

TRADE WARS
REVENGE^{OF} THE MYTH

Deals for Trade Votes Gone Bad



June 2005

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Introduction: Take Caution When Considering a Trade Deal -- Voter Ire Lingers as the Trade Agreement is Implemented, But Most Promised Policy Changes and Goodies are Never Delivered

Proponents of the Central America Free Trade Agreement (CAFTA) are finding themselves trapped in a lobbying marathon comparable to watching the entire Star Wars series in the order the movies were made: six episodes in and you're just getting back to where you started, while the economy is slipping rapidly toward the Dark Side. Eleven years of the economic, environmental, social and political results of the North American Free Trade Agreement (NAFTA) have made CAFTA-NAFTA expansion a hard sell in the U.S. Congress. "Free trade" Democrats won't support CAFTA because it rolls back the stronger labor rights protections required in the existing Caribbean Basin Initiative (CBI) rules now governing trade with the CAFTA target countries, extends NAFTA model foreign investor protections that have been used to attack key health and environmental laws, and contains patent rules which will increase drug prices in Central America. Farm state Representatives from both parties are increasingly critical of the trade model CAFTA extends as they have seen farm incomes decline even as the volume of trade flows increases. Additionally, a block of Republican votes from sugar cane and sugar beet districts vows to oppose CAFTA unless sugar is removed from the deal. Meanwhile, Republicans from textile and apparel districts view CAFTA's looser rules of origin as eliminating the special demand for U.S. fabric that the CBI program's rules of origin created, thus creating a back door for yet more imports of Chinese textile and apparel products. Democratic and GOP Congresspeople alike are hearing from small business people in their districts that CAFTA-NAFTA expansion will push more U.S. manufacturers out of business while providing potential gains only to the largest companies.

One year after CAFTA was signed, the pro-CAFTA lobby has been unable to secure a majority in Congress willing to support the deal. According to press accounts, there appears to be a deficit of 30-40 votes for CAFTA, with additional Members of Congress announcing their opposition to the agreement nearly every day.¹

If the history of previous difficult Congressional trade votes is any indication, the Bush administration increasingly will resort to desperate tactics to try to obtain the votes needed to pass CAFTA. Given the significant level of U.S. public opposition to NAFTA and thus to its expansion, the administration and Congressional pro-CAFTA leaders increasingly are giving up on selling the pact on its merits. They have begun to try to woo yes votes with offers to create political cover for reticent Members of Congress by promising to negotiate changes to CAFTA *after it is implemented*. Imminently expected – and equally silly – will be the promises to fund programs (often the same funding for the same programs never delivered on in past trade vote deals) to “mitigate” the feared consequences of a trade model facing high public skepticism.

Based on past trade fights, one can anticipate promises to safeguard specific agricultural commodities or funding for studies on specific commodities; to add more customs

inspections to try to counter textile and apparel imports not meeting rules of origin; to fund a greater level of food safety inspection; to provide labor and/or environmental “trade capacity building” monies; and to establish funds for new “parallel” labor or environmental institutions, or to increase the funding or scope of Trade Adjustment Assistance (TAA). Unlike the pure pork barrel vote-buying promises that may well also be tried soon (promises for goodies like funding for highways, bridges, or universities), these policy-related promises are designed to put a gloss on the agreement and give political cover to Members of Congress.

This report examines the history of such exchanges, showing the enormous political liability for the buyer of relying on trade deal making. After reviewing all 93 trade vote deals we could unearth starting in 1992 with NAFTA, we found that only 11 percent of the policy deals were kept. We found a bipartisan standard of betrayal covering the first and current Bush administrations and two Clinton terms. Indeed, while only 31 percent of the pure pork barrel deals have gotten funded in the past, systematically, the “policy” related deals have proven to provide no cover over the long term. Why? Because when the underlying provisions of trade deals are bad, the negative outcomes of the agreement only multiply over time, while memories of deals, even those few that went fulfilled, fade quickly.

This report documents the failure of successive Democratic and Republican administrations and Congresses to fund or otherwise effectively implement the trade-related promised programs. While many of these deals – and the authorization for their funding at set amounts – *were included in the actual trade agreement’s implementing legislation*, funds for the promised programs were either not appropriated or not funded at the level promised. The few programs that were fully funded initially either saw funding dwindle over time or, in the case of the NAFTA border clean-up NADBank, simply failed to function as promised. As memories of NAFTA deals fade in public opinion, the damage an implemented trade agreement can deliver continues. The promises made to assuage the concerns of fence-sitters during previous trade debates have regularly left such members severely exposed. Not surprisingly, many of today’s CAFTA opponents are those who were stung by past trade vote promises gone bad.

The annex to this report lists every policy or pork barrel deal for past trade votes since 1992, which Congresspeople took the deals, and what happened. As well, for the major policy deals made over trade votes, we examine in detail the discrepancy between funding that was authorized by various trade agreement implementing legislations, funding that was actually appropriated in subsequent bills and budgets, and the amount of funding that industry experts estimated would have been necessary for the promised programs. We find that Members of Congress who traded their votes for policy promises often saw these promises unfulfilled, offering an important warning to Members of Congress who may be searching for similar “cover” and compromises as the administration intensifies its efforts to find a majority during a potential CAFTA vote.

Promised Agricultural Deals Leave Members Hungry

One time-honored form of Congressional trade vote deal making is that geared towards Members with agricultural interests in their districts: namely, the promise to shield commodities from the fallout of increased trade flows through the use of safeguards, countervailing duties (CVDs), anti-dumping mechanisms (ADMs), and even outright compensation. Yet the record of such promises demonstrates that this kind of deal rarely results in actual safeguards. Instead, an endless release of studies detailing import surges is issued by the International Trade Commission and no action to implement safeguards on trade is taken.

As the United States is expected to become a net food importer in 2005 for the first time since 1959, support for more-of-the-same trade policy in rural America has declined, to the point where even the normally pro-trade National Association of State Departments of Agriculture passed a resolution opposing the proposed CAFTA.² Moreover, the state farm bureaus of Louisiana, North Dakota, Colorado and Idaho have voted to oppose CAFTA on the basis of sugar concerns, and not much support is expected from the state organizations in Florida and Minnesota.³

Much of the flood of imports is in the products in which the United States was once considered the leading exporter (such as beef and poultry), while U.S. exports of cotton, soy, and red meat have declined dramatically in recent years,⁴ in many cases failing to meet rates of growth promised by proponents of NAFTA and World Trade Organization (WTO) membership ten years ago.⁵ Meanwhile, under current trade policy, export prices for key U.S. crops have fallen to levels substantially below the cost of production, while consumer prices have increased. Since 1996, U.S. crop prices have generally declined about 40 percent,⁶ while the cost of running a farm has risen by 40 percent.⁷ A dramatic loss of U.S. family farms accompanies sharp falls in income for the poorest farmers under the NAFTA-WTO model. The United States lost 226,695 small and family farms between 1994 and 2003,⁸ while average net cash farm income for the very poorest farmers dropped to an astounding \$5,228.90 in 2003, a colossal 200 percent drop since NAFTA and the WTO went into effect.⁹ According to government data, however, real prices for food eaten at home in the U.S. rose by 30 percent during the WTO era (1994 and 2004),¹⁰ even as prices paid to farmers plummeted.

Nonetheless, the Bush administration has been actively lobbying Members of Congress with agricultural concerns to gain their support for CAFTA. CAFTA proponents have pointed to a sugar compensation mechanism in CAFTA – which would give the United States the option of buying out Central American sugar importers rather than allow them to use their increased quotas under the agreement – in their attempts to reassure Members of Congress with sugar cane or sugar beets in their district.¹¹ But estimates of the cost of running such a buy-out program exceed \$28 million annually.¹² The notion that Congress would appropriate any funds – much less millions – in order to pay other countries' sugar producers a subsidy *not* to export is laughable, especially given Bush administration and Congressional proposed cuts in U.S. farm spending programs.¹³ Moreover, use of the sugar compensation mechanism option is discretionary, meaning there is no meaningful

way of ensuring its application even if the funding were available.¹⁴ Even if legislation were passed taking away the administration's absolute discretion in the CAFTA text regarding whether to trigger this option, it is inconceivable that the public, press or a majority in Congress would tolerate such payments.

Pro-CAFTA forces have also hinted at other "sugar deals." Some measures that have been suggested would allow new U.S. sugar imports to be limited to ethanol form, while another proposal suggested reallocating the amount of sugar import quotas that the United States assigns to various countries under WTO auspices. A third proposal involved a government buyout of the entire industry, a proposal in which, as a sugar industry representative said, the industry is "totally uninterested."¹⁵

Wisely, the sugar industry and the Members of Congress representing cane and beet farmers are not being lured by such deals. One reason may be a hard lesson learned during the NAFTA debate. During NAFTA, a last minute deal was struck for the U.S. sugar and sugar-processing industry that took the form of a side letter to NAFTA that ostensibly would work to reduce the amount of sugar that Mexico could export to the United States. The letter's text limited Mexican sugar access to the United States to 250,000 metric tons of surplus production during the transition years of 2001-07.¹⁶ In addition, the letter included an amendment to the original formula for calculating the Mexican sugar surplus which *excluded* from the calculation sugar displaced by the use of high fructose corn syrup (HFCS). Thus, the old formula (which counted Mexican sugar production less Mexican domestic sugar consumption) was replaced with a new way to calculate whether exports were allowed (Mexican sugar production less the sum of Mexican domestic sugar *and* HFCS consumption).

The sugar side letter was included as an attachment to the legal text in the version of NAFTA that passed the U.S. Congress. However, the side letter reportedly was not included in the version that passed Mexico's Congress. Mexico subsequently rejected the side letter's validity, while the United States maintains it is valid.¹⁷ When the United States unilaterally calculated allowable Mexican sugar export volumes under NAFTA according to the U.S. side letter formula, Mexico retaliated by launching an anti-dumping measure against U.S. exports of HFCS into the Mexican market. When a WTO panel ruled that this was inconsistent with Mexico's WTO obligations, Mexico responded by levying a tax on drinks containing high fructose corn syrup, thereby penalizing U.S. exporters of HFCS.¹⁸ The United States is currently pursuing a WTO case against Mexico for this tax, so far without progress.¹⁹ The U.S. Trade Representative's office has indicated that it may be abandoning the original U.S. interpretation of the side letter, putting further uncertainty on whether this NAFTA promise will stand the test of time.²⁰

The first lesson of this NAFTA example is that even if a promised change is institutionalized in an official side document ostensibly agreed to and obviously signed by all parties, only the language in an agreement's core text can be relied upon to be a binding, legal commitment. Second, deals for one commodity can have unforeseeable effects on the U.S. interest – in this case, on High Fructose Corn Syrup. The Bush administration has rejected calls to renegotiate CAFTA's actual sugar provisions. After

the experience of the NAFTA sugar side letter, sugar interests have learned that for changes in a trade pact to be real, they must be in the actual agreement's text. Bizarrely, other interests seemed to have learned nothing from the record of broken deals. Given the sting of failed side letter deals in NAFTA – which were often changes to the pact ostensibly agreed to and signed by the countries in advance – it is bizarre to seek to get consensus from the other six nations to renegotiate changes that some textile industry interests have come out in support of CAFTA in exchange for a promise from the Bush administration in market access and rules of origin on pocket linings *after the pact goes into effect* [see page 16 for more details on this deal]. Given how the breaking of this deal is clearly foreseeable, it is no surprise most Members of Congress who care about these issues and who were undecided on CAFTA before this deal remain undecided or leaning against.

