

American Trade Unions and NAFTA

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NAFTA as a form of regional hegemony

The single multinational enterprise can conduct a *global* business strategy, but a nation's ruling business elite, alongside its government planners and policymakers, can effectively manage only a *regional* economic program. The emergence of regional trade regimes in a global economic context has its source in concern over this "control factor":

- *stability*—where change is gradual, not sudden;
- *predictability*—where changes can be seen in advance; and
- *manageability*—where the pattern of change can be influenced (and to the extent possible, controlled) are paramount concerns for national capital and national governments.

Events that spin out of control jeopardize large scale investments, on one hand, and fates of governments on the other.

The individual firm *can* have a degree of control over its affairs on a global, not a regional scale, because of the singularity of its mission: maximizing return to shareholders. For example, General Electric produces small motors in the Mexican *maquiladora*, locomotives in Brazil, light bulbs in Hungary, air conditioners in Korea, and engages in joint ventures across regional bounds with European and Japanese manufacturers. But a single nation's multinational companies as a whole *cannot* control global events any more than a single nation's government can control them. There are too many competing factions and interests. Each of G.E.'s major divisions, for example—electrical equipment, transportation, jet engines etc. faces major domestic competition: Emerson motors, GM locomotives, Pratt & Whitney engines, etc. It is obvious that the United States, arguably the sole "superpower" on the world scene, cannot control world events either.

Neither the United States, Japan or the European Union, nor any of their investor elites, can manage commerce on a global scale. There are simply too many uncertainties and variables outside their effective control. A degree of control, however, *is* achievable at the regional level where a mix of economic, political, cultural, geographic, military and other influences can be brought to bear on events in the region. While the single multinational can "go global", the collective of a nation's multinationals needs a regional "haven" where they can regroup in times of turmoil.

Regional hegemony provides a framework of control where corporate strategists can make investment plans and decisions in a climate of stability, predictability and manageability with reasonable confidence of success. Such a framework is especially needed when the principal trading powers themselves have an unstable, friction-ridden relationship. This is precisely the case between the United States and Japan, with the recent disputes over numerical targets as a market-opening mechanism, and the re-imposition

by President Clinton of the “Super 301” weapon threatening unilateral trade sanctions against Japan.¹ Similarly, the United States and several European countries have had sharp struggles over such issues as subsidies for Airbus, subsidized agricultural production, and cultural penetration through film, video, music and books.²

Cross-regional frictions between developed and developing countries are also common. Korea has often protested U.S. “dumping” complaints as ploys to restrict entry of Korean-made goods into the U.S. market, at the same time that the U.S. pressures Korea to open its markets.³ U.S. pressure on China and Indonesia about human rights concerns, backed by threats of trade sanctions, have heightened diplomatic and political tension.⁴

Such friction between the dominant power in a region, however, and its subordinate regional partners, is relatively rare. The United States imposed most of the terms of the North American Free Trade Agreement on Mexico. Canada had to join, otherwise access to the expanded free trade area would be denied to its firms and investors. Other countries of Latin America and the Caribbean are lining up to enter the regional accord, with few complaints about U.S. hegemony.⁵ Similarly in Europe, the new nations of the East are eager to be admitted to the European Free Trade Area and the European Union. So are several countries that resisted European Community membership for decades—Sweden, Finland and Austria are on the verge of joining the EU.

Frictions at the global level and the uncertainties they create for large scale foreign investments are what compelled the United States corporate and governmental elites to unite so firmly to secure the North American Free Trade Agreement (NAFTA), even while the GATT negotiations to modify the global trading regime were in their final stages. They needed to “lock in” a source of cheap labor and unregulated enterprise subject to U.S. hegemony. Mexico, with its population of nearly 100 million and vast energy reserves, fit the bill—the American analogy to Eastern Europe for the EU, and Southeast Asia for Japan.⁶ Now the U.S. is pressing to extend NAFTA into South America, where Chile’s free market reforms under the Pinochet military dictatorship, maintained by the new Christian Democratic government, have made it the first likely entrant.⁷

The offensive against workers and trade unions

A large, nearby source of low wage labor and low-regulation enterprise also fuels a corporate offensive against national trade union movements and working class living standards in the developed countries. Most corporate explanations of their competitiveness problems boil down to two charges: their workers make too much money and have too much leisure time. In many cases, they say it is the fault of trade unions that demand too much and fail to unite with management to “beat the competition”. Thus, the worldwide neoliberal project puts at the top of its agenda the breaking of trade union strength and the repeal of social standards and protective legislation.⁸

The transfer of jobs, and threats of further transfers, to neighboring countries where workers labor long hours for low pay pressure employees in the industrialized countries to accept wage cuts and benefit reductions. Workers affected by layoffs and plant

shutdowns have to find new jobs in the lower paid service sector.⁹ This is often contingent labor involving part time and temporary jobs, "independent contractor" status or other unstable, marginal employment relationships with no job security or fringe benefits.¹⁰ More than twenty-five million Americans are employed in temporary, part-time or other "atypical" jobs.

In many developed countries, job cuts have also led to a decline in the size and strength of the organized labor movement. For example, 35% of the U.S. workforce was represented by trade unions in the 1950's (and more than 40% in the private sector). Today it is 16% of the total workforce and only 12% of the private sector workforce.

Not all of this decline is due to structural changes in the economy. Vicious anti-unionism, deliberate breaking of unions and unlawful suppression of new organizing efforts also characterize the U.S. labor relations reality. Thousands of American workers are fired by companies each year for trying to form a union. Legal remedies are painfully slow and ineffective. Most victimized workers accept a modest severance pay and move on, leaving the workplace unorganized and the workers who remain too demoralized to try again. Corporations engaged in "downsizing" often have a choice between closing a unionized facility and a non-union plant. Almost universally, they close the union-represented operation.¹¹

The anti-union climate prevailing in the United States has attracted prominent European firms to relocate operations to the U.S. For example, BMW is developing a large factory in the state of South Carolina, which has the lowest rate of unionization in the United States.¹² In Great Britain, the Thatcher government introduced several changes in labor law and labor relations practice that were modeled on the U.S. experience. Now Britain serves as a target for "runaway plants" from the Continent.¹³

Where unions still exist, their members are under enormous pressure to reduce wages and benefits to preserve their jobs. Overall, according to the U.S. Department of Labor, the real wages of U.S. workers have declined more than 13% in the past quarter-century. Only the massive entry of women into the workforce, and an expansion of youth employment, have held up family incomes.¹⁴

NAFTA as a response to global stagnation

The move to cheap labor and unregulated enterprise abroad puts an individual firm in an advantageous competitive position. But in the aggregate, this movement creates conditions for global economic stagnation. An enterprise cannot have constantly cheaper foreign sources of supply and constantly lower wages and benefits at home, on one hand, and constantly expanding domestic and foreign markets to sell its goods, on the other hand. As each firm sheds workers, cuts the wages of those who remain, and invests in cheap labor sources for manufactured goods, it will find that mass purchasing power to buy its products has dissipated.

