

# Renegotiating NAFTA

## What should the priorities be?

**Policy Memo** • By **Robert E. Scott, Josh Bivens, and Samantha Sanders** • December 7, 2017

NAFTA was a bad deal for American workers. It was sold as a job creator but has been a net job loser, contributing to a growing trade deficit with Mexico that **cost the U.S. nearly 700,000 jobs** as of 2010.

While any attempt to secure a transformative deal on a new NAFTA will certainly face formidable obstacles, it is nonetheless important to lay out a progressive roadmap for the ongoing talks. Instead of allowing multinational corporations to dominate the agenda, we should instead address the **root causes of our ballooning trade deficits**, such as currency manipulation and misalignments. We also need to use these high-level talks to end the systematic and egregious repression of workers' rights that disempowers workers and exacerbates inequality in all three North American countries.

NAFTA renegotiation efforts aiming to put workers first would pursue the priorities listed below. These priorities can be used to judge whether or not the NAFTA renegotiation is being done for multinational corporations or for workers in all three countries.

### **1. Put labor standards with strong enforcement tools into NAFTA.**

NAFTA must include specific provisions protecting workers' rights and wages, including the right to form unions and bargain collectively, and establish an enforcement body that can penalize those who infringe on those rights, including threats to free and independent labor organizations. NAFTA could mandate that all signatories respect the labor standards identified as **fundamental worker rights by the International Labour Organization (ILO)**. Canada even recently **requested ending right-to-work (RTW) laws in U.S. states** as part of NAFTA renegotiations because they suppress American wages and threaten Canadian jobs—a potentially game-changing provision to include.

### **2. Eliminate investor–state dispute settlement (ISDS) provisions.**

ISDS provisions create special legal privileges for foreign investors, notably the right to sue host governments in private arbitration tribunals ("**corporate courts,**" as the **AFL-CIO calls them**) for failing to meet certain standards that cause the investor economic harm. In practice this means that **investors can challenge any law or policy change they claim will cut profits**. For example, ISDS provisions have been used by American companies to attack basic, sensible labor and environmental safeguards. ISDS

provisions have a chilling effect on regulatory safeguards, infringe on our trading partners' democratic rights to manage their own domestic economies, and encourage American firms to locate abroad and leave American workers behind, harming jobs and wages in the United States.

### **3. Revise intellectual property (IP) provisions that inflate prices in areas such as health care.**

The current IP provisions in NAFTA have extended **private monopolies that generate massive profits for drug, software, entertainment**, and other industries. In particular, the high cost of prescription drugs is becoming prohibitive for many working families. NAFTA renegotiations should move **toward innovation systems that support technological progress but also reduce costs** for families in all three countries, while ensuring fair compensation for artists, writers, and innovators.

### **4. Revise rules of origin provisions.**

Rules of origin, which are the criteria used to define where a product was made, are a critical component of trade agreements because they determine which products can benefit from tariff concessions. Rules of origin should be renegotiated to maximize the benefit to workers, farmers, and firms, and to ensure that NAFTA is not turned into a back door through which products from nonsignatory countries flood the North American market.

### **5. Eliminate procurement requirements that undermine “Buy American” policies.**

If policymakers really want to support **the “Buy American” principle**, the procurement requirements in Chapter 10 of NAFTA should go. Because they require that foreign bidders have equal access to U.S. government contracts, the current procurement provisions **have resulted in the loss of U.S. jobs**.

### **6. Include enforceable currency rules that include penalties for violations.**

A NAFTA that helps workers would include enforceable currency rules. **Currency manipulation and misalignment** are the least understood yet most important causes of manufacturing job loss. **Both make U.S.-made products less competitive and increase our trade deficits**.

While neither Canada nor Mexico currently engages in active currency manipulation or misalignment, including **currency rules with enforcement in a major trade agreement** would create a standard that should be incorporated into all present and future trade and investment agreements. For example, this is a major issue to consider in reforms of the U.S.–Korea Free Trade Agreement.

*References and links to sources are available at [epi.org/138464](http://epi.org/138464).*