Failed agricultural deals swapped for trade votes have a long history in Congress. During the NAFTA debate, the Clinton administration made several promises in order to obtain the votes of members from agricultural districts. In particular, Clinton promised that the U.S. International Trade Commission (USITC) would take special actions to vigilantly monitor imports of tomatoes, peppers, asparagus, cut flowers, and other products, and to take expedited action to guard against import surges by imposing safeguard measures such as new tariffs to counter import floods.

At the time of the NAFTA debate, Florida vegetable growers were concerned that imports of Mexican-grown crops would devastate the state's \$4.8 billion winter agricultural sector.²¹ One of the most infamous NAFTA agriculture deals concerned tomatoes. In a letter from the Clinton administration to the Florida Fruit and Vegetable Association, the U.S. Trade Representative at the time promised that the USITC would monitor imports of Mexican vegetables and “*expedite* any request for relief under the fast track provisional relief procedures,” which could provide safeguards to domestic farmers through tariffs.²² Numerous Florida House Members relied on this promise – which was laid out in detail with new, special USITC fast-track review and safeguard provisions – to support NAFTA.

The Clinton administration never fulfilled this promise. The USITC monitored the surge of imported tomatoes and has extensively documented the U.S. tomato industry's demise.²³ Total tomato imports into the U.S. grew by 137 percent from 1994 to 2003,²⁴ yet both the current Bush administration and the previous Clinton administration have refused to take action based on the data.²⁵ Despite the promise to Florida's growers, the Clinton administration suspended the process to impose countervailing tariffs. The Bush administration has also refused to take action, which serves as a reminder that while trade agreements stay in effect indefinitely, administrations making promises stay in office maximally for eight years, while Members of Congress may well outlast them.

Many Florida Democrats and Republicans were under political attack for their NAFTA “yes” votes as the Florida industry was decimated. In 1996, the Clinton administration came to an agreement with the Mexican government and growers that would allow Mexico to export tomatoes into the U.S. market, so long as these exports were sold at a

U.S.-government established reference price.²⁶ However, subsequent investigations found that Clinton administration customs officials were not enforcing the reference price on certain growers from Sinaloa. Then, in 2002, Mexico briefly withdrew from the agreement altogether.²⁷ In an example of the perils of taking a deal that can only deliver if its enforcement outlasts changes in Presidents, the Bush administration has refused to take action on the Florida tomato growers' and Florida state agricultural officials' continued allegations of dumping of tomatoes in the U.S. market by Mexico.²⁸ Before NAFTA, Florida had a \$700 million tomato industry with 250 growers; within two years of NAFTA's import surges, revenues had dropped to \$400 million with only 100 growers remaining.²⁹

Former Rep. Carrie Meek (D-FL), whose district includes many tomato farmers, supported NAFTA contingent on the Clinton administration's promise, but then opposed post-NAFTA trade deals. "I was promised side agreements by the administration that (other countries) can't dump tomatoes on us." When the administration failed to follow through on its promise, the tomato farmers in Meek's district were severely hurt, she told reporters.³⁰

While the tomato deal was geared towards a bipartisan bloc of Members of Congress from Florida, the Clinton administration also made agricultural deals with individual agricultural representatives. For instance, in order to secure the "yes" vote of Rep. Sam Farr (D-CA), the Clinton administration added language to the NAFTA implementing legislation that directed the Agriculture Department to monitor Mexican flower import volumes, prices and quality, and take expedited safeguard action to protect the U.S. industry against import surges.³¹

Box 1: Stringent WTO Limits on Use of Safeguards Mean an Administration Promise to Protect Agriculture Today can be Thrown Out by the WTO in Geneva Tomorrow

Once a U.S. agricultural sector is exposed to the threat of export surges or dumping through a regional or bilateral "free trade" agreement, the only – and oft-promised – defense is to put in place import relief tariffs through use of a safeguard or anti-dumping law. Members of Congress operating in the WTO era need to consider how WTO rules could undermine even a good faith promise to safeguard a U.S. industry. In a decade of WTO rulings, the United States has not been able to successfully defend any of the cases in which U.S. trade safeguard law was challenged, with 14 out of 14 successful WTO cases brought by other countries against U.S. safeguards on products ranging from steel to lamb to wool shirts. Furthermore, the United States has lost 11 out of 15 anti-dumping or countervailing duties cases. Additionally, Doha Round "Rules" negotiations are poised to translate these WTO cases against the U.S. into new, more expansive limits on U.S. domestic trade safeguard laws.

Source: These numbers, as well as the typology attributed to them, are taken from the WTO's "Index of Dispute Issues," WTO Website, accessed May 16, 2005.

According to Lee Murphy of the California Cut Flowers Council, instead of establishing prompt safeguards, the Clinton administration took no action as the USITC documented import surges. “NAFTA was like rubbing salt in the wound,” said Murphy.³² Each year, 10 percent of American producers are driven out of business by low-wage foreign competitors, especially with the importation of Mexican roses, according to the California Cut Flowers Council and the Floral Trade Council.³³ In September 1999, the Clinton administration simply terminated the five year review process that had monitored cut flower imports from Mexico, which also monitored imports from Chile, Ecuador, and Peru.³⁴ Mexico’s exports of cut flowers to the United States more than doubled between 1993 (before NAFTA went into effect) and 2000, growing from \$13.9 million in 1993 to \$29.6 million in 2000.³⁵ Rep. Farr, who voted for NAFTA after receiving assurances that cut flower imports would be monitored and surges protected against, took a more skeptical view on the trade votes that followed as he saw NAFTA destroy a significant industry in his district.³⁶

Similar broken agricultural promises also touched Rep. Pete Hoekstra (R-MI) and other representatives from Michigan and from California and Washington State, who were all promised similar import monitoring and safeguards on asparagus. In a letter from the U.S. Trade Representative at the time, Rep. Hoekstra was assured that the administration’s energies would be dedicated to ensuring that U.S. “asparagus farmers remain competitive under NAFTA.” Meanwhile, as asparagus imports from Mexico grew nearly 55 percent from 1995 to 2004, no safeguards were imposed. The lack of action and the related demise of the many producers who also faced major growth in imports from Peru with no action taken.³⁷ These Members were also exposed to anger at home as production steadily declined. In Washington State alone, asparagus production has declined 55 percent since 1991, due in large part to competition from Latin American asparagus imports.³⁸

The potential political liability in rural districts regarding a CAFTA “vote trade” for a deal is especially high: the *raison d’etre* for CAFTA, as admitted by its proponents, is to revive momentum for a Free Trade Area of the Americas (FTAA) NAFTA expansion. “The FTAA will only be possible if the United States Congress ratifies the DR-CAFTA,” according to one often quoted corporate lobbyist for the FTAA and CAFTA.³⁹ Yet, many U.S. agricultural sectors are wary of the FTAA. Although some trade associations – such as Florida Citrus Mutual⁴⁰ – seem to have disconnected their support for CAFTA from the fact that CAFTA’s main function is to revive the FTAA, which is viewed as an enormous threat to U.S. citrus -- many farmers have already made that connection.

Box 2: Taking A Deal that Helps “Save” CAFTA Incurs Liability for FTAA’s Threats to U.S. Agriculture

The FTAA would expand NAFTA-style farm trade rules to South America including Brazil and Argentina – two very large and efficient agricultural exporters who are committed to dismantling the system of U.S. farm support and obtaining more access into the U.S. market for beef, soy, corn and other goods.⁴¹ CAFTA was only created after FTAA talks bogged down with the strategy of using free trade agreements with ‘willing’ countries to revive FTAA talks. Thus, a vote for CAFTA is a vote for FTAA. What is expected under FTAA?

Cattle. Brazil has the largest commercial cattle herd in the world; in 2003, Brazil produced 13 percent of the world’s beef, with \$1.4 billion in annual beef exports to some 80 countries. Argentina is the third-largest beef exporter in the world, behind only Brazil and Australia, with exports in 2005 expected to reach their highest levels in 25 years. By comparison, the United States has slipped to ninth in beef exports. In FTAA negotiations, Brazil has pushed the United States to lift quotas on imported beef, eliminate income support for farmers, and relax non-tariff barriers such as food safety rules.⁴²

Soybeans. Even in the absence of an FTAA, U.S. soybean farmers are getting clobbered by South American soybean competitors in the domestic and export markets. In 1999, soybeans were as much as 23 to 24 percent cheaper to produce in parts of Brazil and Argentina as compared to the United States. Meanwhile, soybean production in both countries is growing rapidly. In Brazil, soybean production doubled from an average of 18.5 million metric tons in 1989-91 to an estimated 41.5 million tons in 2001, while Argentina’s production rose from 11.1 million tons to 27 million tons over the same period. Soybean production in these two countries has expanded faster than domestic use, thereby contributing to rising exports and displacing U.S. export market share. Brazil and Argentina’s combined share of the world soy market has grown from less than 10 percent in the 1960s to nearly 50 percent today, putting the duo’s combined share of world export markets well ahead that of the United States, whose production accounts for little over 30 percent of world soy trade.

Brazil and Argentina are targeting U.S. farmers’ income supports and other subsidies in the FTAA talks. In 2003, government support for soybean farming in the United States totaled over \$1.1 billion.⁴³

Corn. Argentina is the world’s second-largest corn exporter behind the United States, and its exports are expected to grow by 1.0 million tons in 2004-2005, compared to a drop of 1.5 million tons in U.S. exports during the same period. In the 1990s, Argentina’s share of world corn exports more than doubled. In FTAA negotiations, Argentina is targeting U.S. income support for corn farmers.⁴⁴

Sources: Alan Clendenning, “Brazil Has Beef With U.S.,” Associated Press, Nov. 12, 2003; “Livestock and Poultry: World Markets and Trade,” U.S. Department of Agriculture Foreign Agricultural Service, April 2005, at 7; Randall D. Schnepf, Erik Dohlman, and Christine Bolling, “Agriculture in Brazil and Argentina: Developments and Prospects for Major Field Crops,” U.S. Department of Agriculture Economic Research Service, Nov. 2001, at 55; “Grain: World Markets and Trade,” U.S. Department of Agriculture Foreign Agricultural Service, March 2005, at 17.

The record of both Republican and Democratic administrations on agricultural deals swapped for trade votes makes it clear that such promises rarely materialize, while gullible representatives are left hungry to face the growing discontent among their farm constituents.

Box 3: Past Commodity Deals Leave Members Hungry

Both the Clinton and Bush administrations have made a number of promises on agricultural commodities and policy in the past, in efforts to get trade votes passed through Congress. These include:

Tomatoes.
Winter vegetables.
Citrus.
Softwood Lumber.
Durum Wheat.
Peanuts.
Wine.
Tobacco.
Canned peaches.
Asparagus.
Brussels sprouts.
Sugar.
Broomcorns.

In the cases of durum wheat, broomcorns, and softwood lumber, Clinton and Bush administration efforts to fulfill promises of safeguard protection for the commodities were compromised by successful challenges by other countries at WTO and NAFTA tribunals. In other cases, such as peanuts, wine, citrus, and canned peaches, Clinton and Bush administration promises to get other countries to change their sectoral or trade policies related to these U.S. commodity exports were unsuccessful or not seriously attempted. In regards to tomatoes, winter vegetables, Brussels sprouts and asparagus, U.S. administrations never took serious action to protect these sectors of U.S. agriculture. The Clinton administration promise to cap U.S. sugar imports from Mexico was successful, but at the cost of an ongoing trade tiff with Mexico over the meaning and interpretation of the sugar side letter to NAFTA, which in turn caused damage to U.S. HFCS exporters.