Proponents of NAFTA sought to mask this contradiction with rhetoric about "dynamizing" the North American economy. New U.S. investment in Mexico made secure by the terms of NAFTA would expand the Mexican middle class and create demand for

products and services from the United States. U.S. workers in low wage, labor intensive sectors, who would have lost their jobs anyway to Thailand or to Poland, would now find productive work in sectors serving a growing North American market.

There is no evidence that this is anything more than rhetoric. Where large investments in Mexico have been made by Ford, Volkswagen and other auto manufacturers, workers wages have been cut and their unions enfeebled, even where productivity rivals that of the home factories.¹⁵ Where substantial investments have been made in the *maquiladora*, wages are held to a pittance. Massive layoffs and plant closings have been announced by U.S. companies with investments in Mexico—GE, GTE, AT&T, IBM, Xerox and others.¹⁶ Meanwhile, the Chiapas uprising exposed Mexico as desperately in need of far-reaching social and political reforms, not elite deal-making with the United States.

The battle over NAFTA

The North American Free Trade Agreement was signed by three “lame duck”¹⁷ heads of state in August, 1992. Brian Mulroney was the Canadian prime minister who had already announced his withdrawal from office, U.S. president George Bush was running unsuccessfully for re-election, and Carlos Salinas de Gortari was serving his final year as president of Mexico. In October, 1992, Democratic Party presidential candidate Bill Clinton declared that he would not submit the NAFTA for congressional approval unless two “side accords” were also negotiated, one on labor standards and one on the environment.¹⁸ Clinton was elected president in November, and took office in January, 1993.

Negotiations on labor and environmental side agreements began in the Spring of 1993 and concluded in August. A split that had already taken shape in the new Clinton administration, between “Wall Street Democrats” like Commerce Secretary Ron Brown, investment bankers Robert Rubin and Roger Altman and other center-right elements of the Democratic Party on one side, and the more traditional labor-oriented and center-left Democrats, like Labor Secretary Robert Reich, repeated itself in the labor side agreement negotiations.¹⁹

Officials from the U.S. Department of Labor participated in negotiations on the labor side agreement, but trade specialists led by U.S. GATT negotiators headed the U.S. bargaining committee. Behind the scenes, corporate lobbyists were insisting that labor issues that might subject U.S. companies to scrutiny or criticism, particularly rights of association, organizing, bargaining and the right to strike, be left out of any enforcement mechanism. Labor Department officials were marginalized, and sometimes even cut out of important caucus discussions of the U.S. side. The result, according to sources close to the negotiations, was that trade policy concerns trumped labor policy goals, and labor rights were subordinated to multinational business interests.

Labor's struggle against NAFTA

U.S. workers, trade unions and their allies in the United States mounted a strong campaign of opposition to NAFTA.²⁰ There was a subtle division among labor progressives and other anti-NAFTA forces. Some opposed any continental trade agreement, whatever form it took. Others argued that a NAFTA with a strong Social Charter might be acceptable. Since a strong Social Charter never appeared, this incipient division never became a problem.

Labor advocates were unanimous in opposition to the NAFTA. With no enforceable labor standards, they argued, Mexico's low wages, government-dominated unions and lack of environmental protection would accelerate the movement of jobs from the United States. The NAFTA held out no prospect of "upward harmonization" of labor standards. "Say no to this NAFTA" became the slogan of labor and its allies.

Environmental forces divided between those who viewed the environmental side agreement as acceptable, and those who argued that it fell short of necessary protective measures.²¹ The labor movement, environmentalists opposed to the NAFTA, and elements of consumer groups, farmer advocacy organizations, migrant workers support organizations, religious and human rights groups, sustainable development advocates and grass roots community organizations made up the progressive sector of the anti-NAFTA coalition. Elements of the disaffected middle class sympathetic to Ross Perot's presidential candidacy, which drew 19% of the vote in 1992, and some far-right racist, xenophobic forces also opposed the NAFTA. Labor and its allies did not coordinate its work with those groups.

Trade union and worker rights advocates, along with allies from other organizations in the coalition opposed to NAFTA, formed two major coalitions. The *Citizens Trade Campaign* (CTC) focused its efforts on grass roots organizing in congressional districts around the country. Its participants organized demonstrations, marches, meetings and conferences, media events and other tactics aimed at influencing their Member of Congress to vote against the NAFTA. The *Alliance for Responsible Trade* (ART) concentrated its efforts on coordination with counterpart groups in Mexico and Canada, principally the *Mexican Action Network on Free Trade* and the *Action Canada Network*. The ART produced a *U.S. Citizens' Analysis of the North American Free Trade Agreement*, and organized a series of tri-national conferences that rotated among several cities in the United States, Mexico and Canada. Working together, these coalitions of the three countries elaborated an alternative to the governments' NAFTA that emphasized sustainable development, increased wages for workers, human and labor rights, environmental protection and enhanced democracy in the three nations of North America.²²

The anti-NAFTA coalition conceded the U.S. Senate, which is dominated by wealthy business interests, and concentrated its efforts on defeating NAFTA in the House of Representatives. They forced a fierce battle in that body, where the pro-NAFTA forces ultimately prevailed by a 234–200 vote. In the end, the combined power of the corporate community, alongside an administration dominated by "Wall Street Democrats" and practically all of the academy and the media, proved too much for the anti-NAFTA forces to overcome.

NAFTA and the labor side agreement

1. Overall view of the NAFTA

The North American Free Trade Agreement contains 2,000 pages covering most features of modern international trade relations. Most of its elements have already been tested in the General Agreement on Tariffs and Trade, the U.S.-Canada Free Trade Agreement of 1989, various European trade pacts and other variants of the model that began taking shape in the original GATT negotiations that followed World War II.

