UNITED STEELWORKERS

USW

UNITY AND STRENGTH FOR WORKERS

Testimony

Of

Benjamin Davis
Director of International Affairs
The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW)

for the

Committee on Finance

hearing on

"Implementation and Enforcement of the United States – Mexico – Canada Agreement: One Year After Entry into Force"

JULY 27, 2021

Chairman Wyden, Ranking Member Crapo, Members of the Committee, thank you very much for the opportunity to testify on the implementation of the USMCA, and specifically the labor provisions which are so important to workers in the U.S., Canada, and Mexico.

I am Benjamin Davis, director of international affairs for the United Steelworkers, and also the chair of the Independent Mexico Labor Expert Board, an entity created by the USMCA implementing bill passed by this Committee and signed into law.

NAFTA, and the generation of trade agreements that followed it, did tremendous damage to the American middle class and, in many ways, sowed the seeds of our current political crisis. The argument that trade improves the general welfare, without taking account of its differential impact across all sectors of the population – particularly, manufacturing workers – has been questioned in theory and clearly refuted in reality.

In order to effectively assess the value of a good or a service, we must analyze not only its price, but the conditions under which it was produced – specifically, whether technology and skills are subject to democratic regulation, and whether the fundamental rights of workers are respected in the production process. The failure to address these issues effectively and systematically has done tremendous damage to workers – both here and abroad - and to industries and supply chains that are critical to our national security.

As the Chair of the International Trade Commission recently noted in a comprehensive report on "Economic Impact of Trade Agreements Implemented under Trade Authorities Procedures":

> trade agreements today do not simply reduce or eliminate ("liberalize") trade barriers and expand trade, and not every domestic rule or regulation should be viewed as an "unnecessary obstacle to trade." Trade policymakers today are often just as interested in negotiating provisions that require trading partners to adopt and implement rules and regulations concerning, for example, intellectual property rights, consumer protections on the internet, labor standards, and environmental protections. All of these rules can create winners and losers in our economy. But the distributional effects of trade agreements are not fully accounted for in most models, particularly when economies are not fully employed (and economies are rarely fully employed).[1]

In the specific case of NAFTA, "the ever-present threat of offshoring production to Mexico in the absence of enforceable labor provisions combined with tariff reductions on Mexican imports likely weakened U.S. manufacturing workers' ability to bargain for higher wages; but standard models cannot account for that."[2] The Report pointed to evidence that Mexico's labor costs in key export industries were declining prior to

[1] United States International Trade Commission, Economic Impact of Trade Agreements Implemented under Trade Authorities Procedures, 2021 Report, p. 219.
[2] Id., p. 220.

USMCA, leading to an increase in the wage gap in motor vehicles, for example, of nearly 60% (see table below).[3]

Table 4.2 Hourly compensation costs in three major industries in the United States and Mexico, 2008 and 2016

In U.S. dollars and percentages. CAGR = compound annual growth rate.

Industry	Country	2008 (U.S. $)	2016 (U.S. $)	CAGR, 2008–16 (%)
Computer, electronic, and optical products	United States	45.42	54.28	2.3
Computer, electronic, and optical products	Mexico	5.11	4.13	−2.6
Motor vehicles and other transportation equipment	United States	41.91	48.97	2.0
Motor vehicles and other transportation equipment	Mexico	6.39	4.68	−3.8
Primary and fabricated metals	United States	30.21	35.87	2.2
Primary and fabricated metals	Mexico	5.04	4.17	−2.3

Source: The Conference Board, International Labor Comparisons program, April 2018.

The ITC report also provides an update on the impact of automotive rules of origin in USMCA. This analysis shows some relocation of global production towards the North American region. Whether production within the region will shift towards the US remains to be seen.[4] The agreement has only been in effect for a year and is still in its infancy; moreover, recent decisions call this shift into question.[5] But there is no doubt that such a shift cannot be sustained without strong enforcement of the automotive rules of origin provisions of USMCA. Reported recent attempts by Canada and Mexico to weaken these provisions threaten to roll back a commitment made to U.S. autoworkers and must be rejected.[6]

Likewise, the continuing drumbeat of plant closings and relocations to Mexico[7] underscores the urgent need for reauthorization of Trade Adjustment Assistance[8] as well as reform of the WARN Act.

The USMCA passed Congress with a large bipartisan majority. The Steelworkers, along with the AFL-CIO, supported the final agreement after Congress improved upon

[3] Id., p. 152. We are concerned that the International Labor Comparisons program, which was a major source of data for the ITC study, was discontinued by the Bureau of Labor Statistics in 2013 and, although a successor program is maintained by The Conference Board, key data on hourly compensation costs in manufacturing have not been updated since 2016. The lack of current information complicates efforts to measure the effectiveness of USMCA enforcement measures. *See* Information Technology & Innovation Foundation, Federal Statistical Needs for a National Advanced Industry and Technology Strategy (July 2021), p. 3; Josh Wright, Why Jobs Reports Are Less Useful for Business, Fortune, May 6, 2016.