For more information on these commodities, please see the Appendix to this report.

Textile and Apparel Broken Promises: More Customs Inspectors, Greater Customs Funding

Both Republican and Democratic administrations have made extensive promises to obtain the votes of Members of Congress from states with textile and apparel interests. These include promises for more customs officers to fight against transshipment and import surges – perennial promises that, remarkably, have been bought again and again for several votes and never fulfilled. Members of Congress representing districts with significant textile and apparel industries have routinely been promised, by a succession of

administrations, increased U.S. customs inspection and enforcement of assorted anti-surge mechanisms as a means of “buying” their votes for successive “free trade” proposals understood to threaten those industries’ interests.

The global textile and apparel industry is among the most competitive of industries in the world, so much so that a margin of a few cents in costs can make or break individual producers. Many trade agreements, such as NAFTA – and CAFTA as proposed – include complicated rules of origin that set different tariff levels and volume allotments (tariff rate quotas) depending on whether goods are composed of domestic, U.S., or third country inputs. Rules of origin-related fraud and transshipment of goods from countries outside a trade bloc undermine the pact’s purpose. Thus, offers to increase funding for U.S. customs operations and to explicitly hire some specific number of additional customs inspectors is standard cover offered to Members from a President’s party who are being pressured to support their President when their constituents who are linked to the textile and apparel industries generally oppose the pacts. The point of these deals is not to expand the customs department workforce, but to battle dumping and fraud. Thus, these deals can be measured with regards to both the staffing issue and the real-life effects if staffing is increased.

President Bush most recently made these promises to the textile and apparel industry in 2002, to provide cover for the pro-Fast Track votes of textile state Representatives like Cass Ballenger (R-NC), Robin Hayes (R-SC), and Sue Myrick (R-NC).⁴⁵ The Bush administration pledges were subsequently incorporated into the language of the 2002 Fast Track/Trade Promotion Authority legislation, which authorized the spending of \$9.5 million on up to 72 new enforcement agents to implement textile trade rules of origin and other laws. Funds were even finally appropriated, although only after considerable additional effort by the industry and increasingly exposed Members of Congress. Notwithstanding the promise to hire these agents in fiscal years 2004 and 2005, three years later, there is no evidence that these agents, who were meant to focus on textile transshipment and who were even funded over the last few years, were ever hired.⁴⁶ This broken deal points out a dangerous reality: even if an interest is able to overcome an administration’s intention to break the funding part of a deal and obtain the needed appropriation through different routes, in the end, an administration can foil the fulfillment of a promise by simply not acting. Said Rep. Hayes, “The fact that we can't get a straight answer on this issue will only make it more difficult for CAFTA or any other future agreement to pass Congress.”⁴⁷

President Bush’s unfulfilled 2002 trade vote deal-making tactics regarding the textile and apparel sector are based on a precedent set during the NAFTA debate. There was a great level of anxiety in the U.S. textile and apparel industries at the time of the NAFTA debate about the high level of illegal transshipment of such goods in Mexico. Mexican industry sources estimate that as much as 58% of all clothing sold in Mexico is smuggled from China.⁴⁸ In an effort to calm fears that NAFTA would significantly harm U.S. production and to gain support for NAFTA, President Clinton promised several representatives from textile districts, including Reps. John Spratt (D-SC), Herbert H. Bateman (R-VA), and Howard Coble (R-NC), what would have been a rather remarkable, meaningful policy

change: a five-year delay in the phase-out of the Multifiber Arrangement, the global system of quotas that once governed international textile and apparel trade.⁴⁹

Within weeks of Clinton's promise, however, U.S. negotiators accepted the original January 2005 quota phase-out deadline in the context of World Trade Organization (WTO) negotiations, a policy whose recent implementation is proving to be severely undercutting the already beleaguered industry.⁵⁰ When asked to reflect recently on his NAFTA vote, Rep. Spratt called himself a "sacrificial lamb" for a Clinton trade policy from which he has never recovered.⁵¹

President Clinton also made a promise to obtain the votes of "textile members" on NAFTA of \$15 million in new funding to beef up customs inspections of textile and apparel imports. Despite the Clinton administration's lack of zeal on delivering these funds, Rep. Spratt did the work to attain these appropriations, getting \$18 million in 1994 appropriations legislation.⁵² The new funds and related staffing were not sufficient to keep U.S. job loss connected to transshipment from soaring. For instance, a paper commissioned by the governmental U.S.-China Security Review Commission estimated that as much as \$2 to \$4 billion a year worth of Chinese transshipped goods made it through the U.S. border as of 2000, implying a U.S. loss of up to 46,828 jobs per year, while wage growth in industries that compete with these imports was severely restrained.⁵³ Government policy was severely inadequate in effectively monitoring textile and apparel shipments coming into the country, as a Government Accountability Office (GAO) report from 2004 revealed. The Customs and Border Protection Service (CBP), according to the report, targeted less than .01% of textiles shipments for inspection in 2002. As noted by Rep. Spratt himself,

"The report further found that ineffective controls often enable cargo to be illegally diverted from its supposed destination, and ultimately circumvent quotas and duties. CBP's penalties are set lower than the value of the cargo, so violators do not view the low payments as a deterrent against diverting their cargo. GAO also noted, after global textile quotas end in 2005, CBP will lose its authority to conduct foreign factory visits in former quota countries, and this will weaken its ability to curb illegal transshipment, mislabeling, and false declarations."⁵⁴

Overall employment in the textile and apparel sectors fell from 1,570,000 in 1993 to 850,000 in 2002.⁵⁵ The utter devastation to the U.S. industry has not kept the Bush administration from seeking deals for votes in the CAFTA NAFTA expansion. The administration has begun to talk tough on the flood of textile and apparel imports from China, and even recently approved safeguards on several textile and apparel items. Apparently, the strategy is to shift focus on one aspect of the China problem to help shift attention from CAFTA's weaker rules of origin that would allow in more Chinese products. China has already threatened WTO action against the U.S. safeguards.⁵⁶ In response to this, the Bush administration has begun toning down its rhetoric by stressing that the safeguard measures are "temporary" and "negotiable."⁵⁷ Other tactics include:

- A "promise" to try to renegotiate pocket lining rules of origin *after* CAFTA would be implemented. Made in response to a request from Sen. Elizabeth Dole (R-NC), this "promise" seeks a post hoc change in CAFTA's textile agreement to require

that pocket linings in garments receiving duty-free admission into the United States must be made in a CAFTA country. This promise is intended to safeguard existing preferences now enjoyed by U.S. companies under CBI's rules of origin, given that CAFTA would allow the use of cheaper, Chinese and third party country-produced pocket linings.⁵⁸ It was not surprising that this deal was used by several Members already privately supportive of CAFTA to make that position public. However, most textile and apparel Members of Congress did not buy it. It is a "deal" designed to be evaded. The only commitment is *to try to use CAFTA's amendment procedures if CAFTA is passed and implemented so as to try to seek agreement post-facto for six other countries to give to the United States new concessions*. Even assuming all six countries are willing to discuss the matter – which the recent Central American presidents' Washington visit left unclear – what new concessions would have to be offered from the United States in exchange? Certainly the CAFTA nations will not simply agree happily to rules of origin they view as limiting their flexibility.

Second, even if this near miracle amendment to CAFTA were agreed to, it would not solve the broader loss in U.S. textile and apparel market share caused by CAFTA's rules of origin, which erode current incentives to use U.S. textile inputs. Moreover, CAFTA does nothing to stop the trend of relocating production from Central America to China after the phasing-out of the global textile and apparel quota system, because U.S. tariffs on Central American imports are already zero and Chinese goods are still cheaper. Indeed, candid industry spokespeople admit as much. CAFTA "may not give enough financial incentives to stop the production erosion in Central America. If I can get something five to six days quicker out of Central America versus Asia, but the cost benefit analysis is not there, why would I go [to Central America]? There is no difference then,"⁵⁹ said Peter McGrath, chairman of J.C. Penney Purchasing Corporation, a leading U.S. importer of textile and apparel products. Indeed, analysis has shown that, even *before* the January quotas expired, it was cheaper for U.S. retailers to import from China, even after transportation and tariff costs, than from Central America, due to China's lower input and wage costs.⁶⁰ Elimination of the quotas means U.S. retailers no longer have to pay the premium on Central American goods because they can source unlimited amounts from China – a reality unaffected by CAFTA, which makes the taking of such deals on CAFTA enormously risky.

- **China currency maneuvers.** Meanwhile, new USTR Rob Portman has made aggressive statements about dealing with China's low valuation of its currency, yet the administration has again formally declined industry petitions and Congressional demands to initiate a case concerning currency manipulation.⁶¹
- **Renewing the commitment to hire customs inspectors.** Michael Chertoff, the Secretary of Homeland Security, which oversees customs, recently renewed the 2002 promise to add new customs officers to fight textile and apparel transshipment. But it is not clear whether this promise will be followed up on the second time, or whether these observers will make a sufficient dent in the problem.⁶²

Although the textile and apparel industry has criticized the administration's actions as "too little, too late," the administration hopes that taking some action on China might provide cover for some Members of Congress to argue that the administration is helping with trade – and then vote for CAFTA over industry's opposition.⁶³ Likely targets of this tactic are Members of Congress from North and South Carolina such as Rep. Sue Myrick (R-NC), who commented that the China policy "will also help with the passage of CAFTA."⁶⁴ This logic is perverse, given that CAFTA would provide an additional avenue for Chinese goods to *enter* the U.S. market: CAFTA's looser rules of origin allow duty-free treatment for goods containing Chinese inputs that would not be allowed under current rules.

While the surge of imports from China clearly demands a China policy response, no industry source suggests that the administration's recent actions will significantly affect the steady relocation of textile and apparel sourcing and production to China from Central America and the United States. Members of Congress taking these deals and voting for CAFTA are well aware of the consequences of a decision to support CAFTA NAFTA expansion on the industry. What is less clear is how they foresee managing the political consequences as increased imports wipe out more local jobs and companies.

Box 4: How and How Not To Do a Trade Deal
Not Recommended Tactic: Vote First, When Deal Delivery Uncertain

In early May, the National Council of Textile Organizations (NCTO) gave its endorsement to CAFTA, a move that brought immediate criticism from other, larger textile and apparel associations. NCTO based its endorsement on three sets of promises. First, the Bush administration promised it would put off for several years implementing a so-called cumulation provision of the DR-CAFTA that would allow yarn and fabric from certain third countries (such as Mexico) to be used for making apparel that enters the U.S. duty free under CAFTA. Second, it promised to use CAFTA's consensus amendment mechanism to seek a change in the DR-CAFTA if it is approved that would preserve certain CBI incentives to use certain linings and pockets made in CAFTA countries. The third promise was expressed as a (totally unenforceable) "commitment" by the Nicaraguan government to the Bush administration that Nicaragua will implement CAFTA's textile provisions in a way that will not reduce U.S. yarn and fabric exports to Nicaragua.