But NAFTA goes beyond other global and regional trade pacts in its scope. Besides covering traditional GATT issues like scheduled tariff reductions for manufactured goods, non-tariff trade barriers, technical standards, subsidies, dumping, and the like, the NAFTA goes on to encompass agriculture, financial services, investments and other issues kept out of the GATT. The *Intellectual Property Rights* (IPR) chapter of the NAFTA was dictated by U.S. patent and copyright holders, who achieved all their objectives. In contrast, they could only come out of GATT negotiations with their goals partially met, especially where French resistance stymied free trade in cultural products. NAFTA's IPR chapter forces Mexico to revise its laws and its judicial structure to impose sharp, swift sanctions on violators. The treatment of intellectual property gives the lie to claims that a strong labor rights provision would infringe on national sovereignty. Mexico abandoned sovereignty concerns in the face of demands by U.S. owners of intellectual property, backed up by U.S. government declarations that it would see the NAFTA killed unless the IPR demands were met.

2. Overview of the labor side agreement

The weak NAFTA labor side agreement stands in sharp contrast to the strong provision for intellectual property rights. To begin, the labor accord is not an integral part of the NAFTA, but a separate Executive Agreement. It was not approved by Congress when Congress approved the NAFTA. Any party to the NAFTA, in fact, can repudiate the labor side accord without affecting the NAFTA.

The labor side accord (titled "North American Agreement on Labor Cooperation" or NAALC) rests on the foundation of "national enforcement of national law", not a single set of common standards for the three countries. After a broad "Statement of Objectives" in Article 1, Article 2 recognizes "the right of each Party to establish its own domestic labor standards". Thus, the notion of a social charter of fundamental rights established on a tri-national basis, promoted by labor rights advocates who pointed to the European Union's Social Charter as an example of multilateral standard-setting (if not a precise model for North America) was abandoned at the outset.

With "national enforcement of national law" as the guiding principle, Mexico's minimum wage of less than five dollars per day, or its permission for fourteen-year-old children to work in industry, or its discrimination against independent unions not connected to the ruling Institutional Revolutionary Party, could not be modified under NAFTA. Likewise, U.S. laws permitting the permanent replacement of strikers, or its failure to

enforce rules against anti-union discrimination, or the proliferation of sweatshops in large cities paying sub-minimum wages and employing child labor, or U.S. “right-to-work” laws, cannot be rectified under NAFTA.²³

There is no plan in the NAFTA for an “upward harmonization” of labor rights and standards, even over a long term. The alternative, indeed, is a “downward harmonization” in what is often called a “race to the bottom” by employers seeking lower labor costs and weakened labor protections.

Despite this fundamental weakness of a lack of minimum standards and a failure to move toward harmonization—except downward—a measure of tri-national *oversight* is established in the NAALC, along with the potential for trade sanctions (but, as discussed below, only in very narrowly drawn circumstances). The NAALC sets up three tiers of enforcement depending on the subject matter to be addressed, and creates three bureaucratic entities to deal with each level of enforcement.

3. Details of the labor side agreement

The key obligation set forth in Article 3 of the NAALC is for each Party to “effectively enforce its labor law”. This formulation requires a turn to Article 49, *Definitions*, which is reproduced here in full because the definition of “labor law” is critical to the discussion that follows:

“*Labor law*” means laws and regulations, or provisions thereof, that are directly related to:

- (a) freedom of association and protection of the right to organize;
- (b) the right to bargain collectively;
- (c) the right to strike;
- (d) prohibition of forced labor;
- (e) labor protections for children and young persons;
- (f) minimum employment standards, such as minimum wages and overtime pay, covering wage earners, including those not covered by collective agreements;
- (g) elimination of employment discrimination on the basis of such grounds as race, religion, age, sex, or other grounds as determined by each Party’s domestic laws;
- (h) equal pay for men and women;
- (i) prevention of occupational injuries and illnesses;
- (j) compensation in cases of occupational injuries and illnesses;
- (k) protection of migrant workers.

The NAALC goes on to make a further, and highly significant, definition of *technical labor standards*:

“*Technical labor standards*” means laws and regulations, or specific provisions thereof, that are directly related to subparagraphs (d) through (k) of the definition of *labor law*.

As mentioned above, the NAFTA labor side agreement creates three levels of enforcement:

i. Consultation

The lowest level—where there is no enforcement, really—relates to subparagraphs (a), (b) and (c): the most fundamental rights of association, organizing and bargaining, and the right to strike. These issues are subject only to *consultation* between what is

called the National Administrative Office (NAO) of each country, established by Article 15. Any claimed violation of these important labor rights cannot go beyond the “consultation” stage of Article 21 “Consultations between NAOs”. Consultation means just that—talking, and nothing more.

ii. Evaluation

“Technical labor standards” defined as subparagraphs (d) – (k) are first subject to a consultation, but they can then advance to the next enforcement level: *evaluation*. The NAALC establishes an “Evaluation Committee of Experts” in Article 23. Drawn from a tri-national roster of labor experts, a three-member ECE may, at the request of a Party (i.e a government) conduct a review and issue an “Evaluation Report” on disputes over technical labor standards.

iii. Dispute Resolution/Sanctions

Among the eight “technical labor standards” only three, namely items (e), (f) and (i), can go beyond the “evaluation” stage to the *dispute resolution* level of enforcement. At this level, sanctions become possible. A country that is found by the ECE to demonstrate “a persistent pattern of failure ... to effectively enforce such standards” [occupational safety and health, child labor or minimum wage technical labor standards] can be brought before a five-member Arbitral Panel (drawn, like the ECE, from a tri-national roster) for a ruling on whether it has complied with recommendations from the ECE. If not, the country is subject to a fine of up to \$20 million or a suspension of NAFTA benefits up to the amount of the fine if it fails to pay. It should be noted that procedural delays built into this mechanism—deadlines for submissions, reports, responses, etc.—mean that it will be at least several years before any dispute reaches the point of sanctions.

The weak points of this labor rights regime are obvious. First of all, the key labor rights that give voice to working people—freedom of association and the right to engage in political action, the right to organize and bargain collectively, and the right to strike, are excluded from anything more than “consultation”. Critical issues in Mexico of government and employer domination of the official labor movement,²⁴ and critical issues in the United States of anti-union discrimination, strikebreaking, and denial of bargaining rights to workers and unions, escape scrutiny under the NAFTA labor side agreement.