[4] United States International Trade Commission, Economic Impact of Trade Agreements Implemented under Trade Authorities Procedures, 2021 Report, p. 125.

[5] 'Slap in the face' UAW says of GM's move to build EVs in Mexico, Detroit Free Press, April 21, 2021.

[6] U.S., Mexico fail to resolve dispute on trade rules for cars, The Spokesman-Review, July 23, 2021.

[7] Wisconsin workers fight factory move to Mexico: 'Anxiety is through the roof', Guardian, July 18, 2021; FreightCar America got a $10 million PPP loan, then closed its plant and moved manufacturing jobs to Mexico; Roanoke Times, July 17, 2021; Fair Lawn Nabisco Plant To Bake Last Cookies Friday. What's Next?, Patch, July 15, 2021.

[8] Tom Conway, A Life-Saving Program, July 16, 2021.

the text negotiated by the prior Administration. We pushed for changes in rules of origin for steel. We advocated for changes to provisions that would limit patients' access to medicines. Environmental provisions needed to be enhanced. All of the provisions of the Agreement require oversight to ensure their proper implementation, monitoring and enforcement.

Most critical to our support was the emphasis on labor rights improvements in Mexican law, backed up by the Rapid Response Mechanism initially developed by you, Chairman Wyden, and Senator Brown.

The focus of the labor law changes was to disrupt the protection union system in Mexico under which most workers have had no real voice in choosing their union representatives and often have no knowledge of the contract that determines their wages and working conditions. This system has maintained artificially low wages: for example, at the GM Silao plant – the subject of a USTR-initiated filing under the Rapid Response Mechanism -- the starting wage is $1.35 per hour.

Workers' rights to secure democratic unions and collective bargaining have been denied in Mexico for many years and the jury is still out as to whether Mexico's new laws and the USCMA will make a difference.

Let me briefly summarize the key conclusions and recommendations of the Board's report of July 7, which is included as an attachment to this testimony. While there has been significant progress on USMCA implementation in some areas, the Board raised concerns about (1) transparency, (2) the contract legitimation process, (3) budget and staffing of Mexico's new labor institutions, and (4) US technical cooperation.

<u>Transparency</u>

Almost 27 months after Mexico's labor law reform was approved, most workers covered by a union contract still don't have a copy of their contract or their union statutes – including the workers at Tridonex in Matamoros, which is the subject of a Rapid Response Mechanism case under the USMCA. The 2019 labor law requires employers and unions to give workers copies of their contracts, but these provisions won't be fully implemented for several years. Online access – which is already available for contracts in some jurisdictions – should be accelerated and should not require workers to submit individual requests.

<u>Contract Legitimation</u>

The Board raised significant concerns about the effectiveness of the contract legitimation process. As of today, Mexico reports that 1,378 legitimation votes have been held, covering 797,587 workers (about 18% of the estimated unionized workforce). Government officials have stated that they ultimately expect at least 80,000 contracts to be voted on. This would require about 120 legitimation votes per day, every day, from now until May 1, 2023. That clearly exceeds the capacity of the government institutions, and may require them to rely on private notaries hired by the incumbent unions. As we have seen in the GM Silao case, putting the incumbent union in charge of the vote creates an inherent conflict of interest and potentially disastrous consequences.

Budget and Staffing

The Board raised concerns about staff shortages at the Labor Secretariat and the Federal Center for Conciliation and Labor Registration, which have faced a huge challenge of implementing the reforms under pandemic conditions. For example, the Federal Center currently has only 29 staff responsible for monitoring contract legitimation votes. Clearly, there is not enough money to support timely and effective implementation of the reforms. The Inter-American Development Bank gave Mexico an $800 million unsecured loan to support the labor reform, but it appears that none of those funds have been used for this purpose.

US Technical Assistance

Finally, the Board raised significant concerns about the pace and focus of US technical assistance to support Mexico's labor reforms. Of the $180 million appropriated by Congress, only $50 million has been allocated, and only $10 million of that directly supports efforts by Mexican workers to establish democratic unions. Strangely, this initial allocation of USMCA funds excluded the auto and auto parts sector from labor capacity building.

The Board referenced the recommendation of Ways & Means Democrats that "ILAB should spend at least $30 million annually of USMCA Appropriated Funds on worker organizing and union capacity building in Mexico," and I believe this funding is the minimum level needed to achieve our goals.

Without a fundamental shift from protection unions like the ones at GM and Tridonex towards democratic labor organizations, no amount of government oversight will result in a trade union movement that can organize and bargain for higher wages for Mexican workers to address the structural inequality in the USMCA region that drives both migration and loss of good manufacturing jobs.

Thank you, and I will be happy to answer any questions.

Attachment 1 – July 7, 2021 report of the Independent Mexico Labor Expert Board and Separate Statement of Members Fortson et al.