NCTO endorsing CAFTA on the basis of these thin deals immediately angered other textile trade groups, who claimed these promises were completely unenforceable and accused NCTO of being short-sighted. At least one major producer – Greenville, SC's Mount Vernon Mills, one of the largest U.S. fabric producers – resigned from NCTO's board over the CAFTA vote because they believe it will lead to more job losses, while other companies indicate they may follow. Apparently, even NCTO believes that these provisions may not be implemented for up to two years, if ever. Rep. Bob Inglis (R-SC), one of the targeted votes, also questioned in an interview with *Inside U.S. Trade* what the Central American countries and the Dominican Republic would demand in order to agree to the change. NCTO's action has led to no surge in votes from Members of Congress with textile interests in their districts (other than that of Sen. Elizabeth Dole (R-NC)), perhaps because they see the empty promises for what they are. After being subject to the wrath at home caused by past "bad" trade votes and useless "deals," they have learned their lesson.

Better Tactic: Deal Delivered, Then Vote

In contrast to the bizarre moves of NCTO and Sen. Dole based on these “promises,” by the time of the China Permanent Normal Trade Relations Act (PNTR) in 2000 and the 2001-2002 Fast Track votes, the track record of broken trade vote deals was leading savvy Members of Congress to demand that proposed tradeoffs for their votes had to obtain multi-year appropriations *prior* to their voting. For instance, this was the tactic taken by Rep. James Oberstar (D-MN), who demanded full TAA funding “in the bank” for Minnesota taconite miners in advance of a vote for the China PNTR. When this was not granted, he responded accordingly and voted against the trade agreement.

Sources: “NCTO CAFTA Endorsement Based On Three Promises To Help U.S. Industry,” Inside U.S. Trade, May 13, 2005; Rossella Brevetti, “Textile Association Backs CAFTA-DR, But Other Textile Groups Remain Opposed,” BNA Report for Executives, May 10, 2005; “Textile Group Support For CAFTA Shows No Immediate Vote Surge,” Inside U.S. Trade, May 13, 2005; Kristi Ellis, “Coalition Endorses CAFTA,” Women’s Wear Daily, May 20, 2005; Mary Dalrymple, “Wheeling and Dealing on PNTR,” Congressional Quarterly Daily Monitor, May 11, 2000; Craig Gustafson, “Assistance is sought for laid-off LTV mine workers,” Star Tribune (Minneapolis, MN), Feb. 3, 2001.

Broken Trade Adjustment Assistance Funding, Program Expansion Promises

Another common set of broken promises exchanged for multiple past trade votes involves enhancing existing programs designed to offset the burden of adjustment of U.S. workers displaced by trade agreements’ effects on the U.S. economy. The assorted deals on Trade Adjustment Assistance (TAA) have several striking elements. First, vote swapping for TAA promises is frequently used by both political parties, but is rarely fulfilled by either. Second, the program, no matter what the specific incarnation, has what seems to be a structural incapacity to seriously address the problems facing workers whose livelihoods are affected by trade agreements.

The TAA program dates back to the early 1960s as a mechanism to provide temporary aid and retraining for workers affected by trade-related layoffs. When NAFTA was passed, an additional TAA program known as NAFTA-Transitional Adjustment Assistance (NAFTA-TAA) was established to deal specifically with workers affected by NAFTA-related layoffs. The Trade Act of 2002 consolidated these two programs, NAFTA-TAA and general TAA, into a single expanded program, extended it through 2007, and authorized the appropriation of “such sums as may be necessary” to carry out the purposes of the program.⁶⁵ The Congressional Budget Office has estimated that, from FY 2003-2012, the consolidated and expanded TAA program would cost \$11.4 billion to fund fully.⁶⁶

The Bush administration, in an effort to obtain votes for Fast Track in 2001-02 from Members of Congress concerned with the inadequacy of the existing TAA program, also promised several other reforms. These changes were promised to win the votes of Sen. Max Baucus (D-MT), Sen. Tom Daschle (D-SD), and 22 other Democratic Senators,⁶⁷ as

well as Reps. Harold Ford, Jr. (D-TN), Jane Harman (D-CA), Adam Smith (D-WA), and Ellen Tauscher (D-CA), among others, who voted for Fast Track in 2002 in final conference report which bundled together several pieces of trade legislation.⁶⁸

The original promises given by President Bush during the 2001-02 Fast Track fight were grandiose: major increases in funding, expanding the program's coverage to include service sectors, high tech and secondary manufacturing workers, wage insurance for workers taking lower paid jobs, health insurance portability, and more. The actual Fast Track bill included changes to TAA that would help workers displaced by trade to retain health care coverage by offering a tax credit on 65 percent of their health insurance premiums. Second, the 2002 bill committed the Department of Labor to find and offer TAA benefits to some limited secondary workers displaced by trade – for example, workers who work in factories whose parts-supplying business dries up when a factory that purchases their products is closed down due to trade – but not for high tech or service sector workers. Third, the 2002 Fast Track legislation included a pilot wage insurance program for two years for workers over 50 years old who were displaced by trade and forced to take a lower paying job as a result.⁶⁹

Now, three years later, these deals stand as a testament to the ever-shrinking deliverables phenomenon: what is described rhetorically as a deal is then watered down in legislation which is implemented in a manner that ensures that promises are not kept. GAO and other research institutions fault the increased discretion given to the Department of Labor in determining who is and who is not eligible to receive federal TAA assistance for many of the current problems in the program. First, *only six percent* of eligible workers used the Health Care Tax Credit (HCTC) that was supposed to give displaced workers a form of portable health care insurance, but was designed so that three to six month waiting periods accrue before eligible workers are certified for participation in the program. Because of the program's design, prior to their certification, trade-displaced workers would have to pay full health care premiums – a cost which most recently displaced workers simply cannot afford.⁷⁰

Second, while more secondary workers were certified to receive TAA under the TAA changes in the 2002 fast track package, the GAO reports that it was unclear whether those certifications represented a high or low percentage of the total number of secondary workers displaced by trade, since most states reported difficulties in finding workers to whom to award the benefit, given the legislation excluded most of the service workers – truck drivers, marketing, support staff, and other downstream secondary workers.

The same report condemned the “wage insurance” pilot program established in the 2002 bill, saying that the eligibility conditions were overly stringent. In particular, the new requirements specified that workers must not have “easily transferable skills” in order to qualify for wage insurance – a provision which discriminates against workers who are reemployed doing similar kinds of work but at lower pay than at their previous job. A related provision also discriminated against workers who do *not have* transferable skills, but who worked in firms where the majority of employees *did have* transferable skills. Under the new TAA rules, these workers are not eligible for wage insurance.⁷¹ Thus,

while the “new” TAA is not necessarily more effective, various new provisions make it more expensive, accounting for an increase in TAA spending since 2002.

Despite grandiose promises to improve TAA traded for votes on Fast Track in 2001-02, the Bush administration is doing little to ensure that workers are aware of the benefits to which they are entitled. Their lack of outreach is evidenced by the fact that in fiscal year 2004, TAA certifications involved only 147,658 workers, down from 197,025 workers in FY03 and 233,204 workers in FY02. The fact that the number of certifications is declining makes little sense when considering the fact that the U.S. has lost 2.8 million manufacturing jobs since January 2001, and can only be explained by a lack of dedication to the program itself. Now the administration has reduced funding for TAA benefits in fiscal year 2005 by approximately \$300 million dollars.⁷²

The recent broken promises on TAA trail a string of similar TAA deal betrayals dating back to the NAFTA debate. In 1992, as controversy over the recently negotiated NAFTA grew, President George H.W. Bush proposed a \$4 billion-a-year NAFTA-related worker training program in addition to the existing non-NAFTA TAA program to calm Congressional and public anxieties.⁷³ At the time, Bush's plan was attacked by Vice Presidential candidate Al Gore, who called the plan a “foxhole conversion” that would not be delivered on.⁷⁴

The next incarnation of using assistance for workers losing jobs due to NAFTA to attract NAFTA support came from the Clinton administration during its attempt to push NAFTA through Congress in 1993. The NAFTA implementing legislation created the specific NAFTA-TAA program that Bush had suggested.

Members of Congress on both sides of the aisle touted this new program, as 102 Democrats and 132 Republicans voted for NAFTA,⁷⁵ despite public opinion running a majority against NAFTA in the months leading up to the vote.⁷⁶ While President George H.W. Bush had calculated that such a NAFTA program alone would cost \$4 billion *per year* from fiscal year 1994 through fiscal year 2002, the separate NAFTA-TAA *and* TAA programs were appropriated a total of \$3.08 billion dollars to cover a *seven-year* period.⁷⁷ The lion's share of these funds went to the general TAA program, with NAFTA-TAA receiving only a fraction, leaving Members of Congress who had used NAFTA-TAA as political cover thoroughly exposed. In FY 1995, for instance, TAA was appropriated \$231 million, and NAFTA-TAA \$43.4 million.⁷⁸ Over the course of NAFTA-TAA's existence, it was appropriated a total of \$464 million, compared to \$2.67 billion for the general TAA program.⁷⁹

Workers eligible for NAFTA-TAA could receive benefits including basic readjustment services, employment services, training, job search allowances, relocation allowances, and income support for up to 52 weeks after unemployment insurance had run out.⁸⁰ However, DOL estimates that only 525,407 workers laid off due to NAFTA were certified as eligible under NAFTA-TAA, which is less than 60 percent of the nearly one million estimated total workers laid off because of NAFTA-related trade.⁸¹ Furthermore, only a fraction of those workers certified for NAFTA-TAA received the benefits to which

they were entitled; for example, from 2001-2003, only 14.2 percent of workers certified as eligible for NAFTA-TAA actually received any benefits.⁸²

Congress authorized the appropriation of “such sums as may be necessary to carry out the purposes” of both NAFTA-TAA and TAA. But the fact that the actual funding levels for NAFTA-TAA in particular fall far short of the original conception of the program’s scope demonstrates the political peril inherent in relying on promises of significant funding for political cover programs.

Ironically, starting with fiscal year 2004, the method of disbursement of TAA funds changed, and Congress appropriated significantly more money to TAA and unemployment insurance programs starting in 2003, on the scale of approximately \$1 billion per year.⁸³ This increase in funding is long overdue: as previously detailed, between 1994 and 2002 and contrary to promises by GOP and Democratic Presidents alike, the amount of funding for TAA and NAFTA-TAA was scant, ranging from half to one-fifth of the current funding levels. Indeed, even this increase in funding can be attributed, as described above, to the increase in the cost of the TAA program resulting from the 2002 Fast Track-related TAA reforms. Considering the original envisioning of a \$4 billion per year program, the fact that these programs are only now, over a decade since the implementation of NAFTA and the genesis of NAFTA-TAA, being funded at even a quarter of that level is something that should give pause to those policymakers who are currently considering similar TAA-related promises during the CAFTA debate.

Members of Congress that have grown accustomed to making deals on TAA are beginning to realize that it is not only the failure to implement promised changes in the administration of TAA that bedevil current trade adjustment policy. Rather, it is the apparent failure of Republican and Democratic administrations to appreciate the real magnitude of the problems for working families created by the expansion of corporate trade deals, problems that cannot be solved by a “trade adjustment assistance” model that has remained fundamentally unchanged since its inception in the 1960s, and that has not consumed even a tenth of a percentage point of the federal budget since 1981.⁸⁴

Even the Department of Labor estimates that TAA recipients lose up to 27 percent of their earnings when they are subsequently re-employed,⁸⁵ a problem that the 2002 TAA reform bill leaves unaddressed since its limited “wage insurance” pilot program was designed, as a Senate aide explained while summarizing the opposition of Rep. Bill Thomas (R-CA) to the measure, to exclude as many workers as possible.⁸⁶ Attempts to expand the reach of the program to cover service sector workers have similarly failed. In 2004, Sens. Norm Coleman (R-MN) and Ron Wyden (D-OR) attempted to expand TAA rules through a rider on a piece of Senate legislation that would have repealed the foreign sales corporation tax system. GOP leaders vigorously fought this amendment, which was subsequently defeated on a point of order.⁸⁷ This came after Wyden touted obtaining such an expansion in media coverage during the 2001-02 Fast Track fight. Once again, apparently with the hope that his constituents wouldn’t recall that he had bragged up the same deal twice before, Wyden is arguing for

another empty promise on TAA and service sectors under the proposed CAFTA agreement.