Other issues of paramount importance are susceptible to an “evaluation”, but no real enforcement. These include forced or prison labor, discrimination against racial minorities, against women, against older workers or against disabled workers, and migrant labor rights—an acute concern, with millions of Mexicans living and working in the United States, often under terrible conditions.

Finally, even the three subjects potentially open to trade sanctions—child labor, minimum wage and occupational safety and health—depend on enforcement of national law, not compliance with international standards. Under this approach, weak national laws are insulated from reform, as long as they are applied. For example, Mexico’s minimum wage of less than five dollars per day is easy enough to enforce precisely because it is so low—effectively 50% lower than it was in 1980 by virtue of currency devaluations and wage restraint policies since then.²⁵

Another problem that reflects the dominance of trade interests over labor interests in the NAFTA and its labor side agreement is the procedural scheme in the NAALC. "Committees" and "panels" of "experts" operating largely behind closed doors will carry on the work of the NAALC. It is drawn from the NAFTA model, which is itself patterned after the GATT in many respects. Because the NAFTA labor side agreement is so new, it remains to be seen whether workers, unions, human rights groups and other combatants in the political and legislative battle over the NAFTA will be able to use the arena created by the NAALC to advance the cause of worker rights.

Workers and unions respond with more labor solidarity

The intertwining of the U.S. and Mexican economies promoted a greater degree of cooperation between workers of the two countries even before the NAFTA came to a vote.²⁶ In the United States, Mexican immigrant workers and Mexican-Americans have become active in many labor groups, especially in Southern California, Texas, Colorado, and northern centers like Chicago where many Mexicans have migrated.

In the San Diego area of Southern California, Mexican construction workers in 1992 re-established a trade union that had been destroyed a decade earlier in the housing development sector. In many large cities the Service Employees International Union (SEIU) has launched a "Justice for Janitors" campaign to organize and raise wages for the mostly Hispanic immigrant workers who clean large office buildings. Labor-community coalitions have formed groups such as *La Mujer Obrera* (Working Woman) in El Paso, Texas and *Fuerza Unida* (United Force) in San Antonio, Texas to support immigrant workers in the garment manufacturing sector. Several trade union, church, environmental and human rights organizations formed the Coalition for Justice in the Maquiladoras (CJM) and issued *Maquiladora Standards of Conduct* to establish norms for the activities of U.S. multi-national companies in the Mexican border region.²⁷ Since the early 1970s, hundreds of U.S. corporations have set up shop in the *maquiladora*, taking advantage of special export privileges into the U.S. market. Those companies now employ more than 500,000 Mexican workers in the *maquiladora*, paying an average wage of less than \$1.50 per hour.²⁸

The UE-F.A.T. Strategic Organizing Alliance

Beginning in the late 1980's, many U.S. unions and labor advocacy organizations began sending delegations of workers and trade union leaders to the *maquiladora* region along the U.S.-Mexico border. In 1992 these exchanges made a qualitative advance with the formation of a "Strategic Organizing Alliance" between the United Electrical, Radio and Machine Workers of America (UE) and the *Frente Autentico del Trabajo* (Authentic Labor Front), or F.A.T.

The UE is regarded as one of the most progressive U.S. unions, with a long history of militant struggle against such multinational giants as General Electric, Westinghouse, Honeywell, Allen-Bradley, Sylvania and other large firms. It is a small union, with

40,000 members concentrated in traditional industrial areas in New England and around the Great Lakes. However, the UE is active in organizing among Hispanic workers in the United States, and is growing rapidly in Southern California and other areas of large Hispanic immigration.

Like the principal unions of teachers and nurses, the UE is not affiliated with the AFL-CIO, though it maintains good relations with most AFL-CIO unions and participates in many common labor projects with the Federation and with AFL-CIO unions. The F.A.T. is the principal independent trade union formation in Mexico. Similar in size to the UE, the F.A.T. is not affiliated with the Mexican Confederation of Labor (CTM), the largest labor central body. The CTM is the labor arm of the ruling Institutional Revolutionary Party (PRI).

In February, 1992 the UE and the F.A.T. announced their Strategic Organizing Alliance with a declared purpose of "exploring practical new forms of international labor solidarity in the struggle to improve living and working conditions on both sides of the border".²⁹ The UE-F.A.T. Alliance targets the factories of UE-represented companies in the United States that have relocated all or parts of their operations in the Mexican *maquiladora*. Among these are factories making electric motors, wire harnesses, printed circuit boards and other electrical and electronic equipment.

Several other U.S. unions have undertaken similar projects with their Mexican counterparts, notably the International Ladies Garment Workers Union (ILGWU), the Amalgamated Clothing and Textile Workers Union (ACTWU), the Communications Workers of America (CWA), the United Food and Commercial Workers (UFCW) and the International Brotherhood of Teamsters (IBT).³⁰ The UE-F.A.T. Strategic Organizing Alliance also contained a commitment to "continue joint action strategies to fight against the proposed North American Free Trade Agreement and to fight for a new Continental Development Agreement that benefits the people of the United States, Canada and Mexico, not just the corporations".³¹

The F.A.T. has recruited and assigned new organizers who have made the G.E., Honeywell, Allen-Bradley and other UE-targeted plants in the *maquiladora* the main focus of their work in forming new unions. The UE provides additional resources and organizing assistance, sending Spanish-speaking staff members and delegations of UE members to Mexico to meet with F.A.T. staffers and with workers from the plants targeted for organizing.

The first plants selected for organizing campaigns were the General Electric small motor factory in Juarez, Mexico (near El Paso, Texas) and the Honeywell factory in Chihuahua, Mexico—south of Juarez—which manufactures thermostats, printed circuit board parts, and heating and air purifier switches. The G.E. plant was a "runaway" from UE-represented locations in Indiana, while the Honeywell plant made products relocated from a UE-represented Honeywell facility near Chicago and a Teamsters-represented facility at Honeywell's headquarters location near Minneapolis, Minnesota.

