

# REPLACING NAFTA WITH A DEAL THAT DELIVERS BROAD BENEFITS



Essential changes to the corporate-rigged North American Free Trade Agreement (NAFTA) include:

## 1. Eliminate NAFTA terms that promote the outsourcing of Americans jobs.

- Eliminate Investor-State Dispute Settlement (ISDS) and the foreign investor protections it enforces that make it less risky and cheaper to outsource jobs and empower corporations to attack environmental and health laws and get unlimited payouts of our tax dollars.
- Eliminate NAFTA procurement rules limiting Buy American, labor and environmental preferences so the government buys U.S.-made, pro-worker and pro-environment goods – reinvesting our tax dollars to create jobs here rather than outsourcing them to buy cars, construction materials, office supplies and other goods made elsewhere.

## 2. Cut NAFTA’s corporate power boosting ISDS regime that grants corporations rights to attack our laws and demand unlimited taxpayer compensation.

- NAFTA’s ISDS regime and the foreign investor protections it enforces must be eliminated. These terms empower multinational corporations to sue the U.S. government before a panel of three corporate lawyers. The lawyers can award the firms unlimited sums to be paid by America’s taxpayers, including for the loss of expected future profits, over claims that a U.S. law or safety regulation violates their NAFTA rights. The lawyers’ decisions cannot be appealed
- More than \$392 million in compensation has already been paid out to corporations using NAFTA’s ISDS regime after attacks on energy, water and timber policies, toxics bans, health and safety measures, and more. Of the 13 claims (for more than \$36 billion) now pending under NAFTA, nearly all relate to environmental, energy, financial, public health, land use and transportation policies – not traditional trade issues.

## 3. Raise wages by adding strong labor and environmental standards with swift and certain enforcement to raise poverty wages and strengthen lax environmental rules in Mexico.

- Labor and environmental terms in U.S. trade deals for the past decade have not raised wages or improved conditions in partner countries. Terms in the core text of past pacts proved ineffective. Under NAFTA, firms can pay Mexican industrial workers less than \$2 an hour and dump toxins with impunity.
- A revised NAFTA must address shortcomings exposed by the recent Guatemala-CAFTA labor rights case by eliminating the use of the terms “sustained or recurring course of action or inaction” and “manner affecting trade” as barriers to enforcement of labor and environmental standards.
- Congress must not vote on a new NAFTA until each party adopts, maintains, implements and enforces domestic laws that provide the labor rights and protections in the International Labor Organization’s Core Conventions (including but not limited to the recent constitutional changes in Mexico) and policies that fulfill core multilateral environmental agreements. These terms must raise wages, reduce pollution and end existing “protection contracts” that lack majority support of workers they cover.
- New tools must be added to ensure that independent monitoring and enforcement will occur, and preferential market access must be conditioned on sustained evidence of on-the-ground improvements, with social and environmental dumping tariffs imposed for backsliding.

## 4. Insert democratic accountability and oversight by adding a sunset clause to NAFTA.

- By requiring NAFTA to be affirmatively reauthorized every five years, if outcomes don’t improve, more changes can be made or the pact ended. Losses won’t continue indefinitely, as with the original NAFTA.

**5. Protect consumers and ensure a level playing field for U.S. businesses, farmers and workers by ending NAFTA rules that threaten food safety and food labeling.**

- Imported food must be required to meet U.S. safety standards, not the safety and inspection standards of Mexico and Canada. Enhanced border inspection must be added.
- Food labeling regimes – including mandatory country-of-origin labels for meat and dolphin-safe labels for tuna – must be explicitly affirmed and protected so consumers can make informed choices.

**6. Protect our health and the environment by requiring all imported goods and services meet U.S. standards; Add a safeguard for environmental, health and other public interest policies.**

- All products imported into the U.S., all cross-border services and all service providers operating in the United States, including trucks, must comply with U.S. health, safety, environmental, land use and zoning, licensing, professional qualification, privacy, transparency and consumer access policies.
- A broad “carve-out” must be added to exempt from the entire revised pact’s terms all nondiscriminatory domestic policies to provide a strong deterrent and defense to “trade” challenges for policies used to protect workers, promote public health, tackle climate change and advance broadly-shared goals.

**7. Make medicine more affordable by eliminating NAFTA rules that increase costs.**

- Add no new terms that go beyond the existing World Trade Organization patent rules or that limit countries’ abilities to negotiate lower prices for government health programs like Medicare or Medicaid.

**8. Ensure a fair playing field for American job creation by adding strong, enforceable disciplines against currency manipulation and misalignment.**

- New binding disciplines against currency manipulation and misalignment must be added to NAFTA’s core text along with a commitment to cooperate tri-nationally to confront harmful currency manipulation and misalignment by trading partners around the world.

**9. Create American jobs and reinforce improved labor and environmental standards by strengthening “rules of origin” and stopping “transshipment.”**

- Strengthened rules of origin and new safeguards that reduce opportunities for leakage must be added to incentivize production in North America in general and the United States in particular. Strengthening rules of origin must go hand-in-hand with significantly improving labor rights, wages, environmental standards and enforcement to effectively address American job loss and wage stagnation.
- Add stronger rules to stop transshipment cheating.

**10. Boost the rural economy by overhauling NAFTA rules that harm family farmers.**

- The right to establish domestic farm policies that ensure that farmers are paid fairly for their crops and livestock must be safeguarded. NAFTA rules that forbid countries to establish and implement many farm and food policies – such as inventory management, strategic food reserves, import surge protections and other anti-dumping mechanisms – must be eliminated.

**11. The NAFTA renegotiation process must be transparent and participatory.**

- The original NAFTA was negotiated in a closed-door process dominated by hundreds of corporate trade advisors, and to date, much the same process has been used for NAFTA renegotiations. Moving forward, the public and all members of Congress must be invited to help formulate U.S. positions and comment on draft U.S. proposals. Negotiated texts must be made publicly available, with opportunity for comment, after each negotiating round.