Under a Bush administration that seems intent on cutting federal farm, labor, and environment programs, the only promise on TAA that Members of Congress can expect to see kept is that it is guaranteed to increase voter anger back home as the terms of the deal inevitably are left unmet.

Community Development Promises: Too Little, Too Late

Another popular, if regularly unfulfilled, promise made to Members of Congress to obtain their trade votes is funding to help communities develop new businesses to create jobs to cope with job loss and other negative economic impacts of trade. Two prominent examples of these sorts of promises were made during the NAFTA debate – one relating to small business administration grants to Rep. Floyd Flake (D-NY) and another for community development funding made to Rep. Esteban Torres (D-CA).

During the NAFTA debate, Rep. Flake committed to vote for NAFTA after the Clinton administration promised to establish a special Small Business administration program that would send more than \$580 million in federal funds to Rep. Flake's district with the goal of generating increased private sector investment.⁸⁸ The Clinton administration promise to Flake came after businesses lobbying Flake had claimed that NAFTA would increase traffic and thus their investment in the area and job creation at nearby John F. Kennedy Airport. However, when Flake pressed the businesses for a formal commitment, the companies refused to commit to the congressman in writing that they would increase investment and jobs relating to the airport if NAFTA passed. Thus, Flake announced that he would not support NAFTA at which point the Clinton administration made a promise to provide funds that the private sector would not.

For *four years*, absolutely nothing was done on the administration's promise to Flake. Then, in 1998, the Clinton administration established the Bronx Initiative Corporation (BIC), designed to foster investment with federally-backed lending.⁸⁹ By the time BIC funded *any* projects in 2000, Rep. Flake had retired from Congress. Meanwhile, the projects that were ultimately funded were not even in Rep. Flake's former district, but instead, in the district of Rep. Jose Serrano (D-NY), who had opposed NAFTA.⁹⁰

A different version of a promise to fund community development was given to Rep. Torres. The Clinton administration promised to create a "domestic window," called the Community Adjustment and Investment Program (CAIP) at the North American Development Bank (NADBank), as well as a border clean up funding agency, which the administration also promised Torres it would establish and fund [More on the failure to fund the NADBank as promised is on pages 29-30]. The commitment to Rep. Torres was to set aside ten percent of the total NADBank capital – or \$300 million (\$150 million each from Mexico and the United States – the participating countries) – to fund community development programs anywhere in either host country. To qualify for assistance, a community had to demonstrate that NAFTA was directly responsible for a particular economic downturn.⁹¹

For an entire year after NAFTA went into effect, not a single employee was hired to operate the “domestic window.” Finally, in December 1995, after growing protest from Members of Congress, an existing administration official was named Interim Director and an advisory committee was appointed.⁹² However, for several years thereafter, NADBank's Domestic Window program did not loan a single cent nor certify any communities as possible recipients.⁹³

After assorted stops and starts, the U.S. “domestic adjustment” window, to date, has made direct loans totaling only \$3.35 million, or *just two percent* of the \$150 million envisaged for U.S. funding.⁹⁴ Rep. Torres retired from Congress in 1999. “Given this striking loss of lending capacity, one could argue that the administration used ‘bait and switch’ tactics to secure our support for NAFTA,” wrote Rep. Torres in an October 7, 1997 letter.⁹⁵ The promises to fund economic development in their districts made to both Democratic Congressmen by a President from their own party provide a cautionary tale to those now being approached.

Promised Funding for Labor Institutions, Capacity Building Never Forthcoming

Both Republican and Democratic administrations have attempted to win over votes from Members of Congress by making promises to fund programs and create new institutions to raise labor standards in developing countries with which the United States is contemplating a free trade agreement. Most recently, the Bush administration has promised \$20 million in funding for CAFTA countries in fiscal year 2005 for labor and environmental programs, and is touting promises by Central American Ambassadors and Presidents to improve their nations’ labor rights standards.⁹⁶ However, while those 2005 funds were appropriated, revealingly, the administration made no request for the fiscal year 2006 budget.⁹⁷

Whether or not these funds are appropriated is almost beside the point, given that the 2003 International Labor Organization (ILO) report on the CAFTA target countries found over twenty explicit ways in which existing laws in the countries failed to meet ILO standards and that existing laws are rarely enforced.⁹⁸ The 2005 money, which amounts to an average of \$3 million per CAFTA country for *both* labor and environmental programs, will not make a significant dent in remedying the problem.

Rep. Jim Moran (D-VA), one of the few Democratic backers of the agreement, has attempted to open the deal-making window with his recent pronouncement: “We need to get something more in the bill. For example, we need some more money to enforce workers' rights in Central America,”⁹⁹ conveniently side-stepping both the record of past funding and the Bush administration’s reluctance to even go through the motions.

Indeed, the nearly \$14 million *existing* average *per year* in U.S. labor capacity-building and aid to the CAFTA countries has not led to significant improvements on labor rights in these countries.¹⁰⁰ The grave needs in this area have been confirmed by Human Rights

Watch, which has found a pattern of child labor violations in El Salvador and violations of the rights of pregnant workers in the Dominican Republic.¹⁰¹

Even assuming that funding levels were appropriate to the problems, if the heat of the CAFTA battle were to subside with passage of CAFTA, the history of the funding of NAFTA's labor side agreement suggests that continuing funds would not be forthcoming. Moreover, given the goal of raising labor standards in CAFTA countries is in part aimed at assuaging the concerns of U.S. workers who fear increased job loss if they are more directly pitted in competition by CAFTA against Central American workers, who are denied their basic right to organize in order to raise their wage levels and improve working conditions. Strikingly, some Central American officials who have made promises to raise their nations' labor standards, such as Nicaragua's chief CAFTA negotiator Carlos Sequiera, have occasionally been more candid: "The critical question is, 'Do you want to lose jobs to your neighbors or to China?'"¹⁰²

Members of Congress who fail to learn from the past record and rely instead, on promises of labor funding, capacity-building or creation of new institutions to support CAFTA are likely to be politically exposed, given the low levels of promised funding and the probability that even the promised funding will not be forthcoming. Trade vote deal-making linked to labor rights has a long history in Washington. During the NAFTA debate, for example, many Members of Congress worried that the extreme differences between U.S. and Mexican wages, labor laws, and levels of economic development would result in significant U.S. job loss.¹⁰³ Indeed, in October 1992, then-candidate Clinton warned that if NAFTA failed to include enforceable labor standards, multinational corporations could take advantage of "their ability to move money, management, and production from a high-wage country to a low-wage country."¹⁰⁴

In light of these concerns, which were sufficiently widespread among Democratic House Members to create majority opposition to the NAFTA that Bush signed in 1992, the Clinton administration negotiated the labor side accord to NAFTA in 1993. Known as the North American Agreement on Labor Cooperation (NAALC), the NAFTA labor side agreement had as a listed objective to "promote compliance with, and effective enforcement by each Party of, its labor law."¹⁰⁵ The labor side agreement created a new institution – the Commission for Labor Cooperation (CLC), to oversee the side agreement's implementation.

The CLC's budget was to be covered by equal member contributions from each of the three NAFTA countries. Congress authorized \$2 million a year to be appropriated to the CLC,¹⁰⁶ which would have amounted to \$22 million over the 11-year NAFTA period. But, in another example of the gap between promised authorizations and actual funds appropriated to such programs, the CLC has only been granted \$7.2 million of the \$22 million it was authorized to receive from the United States as of 2005, or less than a third of the promised amount.¹⁰⁷

The failure to fund the CLC at authorized levels has contributed to the widely held perception of the organization as ineffective, even in the very limited scope its design permitted. As of March 2005, 31 labor rights complaints have been submitted, but none

of them have made it past the earliest stages of review, report and intergovernmental consultation.¹⁰⁸ According to the San Diego-based Maquiladora Health and Safety Support Network:

“The resolution of submissions to date has all stopped at reports, seminars, conferences, websites, and outreach sessions. Not a single illegally-fired worker was reinstated, not a single independent union has been established and bargained collectively, and not a single workplace hazard has been corrected as a result of NAFTA and the NAALC.”¹⁰⁹

Not surprisingly, the labor rights record after 11 years of NAFTA as well as corollary wage levels and work conditions are bleak. In Mexico, efforts to organize independent unions continue to be brutally suppressed while, simultaneously, Mexican wages have been significantly eroded. In sum, the minimum wage has lost over 20 percent of its value and the median wage in manufacturing has lost over 10 percent of its value in the time since NAFTA was signed.¹¹⁰

Meanwhile, NAFTA’s race-to-the-bottom has contributed to the loss of nearly 3 million U.S. manufacturing jobs, with NAFTA directly leading to nearly a million U.S. manufacturing jobs lost.¹¹¹ Meanwhile, studies commissioned by the U.S. government show that as many as 62 percent of U.S. union drives face employer threats to relocate, with over 10 percent of such threats specifically referring to a relocation to Mexico. The actual factory shut-down rate following successful union certifications tripled in the years after NAFTA relative to the years before.¹¹² U.S. income and wage inequality have gone up markedly, with the ratio of both income and wages of the top five percent of the income and wage distribution growing nearly 10 percent since NAFTA alone as compared with the bottom 20 percent.¹¹³ The U.S. real median wage has scarcely risen above its 1970 level, resulting in declining or stagnant standards of living for the nearly 70 percent of the U.S. population that does not have a college degree.¹¹⁴

This record – and the lived experience of people across the country hurt by NAFTA – has meant Members of Congress who tried to use the labor side agreement as coverage, have found themselves politically exposed and subject to the continual ire of constituents. So far, there seems to be only one Member of Congress, Rep. Henry Cuellar (D-TX), who has attempted to raise the Bush administration’s tiny one-year \$10 million¹¹⁵ capacity-building funding as relevant to Members’ consideration of CAFTA.¹¹⁶ But constituents that have lost jobs due to the relocation of production to Latin America and elsewhere, including 10,299 trade adjustment assistance certifications in Rep. Cuellar’s district,¹¹⁷ will not soon forget the naiveté or betrayal that lead their representatives to accept foreseeably false “commitments” on labor issues.

Box 5: Lingering Voter Anger Can Lead to Primary and General Election Challenges Back Home

The unseating of seven-term Ohio Democrat Tom Sawyer in 2002 was one of the more high-profile examples of festering trade vote anger. Sawyer had voted repeatedly for trade agreements deeply opposed by his Akron constituents. Each time he announced some deal or another, job loss and the bankruptcy of area manufacturing companies escalated and the programs and funds he had announced as “gains” obtained for his votes on NAFTA, WTO, China PNTR, and other trade deals never materialized. Thus, in 2002, when primary voters in his district were given a choice between Sawyer and then 29-year old state senator, Tim Ryan, who made opposition to retrograde trade deals a top campaign issue, Ryan beat Sawyer by 41 to 21 percent.