The work of the Teamsters union is especially important in developing international labor solidarity in the new global economy. Except for the independent teachers union, the National Education Association (NEA) (there is a smaller teachers union affiliated with the AFL-CIO), the Teamsters union is the largest union in the United States, with 1.2 million members. It is an extremely diverse union that first represented truckdrivers,

but expanded over the years to represent large groups of workers in practically every sector of the economy.

For decades the IBT was an extremely conservative, often right-wing union. In 1991, however, a progressive reform leadership team was elected to the presidency and the executive board of the Teamsters. The "New Teamsters" leadership has initiated a more aggressive bargaining program, and several international solidarity efforts. For example, to support Teamster members at the Diamond Walnut enterprise in California, who have been on strike for nearly three years while the company continues operations with "permanent replacements", the union has established ties with workers and unions in Sweden, France, Germany, Britain and other countries where Diamond Walnut corporation exports its production.

Joining issues of labor solidarity under the NAFTA labor side accord— The G.E. and Honeywell complaints by the UE and the IBT

The UE, the Teamsters and the other unions mentioned above were, along with the AFL-CIO, the main labor forces in the battle over the North American Free Trade Agreement. Now the U.S. labor movement is faced with a sharp challenge from multinational corporations in connection with the NAFTA and its labor side agreement, the "North American Agreement on Labor Cooperation".

The first test of the labor side agreement has been created by violations of worker rights at the General Electric and Honeywell plants where the UE-F.A.T. Strategic Organizing Alliance developed its first organizing campaigns. In November, 1993, General Electric managers fired ten Mexican workers from the Juarez motor factory who participated in a meeting with F.A.T. organizers and a visiting delegation of UE members from G.E. plants in Ohio, Pennsylvania and California. Meanwhile, Honeywell management fired twenty-one workers who were active in the F.A.T. organizing campaign at the Chihuahua factory. In both locations, occupational safety and health hazards and overtime pay violations were among the grievances of workers seeking to form a union.

Coordinating their actions with the F.A.T., the UE and the Teamsters on February 14, 1994 filed the first complaints to the U.S. National Administrative Office created by the NAFTA labor side agreement. They charged G.E. and Honeywell with violations of Mexican labor law, with violations of the NAALC's labor principles, and with violations of international labor standards. They asked the NAO to investigate the case, to engage in consultations with the Mexican government and to hold public hearings on labor rights violations in the *maquiladora*. They further pressed the NAO to pursue the additional remedies of establishing an Evaluation Committee of Experts and an Arbitral Panel if the dispute remains unresolved.³²

On February 14, the same day that the first NAFTA labor complaints were filed with the U.S. government, the UE and the Teamsters launched a national publicity campaign to inform the public about labor conditions in the *maquiladora* and the actions of the U.S. multinational companies. They began a national tour of the United States by the F.A.T. organizing director and two of the workers fired for organizing, one from the G.E. plant and one from the Honeywell factory. The delegation began with media

interviews and visits to the AFL-CIO and other national labor union headquarters in Washington, D.C. Then the Mexican workers, accompanied by UE and Teamsters representatives, went to Philadelphia, New York, Boston, Pittsburgh, Cleveland, Chicago, Minneapolis and Los Angeles, gathering extensive press coverage in each city.³³

The trade union solidarity work has had an effect. General Electric reinstated six of the fired workers, and claims that the rest accepted severance pay. The unions dispute this claim, arguing that the workers had no choice, and that two of the fired workers did not accept indemnization and still want their jobs back. They argue further that the practice of giving severance pay to workers who are victims of anti-union discrimination, rather than reinstatement, has the effect of discouraging continued organizing activity among workers who remain. This practice, say labor advocates, violates workers' freedom of association and their right to form and join trade unions. Honeywell has not reinstated any workers, and says it will only respond to Mexican authorities.

Union submissions accepted for review

On April 15, 1994 the U.S. NAO announced it would proceed to a formal review of the G.E. and Honeywell cases. Under the terms of a Review, the NAO can:

1. engage the Mexican government in consultations about workers' rights of association, organizing and bargaining, and about occupational safety and health and wage and hour violations in the G.E. and Honeywell facilities where the complaints arose;
2. conduct public hearings at which workers, union organizers, top company managers and government officials would testify about the events that gave rise to the complaints;
3. if issues related to occupational health and safety or wage and hour laws are unresolved, establish an Evaluation Committee of Experts to provide an in-depth report and recommendations;
4. if the ECE recommendations are not followed, establish an Arbitral Panel that can render a decision;
5. if the Panel decision is not observed, impose a fine on the government of Mexico;
6. if the fine is not paid, suspend NAFTA trade benefits—that is, impose pre-NAFTA tariffs on products entering the United States—up to the amount of the fine.

Realistically, trade union advocates do not expect this full reach of the NAFTA labor side agreement to come into play in these first complaints. But its mere *potential* puts corporations and governments on notice that their violations of workers rights will come under greater scrutiny and possibly embarrassing publicity.

Labor agreement on the edge

Behind the scenes, corporate lobbyists pressured the Department of Labor (the NAO is a sub-agency of the Department) to dismiss the G.E. and Honeywell cases. They are fiercely resisting the implementation of a new, transnational forum where they can be called to account for their labor practices.

The Council for International Business (CIB) represents the U.S. Chamber of Commerce, the National Association of Manufacturers and the Business Roundtable, the council of the 100 largest companies in the United States. The CIB demanded that NAO reviews only begin after all domestic administrative and judicial remedies have been exhausted. Since the typical labor case takes 3–5 years to make its way through the courts, this would destroy the usefulness of the NAFTA labor side agreement.

Even where a review of labor rights violations is begun, the CIB is demanding that *no* public hearings be held, and that the name of a corporation involved in a complaint to the NAO be kept secret. The business community argues that since the title of the NAFTA labor side agreement is “North American Agreement on Labor *Cooperation*”, the NAO cannot conduct an adversarial proceeding where one side makes charges and the other side defends itself. The CIB insists that only “cooperative consultations” can be undertaken through the NAFTA labor side agreement.³⁴

The UE, the Teamsters and other labor and human rights advocates respond that the CIB approach would “neuter” the NAO and the NAFTA labor side agreement. If the NAO had refused to review the G.E. and Honeywell complaints, it would have revealed the NAFTA labor side accord to be a hoax, not a serious effort to address worker rights in connection with North American trade.³⁵ Thus, the April 15 decision by the U.S. National Administrative Office to accept the union complaints and initiate a formal review is an important step forward in utilizing this new international forum.

