



Statement of Napoleón Gómez Urrutia  
President and General Secretary  
National Union of Mine, Metal, Steel and Related Workers of the Mexican  
Republic (SNTMMSSRM)  
on Labor Rights in the Trans-Pacific Partnership  
to the  
Ways and Means Democrats  
January 26, 2016

Mr. Levin and Members of the Committee,

Thank you for the opportunity to provide information on the Trans-Pacific Partnership (TPP) and its impact on workers.

The National Union of Mine, Metal, Steel and Related Workers (SNTMMSSRM) is a democratic labor union representing workers in the mining, steel, and manufacturing industries in Mexico. We have collective bargaining agreements with about 70 Mexican and global companies including American Steel Foundries, ArcelorMittal, Bombardier, Dana, Frisco, Goldcorp, ICH (the parent of Republic Steel), and Tenaris. We organize an annual forum with employers on productivity and co-responsibility. Over the past decade, our union has negotiated wage increases averaging 8% annually - about twice the average wage increase for industrial workers in Mexico. We have also organized about 10,000 new members.

These achievements have come at a great cost. This February 19 will mark the tenth anniversary of the explosion at the Pasta de Conchos mine that killed 65 workers. Their bodies have never been recovered, and no official of the company or the government has ever been held accountable.

This disaster precipitated a wave of repression against our union that would take too long to recount here.<sup>1</sup>

We believe that the TPP as negotiated will be bad for Mexico. The weakening of rules of origin in the automotive supply chain threatens to move our autoparts jobs to non-TPP countries such as Thailand.

Right now, we are suffering the impact of massive dumping of steel by China, which has caused major layoffs in our steel industry. While the Mexican government has imposed some anti-dumping measures, the TPP negotiations missed the opportunity to effectively address Chinese currency manipulation which is wreaking havoc on the North American steel industry.

The TPP negotiators also missed the opportunity to help the vast majority of Mexican workers who have been denied the right to organize, the right of collective bargaining, and the opportunity to become part of the middle class. We are extremely disappointed that the TPP negotiations did not include ANY consistency plan requiring Mexico to ensure the fundamental rights of workers impacted by TPP to organize and bargain collectively. Nor does there appear to be any funding for labor cooperation programs to assist workers in exercising these rights.

Since NAFTA, the Mexican government has pursued a low-wage, low-rights strategy to attract investment in industry. This strategy has been very effective at attracting industry - nearly \$20 billion for new automobile assembly plants in the past two years alone - but it has done little to improve the living standards of Mexican workers and their families. As Professor Harley Shaiken has demonstrated, Mexican industry has world class productivity but third-world wages.<sup>2</sup> Mexican manufacturing workers earn on average less than a fifth of manufacturing workers in the U.S., and that wage gap has remained steady for 30 years despite wage stagnation in the U.S.<sup>3</sup>. In Ciudad Juárez, where the Pope's visit on February 17 will

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<sup>1</sup> The details are summarized in Case No. 2478 presented to the Committee on Freedom of Association of the International Labor Organization.

<sup>2</sup> Harley Shaiken, [The NAFTA Paradox](#), BERKELEY REVIEW OF LATIN AMERICAN STUDIES, Spring 2014.

<sup>3</sup> The Conference Board, [International Comparisons of Hourly Compensation Costs in Manufacturing, 2013](#)

hopefully shine a spotlight on working conditions, hundreds of workers recently organized strikes to protest wages as low as \$30 per week.

Low wages obviously hurt Mexican workers and their families. But they hurt American workers too, in several ways. First, Mexican workers don't make enough to buy U.S. exports - this keeps trade unbalanced. Second, Mexico's low wage strategy continues to encourage companies to move production and jobs from the U.S. to Mexico. As Steven Rattner pointed out in a New York Times op-ed yesterday, from 2009 to 2013 auto industry employment rose 23% in the U.S., but 60% in Mexico<sup>4</sup>. Finally, while migration from Mexico to the U.S. has slowed since the recession, the wage gap has been a major push factor behind migration.

How does Mexico keep wages so low?

In Mexico we have what is known as a corporatist system of labor relations, which was fine-tuned under 70 years of one-party rule and has remained basically unchanged. Under this system, employers sign collective bargaining agreements with employer-dominated unions, generally without the workers' knowledge and sometimes before they have even been hired. For instance, BMW signed a collective agreement covering workers at its future plant in San Luis Potosí on the same day the investment was announced.