Meanwhile, in upstate New York, GOP leader Tom Reynolds saw his normal 50 percent- plus lead crash to 12 percent in 2004 after a challenge from GOP businessman Jack Davis, who switched parties and ran a “campaign” as a Democratic challenge to Reynolds composed exclusively of television ads attacking Reynolds for his free trade votes. Reynolds has systematically rebuffed local business leaders, such as Davis, in their attempts to describe to him how the trade policies Reynolds supported were hollowing out the industrial base of the region. Davis, who had no campaign except the TV ads attacking Reynolds’ NAFTA and China PNTR votes, is running again as a Democrat after winning 44 percent of the vote in 2004 against Reynolds’ 56 percent.

Another glaring example is 18-year incumbent Rep. Matt Martinez (D-CA), who represented Los Angeles. Martinez lost a primary bid in 2000 when then- State Sen. Hilda Solis ran a campaign that included repeated attacks on Martinez’s votes for trade policies harming the district, including his support for “fast track” in the late 1990’s. At that time, Congress defeated the proposal even as Martinez voted for it in exchange for a Clinton administration promise to build a freeway extension off of I-710 in Martinez’s district. Rep. Martinez, who usually won by impressive margins, lost to Rep. Solis, 29 to 62 percent. The freeway extension was never built.

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Environmental Capacity Building and Institution Funding Promises Clear Cut

Often during trade battles, administrations approach lawmakers with offers of deals to create new environmental programs or institutions, or to increase environmental spending related to trade agreement concerns. Currently, the U.S. Trade Representative is trying to create green cover for Members of Congress to counter the unanimous opposition to CAFTA by the U.S. environmental movement announcing the establishment of a CAFTA

Environmental Cooperation Agreement (ECA) and by promising to fund several new environmental capacity building.¹¹⁸

The remit of the CAFTA Environmental Commission is truly pathetic – even if judged in comparison to NAFTA’s weak environmental “side agreement.” CAFTA’s ECA text contains a promise by CAFTA countries to *seek to coordinate* on environmental issues in the future. Meanwhile, the Bush administration is double selling the same \$20 million, which is to cover both environmental and labor capacity building. This is a one-time \$20 million pot to cover both – or about \$1.66 million for each country’s environmental and labor projects if parceled out equally among six countries and for two kinds of capacity building. While, vague promises to “fully fund” some unspecified environmental “health plan” also have occasionally surfaced in administration comment,¹¹⁹ not even renewal of the meager \$20 million was requested for fiscal year 2006, nor was continued multi-year funding at the modest \$20 million level renewed.¹²⁰

To put into perspective how miniscule this one-time grant is, the U.S. government has granted nearly \$10 million in environmental funding total to CAFTA countries in recent years,¹²¹ yet some of the countries still lack even basic environmental protection laws, much less necessary enforcement.¹²² For example, the USTR’s own Environmental Review of CAFTA found that Guatemala “lacks specific laws dealing with the major issues of water, forests, solid wastes, biodiversity, etc.”¹²³ The report further found Honduras to have a “limited slate of domestic environmental laws.”¹²⁴ Even in countries with relatively strong laws on the book, the report found that environmental programs are poorly funded and managed.¹²⁵

If the goal of the proffered U.S. funding is to change environmental practices, and not to try to create a short-term political distraction, the magnitude of the CAFTA target countries’ environmental problems and basic environmental infrastructure needs far outweighs the roughly \$1.8 million in U.S. funds per country in 2005 for environmental spending, even if it were granted *ad infinitum*. For instance, the World Bank spent nearly three times that amount only to purchase four rain collectors to provide safe drinking water for a single village (Sosua) in the Dominican Republic.¹²⁶ The promised sum is just over one-tenth of one percent of the Dominican Republic’s general government consumption in 2003 alone.¹²⁷ Even by the standards of these extremely poor countries, \$3 million is not a lot of money, especially when one considers the level of funding that would be necessary to have any effect on even the most fundamental current environmental problems. Furthermore, even the Bush administration’s superficial environmental review notes that CAFTA would cause new environmental problems in Central America if implemented.

However, even if the amount was raised significantly, given the tight U.S. budget situation and the history of past environmental funding promises, Members of Congress relying on such promises are likely to face significant political exposure, given that shortchanging promised environmental funding trade for votes has a long history in trade deals.

The first Bush administration attempted to quiet environmental criticisms early on in the NAFTA negotiating process by funding a series of forums to discuss environmental concerns in the proposed NAFTA. Then-candidate Bill Clinton went a step farther, promising to establish an “environmental protection commission with substantial powers and resources to prevent and clean up water pollution.”¹²⁸ Once in office, Clinton had his USTR negotiate a tri-national North American Agreement for Environmental Cooperation (NAAEC), between Canada, Mexico and the United States, which established the Commission for Environmental Cooperation (CEC) to facilitate joint activities.

The CEC budget was to be paid with equal contributions by the United States, Mexico and Canada. The U.S. funding is disbursed via discretionary spending appropriated to the Environmental Protection Agency (EPA). The NAFTA implementing legislation authorized \$5 million to be appropriated to the program for each of fiscal years 1994 and 1995,¹²⁹ which over the 11-year history of NAFTA would have amounted to \$55 million, assuming Congress had renewed the authorization. This is an assumption that Members of Congress hoping for increased environmental funding for CAFTA countries should carefully consider.

However, to date the United States has contributed only \$33 million, 40 percent short of what would have been required.¹³⁰ Given that even the amount that was authorized to be appropriated was criticized by mainstream, pro-NAFTA environment groups as insufficient for adequate enforcement and monitoring of environmental standards,¹³¹ the failure to fund at even authorized levels means Members of Congress who sought green cover for their NAFTA votes were immediately left exposed.

Miserly U.S. disbursements to the CEC, combined with design and mandate flaws, have made the environmental agreement’s already impossible job an inconceivable one. As of May 2005, the CEC has received 51 submissions. In none of these submissions were there any enforcement actions or imposition of sanctions against NAFTA member governments.¹³² While 11 are still pending, 30 have been dismissed at various points in the process, and only 10 have resulted in the public release of a factual record, which is the final stage of the public submission process.

Problems related to the petitioning process had led even the CEC’s own public advisory committee to be openly critical. Gustavo Alanis-Ortega, who chaired the CEC’s citizen advisory board in 2003, complained to reporters that “citizens are never asked their opinions once they’ve submitted petitions even though a government’s take on an issue is actively solicited. [...] It can take more than three years to finish a report.”¹³³

The woeful history of broken trade vote deals on the environmental does not stop there. The Border Environmental Cooperation Commission (BECC) and its sister, the North American Development Bank (NADBank), were two programs created under the NAFTA implementing legislation as a result of the biggest single “deal” the Clinton administration made to get NAFTA passed.

At a point in the NAFTA battle when it seemed that the agreement would be voted down in the House of Representatives, former union member and NAFTA skeptic Rep. Esteban Torres (D-CA) announced that he would switch his vote and support NAFTA. The cause for this change was a Clinton administration promise that it would set up and fund a program Torres had long advocated – a funding mechanism to pay for the cleanup of the U.S.-Mexico border’s environmental disaster areas. The new agency, the NADBank, had the hefty price tag of \$1.5 billion, with the Mexican government matching that amount.¹³⁴ In 1993, the Center for Public Integrity, a U.S. watchdog group that tracks the role of money in politics, described this deal as the “biggest single taxpayer outlay” among NAFTA’s “orgy of deal-making.”¹³⁵

That new environmental agencies and programs linked to NAFTA had to adequately redress border environmental issues was an explicit condition of environmental group support for NAFTA, over which the U.S. environmental community was split. The U.S. Trade Representative at the time acknowledged that, while “NAFTA may have some minor short-term adverse environmental impacts (e.g. by leading to additional trade-related traffic in the border region, [...]) without the mechanisms that NAFTA (and its associated agreements) would establish to promote cooperation and generate funding, it will be much more difficult for the United States, Canada and Mexico to effectively address the environmental consequences of development.”¹³⁶

This view was echoed by environmental allies of the administration. Some pro-NAFTA environmental group representatives brushed aside environmental critics of NAFTA, describing them as:

“... The environmental hold-outs on NAFTA [who] are assuming a grave responsibility. If they are successful in convincing you to kill NAFTA, then they are honor-bound to go to the border and tell the residents of the *colonias* why they eliminated \$8 billion in funds for addressing the environmental horrors that afflict that area.”¹³⁷

The environmental witness who espoused this view at this Congressional hearing self-righteously (and, in hindsight, quite embarrassingly) blessed the promise of \$8 billion between 1994 and 2004 in Mexican and U.S. financial contributions to clean up the border as “adequate.”

How well were these promises kept? Congress authorized \$5 million to be appropriated in 1994 and every year after to the BECC,¹³⁸ and \$1.5 billion for capitalization of the North American Development Bank.¹³⁹ As is the case with the other NAFTA side programs, money appropriated for BECC fell far short of the authorized amount. By 2005, under the initial authorization, the BECC would have received \$55 million. Instead, the actual amount appropriated by Congress and received by the BECC over the period totaled about \$28 million, or just over half of the amount authorized.¹⁴⁰

The NADBank, alone among NAFTA-era programs, was fully capitalized in its first four years. According to numbers from the President’s Office of Management and Budget, about \$54 million was provided to the NADBank in its first year in 1995, as mandated by

the NADBank implementing legislation; the balance of the \$225 million U.S. paid-in capital obligation was paid in similar increments in 1996, 1997, and 1998.¹⁴¹

However, while the Bank was capitalized, this did not mean that capital flowed freely to the border communities, which was the “take home” gain for which members of Congress had traded their votes. In fact, the U.S. Treasury Department reports that the NADBank has only directly loaned \$23.5 million in low-interest loans to finance projects over its first seven years of operation, and disbursed only \$11 million of that money – or less than 0.4 percent of its lending capacity of \$2.7 billion.¹⁴² This is in large part because the design of the NADBank requires impoverished communities to pay relatively high interest rates and user fees that they cannot afford, meaning they are unable to qualify for loan consideration.¹⁴³ These requirements were roundly criticized during the NAFTA fight, based on critics’ now-confirmed fears that the NADBank would not accomplish the objectives its promoters had promised.

The meager amounts disbursed to the BECC and loaned out by the NADBank are dwarfed by the environmental clean-up needs on the border. Estimates of how much money would be needed to clean up the mess at the US-Mexican border between 1994 and 2004 due to the post- NAFTA boom in the *maquila* industry ranged from \$8 billion, according to the U.S. Government,¹⁴⁴ to as much as \$21 billion, according to the Sierra Club,¹⁴⁵ more than 6 times the entire capital of the NADBank. While recent years have seen some changes to the BECC and Bank’s operations aimed at making them more functional,¹⁴⁶ the institutions have not resulted in the improvement in border environmental or health conditions, which is what those Members of Congress who took these deals had promised to their constituents.

While there is no similar border issue in CAFTA, much of the Bush administration’s rhetoric around the agreement similarly argues that CAFTA could promote development in a neglected region to improve environmental infrastructure and quality. Today, eleven years after NAFTA, the funds and institutions have fallen miserably short while the environmental conditions have worsened significantly, causing the entire U.S. environmental community to oppose CAFTA. Although some of these Members of Congress are no longer in office, people living in their former districts recall the NAFTA trade-off – and the false promises – with anger to this day. So do some of the Members of Congress who voted in good faith on promises later broken.