Conclusion

This paper is not meant to hinge the fate of the North American working class on whether the NAFTA labor side accord is strongly enforced. With or without the NAFTA, the continental economy is becoming more interconnected and interdependent. With or without NAFTA, workers, trade unions, human rights supporters, environmentalists, women’s groups, community organizers, farmer advocates, religious activists and other progressive forces are forging new ties of solidarity and struggle across the borders of the three countries of North America.

The NAFTA labor side agreement and the mechanism it creates, with each country’s National Administrative Office as the front line agency for handling labor rights complaints, is just one small feature of the larger landscape being created by forces in the regional and global economy. The half-measure established by the NAFTA labor negotiators confirms a phenomenon already familiar to trade unionists: large, powerful multinational corporations are in the forefront shaping the new transnational economy; governments are scrambling behind them to adapt the political and legislative frameworks to the new shape of the economy; in the rear come interests of workers and trade unions, struggling to survive in the radically changed economic context.

The NAFTA and its labor side agreement fail to establish common labor rights and labor standards, or a means of harmonizing labor rights and labor standards in an upward direction. Nonetheless, they do establish a common *oversight* mechanism with the possibility of a new, tri-national arena for working people and their allies to advocate on behalf of enhanced labor rights and labor standards.

Trade unionists will have a good idea whether the oversight mechanism in the NAFTA's North American Agreement on Labor Cooperation is useful or not, depending on further handling of the G.E. and Honeywell cases filed by the UE and the Teamsters. But even if this new avenue has a dead end, the UE-F.A.T. Strategic Organizing Alliance will continue its work in the electrical and electronics shops of the *maquiladora* region. Likewise, garment workers, farmworkers, transport workers, tele-communications workers and others involved in the transnational economy of North America, and their unions, will continue to build their alliances and their challenges to the power of multinational capital.

Some recommendations

To advance their solidarity work in the new regional framework, U.S., Mexican and Canadian trade unionists can develop elements of the following program:

1. Use the international mechanisms

More unions should bring complaints against employers and governments for violations of fundamental labor rights before international human rights commissions of the United Nations, the Organization of American States, the International Labor Organization and the Organization for Economic Cooperation and Development. These international bureaucracies can be slow and frustrating. There should be no illusion of prevailing quickly and decisively in these arenas. But such mechanisms should be used as part of a long-range strategy to create a climate of greater respect for labor rights and to keep pressure on corporations and governments that violate worker rights.

2. Mount a campaign for a Social Charter in the NAFTA

The 1993 battle over the North American Free Trade Agreement is hardly the final chapter. With changes in governments, changes in parliaments and changes in public sentiment certain in years ahead—and new forms of labor solidarity and mass mobilization, too—opportunities will arise to again press for a strong Social Charter in the regional trade agreement. Already, the AFL-CIO and the Chilean *Central Unica de Trabajadores* (CUT) have agreed to resist Chile's accession to the NAFTA unless a strong labor rights provision is included. Likewise, in a new round of GATT negotiations following on the Uruguay Round, trade unionists from all countries can develop a campaign for a Social Clause in the GATT.

3. Make international labor rights a focus of labor education

International issues often lag behind more immediate, pressing concerns in most trade unions' educational, communications and leadership training programs. Organizing, bargaining, strikes and internal union administration are necessarily uppermost in most

unionists' minds. This is especially true in a period of intense attacks on trade unions, limited union financial and human resources, and time constraints on activists who are also workers with family responsibilities.

But unions can still develop a basic, simplified curriculum to introduce their members and leaders to international issues. Beyond that, a more advanced syllabus can be formulated for union staff and local or regional leaders who have completed programs on domestic labor concerns. Union news features, instructional material, videos and other communications devices can incorporate a greater international perspective. Over time, local and regional leaders and rank and file activists, as well as national union leaders and staff, will be able to "make the international connection" in meeting their organizing and bargaining challenges from the multinational employers.

4. Bring international labor rights to the bargaining table

North American trade unionists should make a concerted effort to put language proposals requiring respect for international labor rights on the bargaining table in negotiations with multinational employers. They can draw from provisions of the UN human rights instruments, ILO Conventions, OECD Guidelines, the Social Chapter of the Maastricht Treaty and other sources. Such proposals should be accompanied by a broad public relations campaign highlighting the proposals and their intended effect of protecting worker rights at home and around the world. This move can counter public perceptions of unions as narrow, self-interested organizations. It can have a galvanizing and educational effect for both union members and union supporters in the community. Although such proposals to raise standards in foreign countries might not be sufficient by themselves to sustain a strike, they can remain part of a union's set of demands that become strike issues.

5. Invite foreign union representatives to contract talks

Moves to "internationalize" collective bargaining will be enhanced by the active participation of union leaders from the U.S., Canada and Mexico in negotiations with multinational employers. In U.S. negotiations for a collective bargaining agreement with the General Electric company in 1988 and 1991, leaders of the International Metalworkers Federation and from many countries where G.E. operates factories joined early stages of the negotiations. The knowledge of foreign trade unionists about their own labor contracts and working conditions adds an important set of arguments to back up the demands of domestic unions in bargaining with the same multinational employer. The U.S. unions are planning to have representatives of the F.A.T. join negotiations with G.E. later in 1994. The same tactic should be repeated in every multinational company that employs workers in the NAFTA region. In the long run, such moves can set the stage for genuine joint bargaining for a unitary collective bargaining agreement across national boundaries, that can block companies' ability to play off workers in one country against those in another.

6. Participate in the International Trade Secretariats (ITSs)

Many unions are members of the International Trade Secretariats, the sectoral international union bodies that group unions according to branch of industry. Some unions maintain close contact with their ITSs, get involved in ITS projects, and pay their affiliation fees based on their membership in the sector. Others have diminished their participation in recent years as they made painful spending choices under fierce financial pressure. Obviously, each union must determine, within its own institutional framework, its degree of support for the ITS. But labor internationalists must make the effort, patiently and carefully, to educate union members and leaders about the importance of this international connection.

