

Labor, Immigration, and the North American Free Trade Agreement (NAFTA)

Prepared by USLEAP

What is NAFTA?

The North American Free Trade Agreement (NAFTA) removed all non-tariff barriers to trade between the United States, Canada, and Mexico and removed many restrictions on foreign investment. It lifted some tariffs immediately and phased out others over a period of 5 to 15 years. NAFTA was implemented on January 1, 1994 and took full effect on January 1, 2008.

What is NAALC?

The North American Agreement on Labor Cooperation (NAALC) is the “side agreement” of NAFTA that is meant to provide protections for worker rights. NAALC went into effect with NAFTA on Jan. 1, 1994.¹

Worker Rights Protections under NAALC

- NAALC holds that each NAFTA signatory must enforce its own domestic labor laws, not the standards established by International Labor Organization (ILO) conventions, while also promoting 11 worker rights practices over the long term.²
- While violations of minimum wage, child labor, and occupational safety and health standards can result in sanctions, violations of freedom of association and the rights to organize, bargain collectively, and strike can only lead to ministerial consultations.
- The process of evaluation begins by reviewing a submission of complaint to the National Administration Offices (NAO) in Mexico and Canada or the Department of Labor’s Office of Trade and Labor Affairs (OTLA) in the U.S. If the complaint is accepted, the next steps include, if needed: ministerial consultations, the establishment of an independent Evaluation Committee of Experts, a report submitted to the Commission for Labor Cooperation, and the establishment of an Arbitral Panel. If the country does not follow the action plan developed by the Arbitral Panel, the Panel can impose a fine or sanctions of NAFTA benefits for up to one year.³
- If a country is required to pay a fine, it cannot exceed the amount NAFTA benefits provide from tariff reductions in one year.

NAALC Labor Protections in “Action”

- Although the inclusion of NAALC in NAFTA was the first international trade agreement to include labor standards as a part of trade liberalization, NAALC is unable to sanction companies directly and has been unable to effectively encourage governments to enforce regulations.
- Between 1994 and 2006, there were 38 complaints filed under NAALC: 2 against Canada, 11 against the U.S., and 24 against Mexico. Thirty-two of the 38 complaints completed all the levels of evaluation for which they were eligible, 22 of which were accepted for review.⁴
- From 2006 to 2009, no complaints were filed. In January of 2010, there was one complaint levied against Mexico.

¹ Congressional Research Service, NAFTA Labor Side Agreement: <http://fpc.state.gov/documents/organization/7954.pdf>.

² The 11 standards include: freedom of association, collective bargaining, right to strike, prohibition on forced labor, child labor protections, minimum employment standards, ban on employment discrimination, equal pay for men and women, prevention of occupational illnesses and injuries, compensation if illness or injury results, and protection of migrant workers.

³ Secretariat of the Commission for Labor Cooperation: <http://www.naalc.org/naalc/ece.htm>.

⁴ Nolan García, Kimberly. “The Evolution of US-Mexico Labor Cooperation (1994-2009): Achievements and Challenges”. Revised July 6, 2010. Next two bullet points provided by Nolan García.

- Of the 22 cases that reached Ministerial Consultations, nine resulted in no further action, 3 in outreach, 6 in policy change, and 4 in firm level redress. No case has ever passed beyond Ministerial Consultations.

Immigration and NAFTA

- As cheap, subsidized U.S. corn goods entered Mexican markets, millions of rural farmers in Mexico were forced to migrate to urban areas or abroad.
- Although there is no conclusive link between NAFTA and rising immigration, the numbers indicate a correlation: between 1990 and 2000, Mexican immigration to the U.S. more than doubled, the majority arriving after NAFTA's implementation.⁵
- In 1993, approximately 3.9 million undocumented Mexican immigrants lived in the U.S. In 2009, there were 11.1 million, an increase of almost 300%.
- 1 out of 10 people born in Mexico now live in the U.S.⁶

The Connection: In June 2003, workers at the Tarrant-Ajalpan apparel factory in Puebla Mexico began a campaign to demand improved working conditions. Workers subsequently endured hundreds of illegal dismissals, denial of legal recognition of their union, harassment, and, in February 2004, the closure of the factory. The U.S. NAO, now the OTLA, investigated the complaint and issued a surprisingly critical report in September 2004, but the NAALC process does not offer any remedies for violating freedom of association other than governmental "consultations" long after the union was destroyed. When USLEAP and other organizations persuaded one of Tarrant's U.S. clients to provide \$85,000 to compensate unemployed workers, the local NGO (CAT, the Centro de Apoyo al Trabajador) could locate few of the more than 220 eligible workers. Most, they found, had emigrated to the U.S. For more information, visit: <http://www.usleap.org/tarrant>.

Labor Violations Abroad lead to Violations at Home, and Vice-Versa

- In 2004, the average factory worker in the U.S. made \$18 per hour, while in Mexico s/he earned \$3. As U.S. companies relocated, they created a "race to the bottom" for prices, wages, and labor standards.
- In mid 1994, shortly after NAFTA took effect, Bluestone Farming Co. fired 1,000 California grape pickers in the United Farm Workers (UFW) union, saying that the company was not as competitive as non-union Mexican growers.
- A 2004 Associated Press investigation revealed that at least one Mexican worker dies each day in the United States. In southern and western states, Mexican workers are four times more likely to die on the job than U.S.-born workers.⁷
- A study of more than 400 union certification campaigns revealed that companies threatened to close U.S. plants 68% of the time in response to union activity, and 18% threatened to move to another country—typically Mexico—if the union succeeded. Campaigns were significantly less successful when companies threatened to move: 38% compared to 51%.⁸

For more information, please contact the U.S. Labor Education in the Americas Project (USLEAP)
www.usleap.org • (773) 262-6502 • info@usleap.org. PO Box 268290, Chicago, IL 60626

⁵ The devaluation of the Mexican peso (1994-1995) also led to increased migration.

⁶ To learn more, visit the Pew Hispanic Research Center: <http://pewhispanic.org/reports/report.php?ReportID=126>.

⁷ A.P. Report: "Latino Workers in South Face Rampant Abuse." *Southern Poverty Law Center*, 2004:
<http://www.splcenter.org/publications/under-siege-life-low-income-latinos-south/1-worker-abuse>.

⁸ Professor Kate Bronfenbrenner, Cornell University, page 7: <http://www.citizen.org/documents/LatinosReportFINAL.pdf>.