Now CAFTA’s environmental chapter contains almost word-for-word the same language as NAFTA’s failed environmental “side agreements” (although minus some of the NAFTA’s environmental side agreement’s areas of commitments) and the reheated NAFTA promises of new environmental institutions now taking the form of CAFTA’s ECA and one-year “capacity building” funding.

Indeed, the only reliable funding for ‘environmental programs’ related to CAFTA may be the U.S. taxpayer funds handed out already by the US Agency for International Development (USAID) to purchase ‘environmental’ support for CAFTA in Central America. A Congressional investigation was demanded after a variety of staff of Central

American environmental programs funded by USAID grants signed a letter lobbying in favor of CAFTA, possibly in violation of federal lobbying laws.¹⁴⁷ Leaders of organizations such as Caribbean Conservation Corporation of Costa Rica, SalvaNatura of El Salvador, and ARCAS of Guatemala, signed the letter.

The poor record of funding the NAFTA environmental institutions CEC and BECC and the worsening of environmental and health conditions along the border – considered in the context of the fragility of the Central American environment and rural economy -- should give Members of Congress pause before buying foreseeably false environmental promises connected to CAFTA vote lobbying.

Conclusion: Voter Ire Lingers and Grows as Trade Agreement’s Negative Effects Materialize While Promised Funding, Ameliorative Programs Do Not

Over a decade has passed since NAFTA’s implementation, during which Members of Congress have had to learn a hard lesson: the political ire generated by trade votes lingers and, indeed, seems to fester over time. Each plant closing, overseas relocation and offshoring or trade deficit news story reminds voters of how angry they were about their representatives’ vote on a trade matter. Even in the rare occasion when a promised program is initially funded, either that funding ends while constituent upset grows; the program is proved to be ineffective in countering the feared damage of the trade vote; the program is never funded; or the initial hoopla of the deal’s announcement fades while the damage accrues.

The process by which Congress actually determines the budget is an extremely complicated one that much of the American public does not follow. Even fewer people know how to adequately track what funds are authorized, much less appropriated. In the past, the White House has exploited this reality by seeking to “buy” votes with big-dollar policy promises or pork barrel deals for Members of Congress that show up as authorizations in trade bills but are never delivered as a policy change and are not funded.

Yet, two developments have made such “check-is-in-the-mail” trade vote swapping increasingly perilous. First, numerous research and advocacy groups now track trade issues, unlike during the NAFTA fight. These groups have the capacity to expose flaws in a proposed deal through a variety of tactics including revealing to the press and public that the same thing has been promised repeatedly without ever being funded or otherwise implemented as pledged. Already during the 2001-2002 Congressional battle over Fast Track, many Members of Congress who were offered “deals” would only consider these proposals on the condition that the program or project would be fully funded *before* the trade vote in question.

This report documents the systematic failure of both Republican and Democratic administrations to deliver on the promises made to members of Congress to pass unpopular, job and environment-threatening trade agreements. Of the 64 promises to increase funding for trade-related policy programs often included in trade agreement implementing legislation as authorizing language, 89 percent were broken or otherwise

rendered meaningless, often as promised funding was dropped out of the actual appropriations process. In several of the few instances where initial appropriations were made, funding was reduced or ended over time while the trade agreements in question remain and their detrimental effects continue. Of the 29 pork barrel deals, 69 percent were also not fulfilled or rendered meaningless.

Members of Congress are increasingly wise to these strategies, as Rep. Ellen Tauscher (D-CA), a self-identified “free trade” Democrat, demonstrated when she indicated that her New Democrat Coalition would not be making a deal on CAFTA for a mere commitment in authorizing legislation, given the record of the Bush administration. “I do not care about authorizing language when the money never shows up,” she told reporters, ridiculing the administration’s efforts to buy votes as a “Christmas tree operation.”¹⁴⁸

In some instances, even when the money has come through, significant program failures have meant that constituencies never obtain the promised end deliverable. A key example of this is the George W. Bush administration promise to specifically hire more U.S. customs inspectors – a promise given to GOP house members with significant textile and apparel industry in their district to obtain the last few votes for “fast track.” The additional inspectors have never been hired, transshipment of Chinese textile and apparel goods have skyrocketed, and as many as 140,484 U.S. jobs have been lost in those sectors since the fast track vote,¹⁴⁹ while the anger of both workers and plant owners in affected regions continues to grow. General promises to intensify enforcement of U.S. trade agreements have also gone unimplemented by the George W. Bush administration.

Meanwhile, our review of the difference between authorizations and appropriations for the Clinton presidency’s NAFTA-era programs finds that the shortfall was on the order of \$63.8 million for CLC, CEC, and BECC alone. Other vote-traded programs such as the NADBank have operated miserably even when fully funded, leaving constituents seething about their representatives’ trade votes and the failure of promised help for the pacts’ fallout. For example, NADBank has disbursed less than 0.4 percent of its lending capacity, according to the latest numbers from U.S. Treasury. Others with significant federal funding levels fail to get the funds to the states so that, under NAFTA-TAA, states encountered persistent funding shortages, resulting in only a fraction of eligible displaced workers receiving TAA benefits.

Eleven years after NAFTA, the political challenges facing pro-CAFTA forces are not that different. A majority of U.S. citizens say they oppose trade agreements that will cost them jobs, and polling shows NAFTA is opposed by a majority of the U.S. public.¹⁵⁰ Meanwhile, many Members of Congress are vocal in their opposition to furthering the NAFTA mode of trade policy in the face of a record U.S. trade deficit.¹⁵¹

Those trying to pass the CAFTA signed by President Bush in 2004 recognize that either they must renegotiate to develop an agreement that meets the demands of a majority in Congress, or they must abandon hope of selling CAFTA on its merits and try to buy the votes with more pork barrel deals, arm twisting, and assorted promised policy covers.

Given the degree of opposition to “more-of-the-same” trade agreements, the Bush administration may be tempted to seek deals on CAFTA, either by playing outright pork barrel politics,¹⁵² or by making policy promises on customs enforcement for textiles or agricultural goods, or labor, environment or related issues along the lines of the NAFTA deals documented in this report. But, as the record shows, those in Washington wooed by such sweet trade deals are often left with a mess of broken promises and shattered reputations at home. Take it from former Rep. Torres, who now opposes CAFTA. “I sorely feel that I made a terrible mistake in voting for NAFTA,” he told reporters. “This is not a good model and I would oppose it simply because I would see the same thing happening to the Central American republics.”¹⁵³

ENDNOTES

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- ⁵ Robert E. Scott, “Will CAFTA Be a Boon to Farmers and the Food Industry? NAFTA’s Failed Promises Are Doomed to be Repeated,” Economic Policy Institute Issue Brief #210, June 2, 2005.
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- ¹⁷ See R. Dennis Olson, “Sweet or Sour?: The U.S. Sugar Program and the Threats Posed by the Dominican Republic-Central America Free Trade Agreement,” Institute for Agriculture and Trade Policy Report, April 2005, at 13.
- ¹⁸ “Mexico’s New Soft Drink Tax Raises Stakes In Sweetener Fight With U.S.,” *Inside U.S. Trade*, Jan. 11, 2002.
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- ²² Letter from the U.S. Trade Representative to Florida Fruit and Vegetable Association, Nov. 10, 1993, reprinted in *Inside U.S. Trade*, Nov. 19, 1993 (emphasis added).
- ²³ It describes a market where U.S. farmers are facing tremendous pressures from Mexican imports and diminished markets for exports. Domestic production declined 13 percent between 1994 and 2003. Exports to Mexico dropped off nearly 50 percent during that period. Over the same period, imported fresh tomatoes

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- ⁹⁰ Interview by Public Citizen's Global Trade Watch staff with Rep. Serrano's staff, May 15, 2000.
- ⁹¹ "NADBank's U.S. Community Adjustment Branch," Tina Faulkner, *BorderLines* 30 (Vol. 4, No. 11, Dec. 1996).
- ⁹² Interview with Rep. Esteban Torres (D-CA), December 5, 1995.
- ⁹³ Interview with Hugh Loftus, Director, NADBank Domestic Window Office, April 21, 1997.
- ⁹⁴ Ten percent of the Bank's capital, or \$300 million, is designated for community adjustment programs, with half going to the U.S. and half to Mexico. A total of \$7.84 million in loans have been made in the United States and Mexico, while only \$3.35 million have gone to the United States. See North American Development Bank, "Annual Report 2003: Moving Forward," at 28 through 31.
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¹⁰³ Rep. Collin Peterson (D-MN) was among the NAFTA opponents who publicly espoused this view. See “NAFTA’s Effect on Labor Issues,” Hearing of the Employment and Housing Subcommittee of the House Government Operations Committee, chaired by Rep. Collin Peterson (D-MN), Oct. 7, 1993.

¹⁰⁴ Governor Bill Clinton “Remarks by Governor Bill Clinton at the Student Center at North Carolina State University, Raleigh, North Carolina,” Federal News Service, Oct. 4, 1992.

¹⁰⁵ Commission for Labor Cooperation, “Objective of the NAALC,” CLC Website, checked March 17, 2005. For more information on the CLC, see appendix 2.

¹⁰⁶ NAFTA Agreement on Labor Cooperation,” 19 U.S.C. § 3471 (Chapter 21, Subchapter V, Part B). This was only authorized for fiscal years 1994 and 1995, making the U.S. contributions to the CLC an “unauthorized appropriation” after that date.

¹⁰⁷ Author’s conversation with CLC and DOL. Up to 1999, U.S. contributions to CLC were \$600,000 per year; from 2000 to date, U.S. contributions to CLC have been \$700,000 per year. Conversation on file at Public Citizen. Also see JayEtta Z. Hecker, “North American Free Trade Agreement: Impacts and Implementation,” U.S. General Accounting Office, Testimony of GAO’s Associate Director, International Relations and Trade Issues, National Security and International Affairs Division Before the Subcommittee on Trade, Committee on Ways and Means, House of Representatives, GAO/T-NSIAD-97-256, Sept. 11, 1997, at 28: “Funding levels for the commission have also been raised as a concern related to the effectiveness of the commission. The NAFTA Implementation Act authorized a U.S. contribution to the commission of \$2 million for each of fiscal years 1994 and 1995. Since the burden of funding the commission must be borne equally by each country, this indicated a potential annual commission funding level of \$6 million. However, the actual annual commission budget for the past several years has been \$1.8 million (U.S. contribution totaling \$600,000). A commission official explained that by the time the commission was ready to be funded, Mexico had entered into its financial crisis and requested a temporary funding limit on the commission of \$600,000 per country.”

¹⁰⁸ Bureau of International Labor Affairs, “Status of Submissions Under the North American Agreement On Labor Cooperation (NAALC),” U.S. Department of Labor, website, checked May 18, 2005.

¹⁰⁹ The NAALC has a three-tiered system of labor principles, with the (ostensibly) worst in a third tier, and the (ostensibly) least-worst being in a third tier. The former include child labor and minimum wages; while the latter include the right to organize and collectively bargain. Although all are internationally-recognized core labor rights, only consistent violations of the first tier of NAALC labor principles merit the full seven stages of NAALC treatment – which begin with NAO Review and end with fines and suspension of NAFTA benefits. See Garrett D. Brown, “NAFTA’s 10 Year Failure to Protect Mexican Workers’ Health and Safety,” Maquiladora Health and Safety Support Network Report, Dec. 2004, at 1.