7. Develop “sister union” programs with unions abroad

A number of U.S. unions at national, regional and local levels have created special relationships with foreign unions, most often by virtue of working in the same industry or for the same multinational employer. It is often called a “sister union”. These relationships are often haphazard, depending more on personal acquaintances than on a strategic program to develop such alliances. “Sister union” projects can range from a simple exchange of greetings or messages of support for negotiations, to exchanging information for bargaining or sending strike support contributions, to actual joint organizing or bargaining efforts, or even solidarity strikes.

8. Get “on-line” with new electronic information systems

Some unions have moved briskly into new technology systems, setting up “e-mail” networks among their own national, regional and local bodies. But only a few are on line in international communication networks. The ICFTU and many of the ITSs have such networks available, and PeaceNet and other public interest groups carry important labor news and developments. Clearly, the multinational companies have instantaneous communication capabilities. Unions that deal with them need the same capacity to respond quickly to organizing or bargaining crises, to conduct international solidarity campaigns, and to plan international events.

9. Support NGOs and researchers working on labor rights

Many non-governmental organizations advocate for worker rights in the global economy. Many also conduct important research on labor rights and labor conditions. In the United States, the International Labor Rights Education and Research Fund is the principal NGO devoted to labor rights work. This coalition of trade union, religious, human rights and educational organizations has amassed a wealth of information and initiated several support projects for workers employed by U.S. multinational corporations abroad.

Other NGOs are increasingly turning their attention to worker rights issues. U.S. unionists are familiar with the efforts of the group Human Rights Watch and its affilia-

tes—Americas Watch, Asia Watch etc.—to report on abusive labor conditions. Amnesty International has taken up several cases of trade unionists imprisoned or persecuted for their labor activity. Several regional and country-specific rights groups are also devoting more attention to labor issues.

In the economic sphere, U.S. unionists depend on the work of the Economic Policy Institute (EPI), a Washington-based “think tank” supported in large part by trade union contributions. EPI carries out research on the economics of global labor issues. Another research group, the Institute for Policy Studies, looks at the activities of multinational companies, especially on the “global assembly line” of electronics and apparel factories that employ young women in developing countries.

A list of NGOs working on labor’s behalf could go on indefinitely. These groups can be vital resources and allies for workers and unions dealing with the impact of regional and global economic restructuring. Trade unions should support these organizations financially, and through coordinated research and education efforts.

10. Develop foreign language capabilities among labor advocates

Language barriers are one of the most serious obstacles to international labor work. The large size and geographic separation of the United States, combined with a certain cultural isolationism, make easy communication with foreign trade unionists difficult. Most union leaders well into their adult life are not going to learn a new language. However, the U.S. labor movement can commit itself to bringing into leadership many of its immigrant worker members who can bring their language ability to trade union work.

Spanish is obviously critical, since relations with Mexico and the rest of Latin America are tied to the regional trade framework. Already, many Hispanic Americans are involved in trade unionism. But many other workers speak Portuguese, Arabic, French, Creole and one of many Asian languages. They, too, can be nurtured by labor leaders sensitive to the need for their increased participation in union affairs.

11. Develop international law skills of labor lawyers

Trade union staff attorneys and law firms that represent union clients are usually limited to work in domestic labor law. But in the new global economy and its regional variations, every union should have access to legal counsel based on a thorough knowledge of international labor law. This area of the law encompasses both long-established principles, as well as the emerging law being shaped by new developments.

Lawyers with these skills can conduct cases on behalf of the union, or manage cases using outside counsel. For example, the UE and Teamster complaints to the U.S. National Administrative Office based on G.E.’s and Honeywell’s labor rights violations in Mexico were prepared by teams of staff attorneys and experienced outside counsel. Just as important, international labor lawyers will be able to advise union leaders about important legal aspects of international solidarity work.

Notes:

- ¹ See Sanger, David E. (1994): Keep Trade Pledges, Christopher Tells Japanese. In: *N.Y. Times*, March 11, 1994, at D1.
- ² See Friedman, Thomas L. (1994): U.S. Sees Hypocrisy On Trade: Kantor Is Caustic on European Criticism. In: *N.Y. Times*, March 10, 1994, at D1.
- ³ See for example Glain, Steve (1994): South Korea Faces Shakeout in Car Market. In: *Wall Street Journal*, March 10, 1994, at A13.
- ⁴ See for example Keatley, Robert (1993): Already Feuding With China, the U.S. Faces Rights Dispute With Indonesia. In: *Wall Street Journal*, December 17, 1993, at A11.
- ⁵ See Greenhouse, Steven (1994): U.S. Plans Expanded Trade Zone: Chile Is Seen as Next In Hemispheric Bloc. In: *N.Y. Times*, February 14, 1994, at D1.
- ⁶ See for example Gumbel, Peter (1993): Exporting Labor: Western Europe Finds That It's Pricing Itself Out of the Job Market; Work Flees to East Europe. In: *Wall Street Journal*, December 9, 1993, at 1.
- ⁷ However, there are indications that Mexico may block accession to the NAFTA by new entrants, not wanting to yield so quickly its privileged status in the U.S. market under NAFTA. See Bradsher, Keith (1994): U.S. Memo Says Mexico May Bar NAFTA Growth. In: *N.Y. Times*, March 1, 1994, at D2.
- ⁸ See for example Cohen, Roger (1993): European Official Urges Cuts in Social Benefits to Add Jobs. In: *N.Y. Times*, December 9, 1993, at A8; Milbank, Dana (1993): European Labor Movement Loses Ground: Recession Places Industry on New Defiant Footing. In: *Wall Street Journal*, Dec. 17, 1993.
- ⁹ For a thorough treatment of changes in wages and the occupational structure, see Mishel, Lawrence E., and Jared Bernstein (1993): *The State of Working America*. Economic Policy Institute.
- ¹⁰ See Lewin, Tamar (1994): Low Pay and Closed Doors Greet Young in Job Market. In: *N.Y. Times*, March 10, 1994, at A1.
- ¹¹ For a compendium of studies on these issues, see U.S. House of Representatives, Committee on Education and Labor, Subcommittee on Labor-Management Relations: *Oversight Hearings on the Subject "Has Labor Law Failed?"* (1984); *Oversight Hearings on Labor Law Reform* (1987-88).
- ¹² See Levin, Doron P. (1993): What BMW Sees In South Carolina. In: *N.Y. Times*, April 11, 1993, at C5.
- ¹³ See Drozdiak, William (1993): French Say United Europe Promotes "Job Poaching": Shift of Plant to Scotland Sets Off Furor. In: *Wash. Post*, Feb. 10, 1993, at A23.
- ¹⁴ See Lewin, Tamar (1994): Low Pay and Closed Doors Greet Young in Job Market. In: *N.Y. Times*, March 10, 1994, at A1; Kilborn, Peter T. (1994): More Women