These agreements are known in Mexico as "protection contracts," and they are a very effective way for companies to keep their workers under control. If workers in a factory want to have their own organization, they face major challenges:

- first, they have to find out if they already have a union - but in Mexico, unlike the U.S., workers have no right to get a copy of their collective bargaining agreement
- then they have to form or join an independent union. Usually when workers do this they are immediately fired, for example in the case of

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<sup>4</sup> Steven Rattner, What's Our Duty to the People Globalization Leaves Behind?, New York Times, Jan. 26, 2016.

several hundred workers at factories owned by Foxconn, Lexmark, Commscope and Eaton in Ciudad Juárez.

- the next hurdle is to file a bargaining demand (*emplazamiento*) with the company. Not until the *emplazamiento* is filed does the company have to tell the workers if there is already a protection contract in place.

- the workers must then file a demand against the company-dominated union for control of the collective bargaining agreement (*titularidad*). Then they have to wait for the government Conciliation and Arbitration Board (CAB) to schedule an election so the workers can choose the union they want to represent them. This can take years and usually the workers cannot hold out against the combined might of the employer, the employer-dominated union, and the government.

A good example is the case of PKC, a Finnish-owned auto parts company which produces wire harnesses for the Big Three and other automotive customers in Ciudad Acuña, Coahuila, where over 5,000 workers make wire harnesses. Most earn 735 pesos (US \$40) per week.

In 2011, the workers affiliated to our union. On November 28, 2011, we made a bargaining demand (*emplazamiento*) to PKC in accordance with Mexican law. The company responded on December 6, refusing to bargain because of an existing collective bargaining agreement with the “Miguel Trujillo López” union of the Confederation of Mexican Workers (CTM). This was the first time that the employees of PKC were informed that they had a collective bargaining agreement or that they were “represented” by the CTM. The leader of the CTM union is Tereso Medina, CTM leader in Coahuila, former President of the Labor Commission of the Federal Chamber of Deputies, and now a federal Senator.

On February 3, 2012, the SNTMMSSRM filed a legal demand for control of the collective bargaining agreement (*titularidad*) with the Federal Conciliation and Arbitration Board, requesting an election (*recuento*). The CTM and the company objected, and the Board did not finally issue a decision until October 5. During this time, the CTM actively collaborated with the company to intimidate and coerce workers and received direct payments from the company of at least \$175,000. The SNTMMSSRM lost the election on October 18 by a vote of 2509-2311. We then requested a

new election on November 5, 2012. Thirty-eight months later, the Labor Board has yet to set an election date.

Following the election, the company fired the SNTMMSRM leaders in the plant in December 2012. Ten union leaders filed legal demands for unjust dismissal with the Federal Conciliation and Arbitration Board. On April 16, 2015, the Board ordered the reinstatement of four of the leaders; however, the company has appealed this ruling. The other six are still waiting for a decision from the Board.

The protection contract system is firmly entrenched in Mexico's key industries. For example, with just two exceptions, all auto assembly plants - including all of the U.S. companies - have employer-dominated unions.

Unfortunately, the TPP does nothing at all to change this system of coercive, undemocratic labor relations. In fact, by encouraging more low-wage investment in Mexico as an export platform to the U.S. market, the TPP further entrenches the protection contract system.

Democratic unions in Mexico and our allies in the U.S. have made three key demands for reform of Mexican labor relations.

■ *First - as recommended by an independent report on "everyday justice" commissioned by the Mexican presidency - the corrupt and biased system of federal and state Conciliation and Arbitration Boards (Juntas de Conciliación y Arbitraje) must be abolished and replaced with independent labor courts under control of the judicial branch. This would likely require an amendment to the Constitution, but in Mexico unlike the U.S. the Constitution is amended regularly, and the ruling party has the necessary votes.*

■ *Second, the labor law must be changed to ensure that a collective bargaining agreement cannot take effect unless it has been approved by a majority of the workers. The Mexican Senate actually approved such a reform in 2012, but it was defeated in the Chamber of Deputies.*

■ *Third, the rules for union representation elections (recuentos) must be changed so that the vote comes first and the procedural objections are resolved after - similar to the new election rules recently adopted by the NLRB.*

The Government's response to these demands has been underwhelming. President Peña Nieto has announced that he will send new labor law reform proposals to Congress early this year, but the panel developing these proposals is meeting secretly and has no labor representation.

The President has also sent ILO Convention 98 on the right to organize and collective bargaining to the Senate for ratification, and the Labor Secretary has announced a new inspection protocol that supposedly would verify whether workers understand their contracts - but still does not give the workers the right to actually get a copy.

In some areas we are moving backwards. On January 20, the Mexican Supreme Court ruled that the government can cap back pay at one year in lawsuits over unjust firings, although on average these cases take more than three years to resolve. This ruling creates a perverse incentive to fire workers who attempt to organize democratic unions.

In short, if the TPP goes forward in its current form, it will further entrench a cruel and arbitrary system that denies economic opportunity and human rights to millions of Mexican workers.

Thank you.