¹¹⁰ Carlos Salas, “Highlights of current labor market conditions in Mexico,” Global Policy Network Brief, April 30, 2003 at 9.

¹¹¹ Robert E. Scott, “The High Price of ‘Free’ Trade: NAFTA’s Failure has cost the United States jobs across the nation,” Economic Policy Institute Briefing Paper, Nov. 2003.

¹¹² A report commissioned by the U.S. Department of Labor from Cornell University’s Professor Kate Bronfenbrenner by the CLC concluded that under NAFTA, companies are increasingly making threats to relocate to Mexico in order to suppress wage and union organizing demands. The study, which contained extensive nation-wide case studies, concluded that the rate of such threats had tripled under NAFTA. The Clinton administration tried to suppress the study, which was featured in the Jan. 27, 1997 *Business Week* and finally released directly by its author. See Kate Bronfenbrenner, “The Effects of Plant Closing or

Threat of Plant Closing on the Right of Workers to Organize,” North American Commission for Labor Cooperation Report, 1997.

¹¹³ Lawrence Mishel, Jared Bernstein, and Sylvia Allegretto, *The State of Working America 2004/05*, (Washington, DC: Cornell University Press, 2004), at 69 and 145.

¹¹⁴ Lawrence Mishel, Jared Bernstein, and Sylvia Allegretto, *The State of Working America 2004/05*, (Washington, DC: Cornell University Press, 2004), at 154.

¹¹⁵ Number derived from dividing 2005 appropriation for labor and environment in two.

¹¹⁶ “Congressman Cuellar Emerges As Early Supporter For DR-CAFTA And Job Growth,” Press Release from Rep. Henry Cuellar’s Office, March 16, 2005.

¹¹⁷ Determined from Department of Labor Certified Trade-Related Job Loss Database, accessed April 6, 2005.

¹¹⁸ Office of the United States Trade Representative, “Environmental Firsts In CAFTA: New Citizen-Participation Process, Benchmarking of Progress,” USTR CAFTA Policy Brief, Feb. 2005.

¹¹⁹ *Ibid.*

¹²⁰ Office of Management and Budget, Pub. L. No. 108-447, Section 570 “Trade Capacity Building” (2004); Office of Management and Budget, “Budget of the United States Government, Fiscal Year 2006.”

¹²¹ U.S. Agency for International Development, Trade Capacity Building Database, accessed April 6, 2005.

¹²² Margrete Strand, “Response to the U.S. Central American Environmental Cooperation Agreement (ECA),” Statement by Senior Representative of the Sierra Club’s Responsible Trade Program, Feb. 24, 2005; and Sierra Club, “CAFTA’s impact on Central America’s environment,” Sierra Club Report, 2004.

¹²³ Office of the United States Trade Representative, Interim Environmental Review of U.S. - Central America Free Trade Agreement, Aug. 2003.

¹²⁴ *Ibid.*

¹²⁵ David F. Waskow, “Concerning the Dominican Republic-Central American Free Trade Agreement,” Testimony of Friends of the Earth International before the House Committee on Energy and Commerce, April 28, 2005.

¹²⁶ Finance, Private Sector, and Infrastructure Department, Caribbean Country Management Unit, Latin America and the Caribbean Regional Office, “Project Appraisal Document on a Proposed Learning and Innovation Loan in the Amount of US\$5 million to the Dominican Republic for a Wastewater Disposal in Tourism Centers Project,” The World Bank Report No: 18987 DO, April 18, 2000, at 29.

¹²⁷ In 2003, 6.8 percent of the DR’s GDP – or \$1.1 billion – was accounted for by general government consumption. See World Bank Country Data-at-a-glance website, accessed April 6, 2005.

¹²⁸ Governor Bill Clinton “Remarks by Governor Bill Clinton at the Student Center at North Carolina State University, Raleigh, North Carolina,” Federal News Service, Oct. 4, 1992.

¹²⁹ “NAFTA Agreement on Environmental Cooperation,” 19 U.S.C. § 3472 (Chapter 21, Subchapter V, Part B).

¹³⁰ Author’s conversation with CEC employee, who indicates that the United States disburses \$3 million per year to the CEC through the EPA. We were unable to find official records of this disbursement, and have been told by OMB employees that such records may not even exist within the U.S. government as CEC is a joint international commission independent of the U.S. government.

¹³¹ “Finally, despite our overall satisfaction with the creation of the CEC, we are skeptical that an annual authorization from the U.S. of \$5 million is sufficient.” See Rodger Schlickeisen, “NAFTA and the Opportunity to Advance Sustainable Trading Practices,” Testimony of Defenders of the Wildlife before the House Committee on Merchant Marine and Fisheries, Nov. 10, 1993.

¹³² North American Commission for Environmental Cooperation, “Citizen Submissions on Enforcement Matters,” CEC website, as of May 9, 2005. For a detailed case-by-case analysis, see Gary Clyde Hufbauer and Jeffrey J. Schott, “North American Environment Under NAFTA,” Institute for International Economics Briefing Paper, Jan. 2005.

¹³³ Katherine Yung, “Progress and pitfalls; NAFTA proves trade goals, environment not a mismatch; Mexico, U.S., Canada, cooperate, but pact’s agencies underperform,” *Dallas Morning News*, July 13, 2003.

¹³⁴ This includes the paid-in and callable capital portions of the U.S. contribution to the NADBank. The Mexican government matched that amount.

¹³⁵ Charles Lewis, “The NAFTA-Math: Clinton Got His Trade Deal, but How Many Millions Did It Cost the Nation?” *Washington Post*, Dec. 26, 1993.

¹³⁶ U.S. Trade Representative, “The administration’s Case for NAFTA,” Testimony of the United States Trade Representative before the House Committee on Merchant Marine and Fisheries, Nov. 10, 1993.

¹³⁷ Stewart J. Hudson, “Foreign Policy & NAFTA,” Testimony on behalf of National Wildlife Federation before the Senate Foreign Relations Committee, Oct. 27, 1993.

¹³⁸ See “Agreement on Border Environment Cooperation Commission,” U.S. Code Title 19, Chapter 21, Subchapter V, Part B, § 3473.

139 Authorizations for the NADBank fall under a different section of U.S. law related to “Foreign Relations and Intercourse.” As with other multilateral development banks, government contributions for the NADBank consist of capital subscriptions, or shares, which are each valued at a certain monetary amount. But only a certain amount of the shares are actually paid for, while the rest are promised but only disbursed in extenuating circumstances, such as a severe liquidity problem (meaning cash liabilities exceed assets during a given period.) Shares that are paid for are called “paid-in capital,” while shares that are merely promised are called “callable capital.” The NADBank implementing legislation authorized \$1.5 billion to be appropriated, but only \$225 million to be used for paid-in capital. The legislation put a further restriction that the Treasury Department should only pay the NADBank “the sum of \$56,250,000 for the paid-in portion of the United States share of the capital stock of the Bank.” See “North American Development Bank,” 22 U.S.C. § 290m (Chapter 7, Subchapter XXVIII).

¹⁴⁰ Author’s conversation with BECC employee. It is difficult to determine from official records if there is a difference between the amount appropriated for BECC by Congress and the amount that BECC actually received, as the account that EPA and DOS use for the program includes other non-BECC programs. Within its internal records, BECC has a separate line item for EPA disbursements that does not count towards the general U.S. contribution from the Department of State.

¹⁴¹ Office of Management and Budget, “Public Budget Database: Budget Authority Table,” Budget of the United States Government: Fiscal Year 2006, as of March 16, 2005.

¹⁴² For 2002 numbers, see John B. Taylor, “Prepared Statement of the Honorable Under Secretary of Treasury for International Affairs,” U.S. Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on International Trade and Finance, Hearing on “Instability in Latin America: U.S. Policy and the Role of the International Community,” Oct. 16, 2002. Disbursement figures from more recent years are not readily available to the public.

¹⁴³ One of the reasons for the NADBank’s failure is the difficulty that border communities had in paying being able to afford the loan rates. A report by the Government Accounting Office (GAO) states that “U.S. Colonias [unincorporated and impoverished border communities] lack the financial and institutional standing to obtain needed capital because they are unincorporated communities subject to jurisdictional disputes between counties, cities, and providers of environmental services, such as corporations that supply water to rural areas... it is unclear whether poorer communities on either side of the border will be able to afford these loans unless they are combined with grants or with low-interest loans from other sources.” Indeed, the GAO report found that NADBank failed to assist the most needy communities. See Government Accountability Office, “International Environmental Infrastructure Needs in the U.S.-Mexican Border Remain Unmet,” GAO/RCED-96-179, July 22, 1996, at 3 and 4.

¹⁴⁴ Mary Tiemann, “NAFTA: Related Environmental Issues and Initiatives,” Congressional Research Service Paper 97-291 ENR, March 1, 2000.

¹⁴⁵ J. Michael McCloskey, Sierra Club Chairman’s Testimony Before the Senate Environment and Public Works Committee, Oct. 19, 1993.

¹⁴⁶ In 2002, the NADBank underwent a change to its charter which allowed it to expand its operating area and lending, but few independent accounts of the impacts of this change are available.

¹⁴⁷ Paul Blustein, “Pro-CAFTA Humane Society Has Sister Groups Fuming,” *The Washington Post*, April 28, 2005; Andrés Riggioni, et. al, Letter to USTR, Jan. 31, 2005. “Support from Environmental Groups: Environmentalists in Central America Write to Support CAFTA,” Available on USTR website; Scott Miller, “USTR Announces \$500,000 contribution to Humane Society CAFTA Fund,” Washington File, Oct. 3, 2005; U.S. Government 2003 Trade Capacity Building Assistance, Central America NS, “Rainforest Alliance for Sustainable Economic Growth,” US TCB Database, accessed April 1, 2005.

¹⁴⁸ “Finance to Set Timeline for DR-CAFTA Markup, Ways & Means Waits,” *Inside U.S. Trade*, May 6, 2005.

¹⁴⁹ Kate Bronfenbrenner, “Impact Of U.S.-China Trade Relations On Workers, Wages, And Employment,” U.S.-China Security Review Commission/U.S. Trade Deficit Review Commission Report, June 30, 2001,

at 69 and 124. It is assumed that 11,707 U.S. jobs are lost for every \$1 billion in illegally transshipped goods, which is then multiplied by the \$2 to 4 billion estimates for the value of transshipped goods (estimated by the U.S. Customs Service and the American Manufacturing Trade Action Coalition, respectively, and referenced in the Bronfenbrenner report.)

¹⁵⁰ A poll conducted by Ayres, McHenry & Associates and Ipsos-Public Affairs, commissioned by www.AmericansForFairTrade.org, found that 51% of Americans oppose CAFTA, with only 32% in support. See www.AmericansForFairTrade.org, “New National Poll Sends A Clear Message To Congress: Americans Oppose CAFTA Trade Agreement,” March 1, 2005.

¹⁵¹ Nicolas Brulliard, “U.S. urged to rein in China trade practices; Citing transgressions, lawmakers call for strong measures,” *The Austin-American Statesman*, Feb. 4, 2005.

¹⁵² For examples of pork in NAFTA deal making, including promises on a prisoner exchange, extradition of a Mexican rapist, and California highway funding, see Public Citizen, *Deals for NAFTA Votes: Trick, No Treat*, October 1997.

¹⁵³ Jim Puzzanghera, “Bush gets backing on Latin trade deal, But Some Leaders Skeptical Of CAFTA,” *San Jose Mercury News*, May 13, 2005.