- Take Low-Wage Jobs Just So Their Families Can Get By. In: *N.Y. Times*, March 13, 1994, at 24.
- ¹⁵ See Shaiken, Harley (1990): *Mexico in the Global Economy: High Technology and Work Organization in Export Industries*. University of California, San Diego, Center for U.S.-Mexican Studies.
- ¹⁶ See for example Holusha, John (1993): A Profitable Xerox Plans to Cut Staff by 10,000. In: *N.Y. Times*, December 9, 1993, at D1.
- ¹⁷ “Lame Duck” is an American slang term for a political leader on his way out of power—no one pays attention to his quacking.
- ¹⁸ See *Expanding Trade and Creating American Jobs*. Remarks by Governor Bill Clinton, Raleigh, North Carolina, October 4, 1992.
- ¹⁹ It should be kept in mind that “center-right” and “center-left”, in the U.S. context, are relative terms. In most political contexts, the “center” in the United States would be quite conservative. For a discussion of the policy division between “Wall Street Democrats” and labor-oriented Democrats, see Judis, John B. (1994): Clintonomics: What’s the Deal? In: *Mother Jones Magazine*, April, 1994, 22–32.
- ²⁰ For accounts of labor’s organizing effort against NAFTA, see Kilborn, Peter T. (1993): Unions Gird for War Over Trade Pact. In: *N.Y. Times*, Oct. 4, 1993, at A14; Friedman, Thomas K. (1993): Adamant Unions Zero In on Clinton. In: *N.Y. Times*, Nov. 10, 1993, at B10.
- ²¹ For the most part, those environmental NGOs that depend on large corporate grants for their primary funding sources supported the NAFTA. Those with a grass roots base of individual donors opposed it. See Schneider, Keith (1993): Environment Groups Are Split on Support for Free-Trade Pact. In: *N.Y. Times*, Sept. 16, 1993, at A1.
- ²² See *A Just and Sustainable Trade and Development Initiative for North America* (1993), available from the International Labor Rights Education and Research Fund, Washington, D.C.
- ²³ “Right-to-work” is what anti-labor groups have titled the laws of twenty U.S. states, most in the South, that prohibit unions and employers from concluding agreements to require the payment of union dues from represented employees (or the equivalent of union dues from employees who choose not to become union members). Under a slogan of “individual freedom”, these laws have been used to weaken the strength of labor unions. Arguably, such laws violate principles of freedom of association and protection of the right to organize and bargain collectively. Several Canadian firms have relocated operations in the Southern states of the United States to take advantage of such laws, giving rise to charges by Canadian trade unionists that U.S. “right-to-work” laws are an unfair trade practice.
- ²⁴ Nestor de Buen, a prominent Mexican labor lawyer and law professor, and an advisor to the Mexican government during the labor side agreement negotiations,

has written "in our milieu trade unionism, with the exception of some independent movements, is always at the service of the employer and operates as an instrument of control, not of defense, of the workers". See: La Flexibilidad en el Derecho del Trabajo, in: Bensusan and Garcia (eds.): *Modernidad y Legislacion Laboral* (Friedrich-Ebert Stiftung, 1989), p. 95. As for the government, de Buen has characterized it as "the omnipotent decisionmaker under a guise of social partnership ... Under it, collective rights of the workers have been nullified, trade union freedom has been suppressed, and the right to strike has been eliminated". See: Otro Modelo de Relaciones Laborales. In: Carlos Reyes Romero (ed.): *Dos Proyectos de Nacion* (1989), p. 247.

- ²⁵ See U.S. Department of Labor, Bureau of Labor Statistics (1993): *Comparative Labor Costs and Worker Incomes: United States, Canada and Mexico, 1979-1992* (March 1993).
- ²⁶ U.S. and Canadian unions have had long-standing relationships since the economies of the two countries have had intersecting interests for more than a century. Many U.S.-based unions are still called "the International", and contain the title "international union", because they include both U.S. and Canadian affiliates. However, there have been frictions growing out of Canadian nationalist sentiments, examples of arrogance on the part of the dominant U.S. sector of some unions, and serious policy differences (Canadian unionists, in general, have maintained a more militant line than the U.S. labor movement on such issues as wage concessions and labor-management cooperation). Several formerly "international" unions have split into two autonomous organizations, the United Auto Workers and the Canadian Auto Workers being the most prominent example.
- ²⁷ See Coalition for Justice in the Maquiladoras (1993): *The Human Face of Work: Human Rights, Democracy and Working Conditions in Mexico* (October 1993).
- ²⁸ See U.S. Department of Labor (1990): *Worker Rights in Export Processing Zones*. (Report Submitted to Congress). That study found that "the minimum wage acts as both a floor and a ceiling on most *maquiladora* production worker wages ... This has increased the attractiveness of Mexico's *maquiladora* program to foreign investors, while on the other hand has provided barely a living wage to most who work in the *maquiladoras*."
- ²⁹ See *The UE-F.A.T. Strategic Organizing Alliance: Statement on Joint Work* (February, 1992), Section 1.
- ³⁰ For an account of such projects, see Moberg, David (1993): Like Business, Unions Must Go Global: U.S. electrical workers are subsidizing union organizers in Mexico. *N.Y. Times*, December 19, 1993, at F13.
- ³¹ *Id.*, at Section 6.
- ³² See Rose, Robert L. (1994): Nafta Side Pact on Labor Laws Faces First Test: Unions Say GE, Honeywell Fired Mexican Workers For Trying to Organize. In: *Wall Street Journal*, February 15, 1994.

- ³³ See for example: Fired Mexican Workers Get Hero's Welcome. In: *Boston Globe*, February 17, 1994, at Business Section, p. 1.
- ³⁴ See U.S. Council for International Business (1994): *Comments on Implementation of U.S. National Administrative Office* (February 15, 1994).
- ³⁵ See International Labor Rights Education and Research Fund (1994): *Response to Comments by U.S. Council for International Business on Suggested Procedures and Guidelines for the U.S. National Administrative Office* (March 7, 1994).