for the future.

\*Mr. Arrington. And my only point is it is not going to be perfect. It is not perfect for me with all the labor provisions. Let's get this thing done. Let's continue to grow our economy and help our American workers.

I yield back, Mr. Chairman.

\*Chairman Blumenauer. Thank you. All right. I think when you have an

opportunity to review the testimony from our witnesses, it will be clear that there are opportunities to build on a stronger agreement that might have the benefits you are talking about, but they have given a variety of examples of where, if you don't at this point of agreement lock it in, you lose the leverage, and you have no guarantees.

This is an opportunity for us to strengthen it. That is why we have had these series of meetings. We are taking people to Mexico. We are meeting with Lighthizer again this afternoon. The speaker has established sort of a working group to try and take the areas that we have identified that need to be strengthened to be able to have the sort of bipartisan vote to be able to move forward. Trying to get it right, to have a moment where we might be able to come together on a bipartisan dealing with obvious problems so that they don't linger.

And so, that is our commitment. That is why we have been doing this. I invite you to look at their testimony. I think it will answer some of your questions, and again, we welcome you to join us. Even though you are not a member, you are always welcome. Thank you.

And with that, we will adjourn the hearing. Members have two weeks, if you wouldn't mind, to submit written questions to be answered later in writing at your leisure. It is not a homework assignment, but we really deeply appreciate your being with us, your testimony. Those questions and your answers will be made part of the formal hearing record.

And with that, we will stand adjourned unless my colleague has anything further that he wants to say.

\*Mr. Buchanan. Let me just say, I just want to thank the Chairman for the hearing. Thank all of you for being here today in terms of being a witness.

I know in terms of Florida that one in five jobs is trade related. We have 15 ports.

It is a big part of our business, and I also just want to say to me, I did not talk about that, but enforcement is absolutely incredible. You could have a document this big, I have been in business 40 years, and it is only as good as the two sides doing what they are supposed to be doing. That is kind of what you said, professor.

And also, I just want to, in closing, just say thanks to the Chairman. We are going to be going down to Mexico, taking this to another level, making sure we get the proper commitments from the government down there because at the end of the day, regardless of what we put together in a document, if they don't do what they are supposed to do or to enforce it, or we just put pressure on them or they just sign anything, knowing that they are not going to do much with it, that is not much of an agreement. So, our goal is to go down there, and thank you, Mr. Chairman, for that.

\*Chairman Blumenauer. Well, we appreciate your words, your partnership, and it will be successful, I am sure.

\*Mr. Buchanan. Yeah. Thank you.

\*Chairman Blumenauer. Thank you.

The hearing is adjourned.

[Whereupon, at 11:47 a.m., the Subcommittee was adjourned.]

[Submissions for the record follow:]

[The Hon. Kevin Brady and the Hon. Vern Buchanan, Letter](#)

[AFL-CIO, First Submission for the Record](#)

[AFL-CIO, Second Submission for the Record](#)

[Center for Fiscal Equity, Submission for the Record](#)