



Submission to the House of Commons

Standing Committee on International Trade

Regarding the Bill C-100, An Act to Implement

the Agreement Between

Canada, the United States of America and the

United Mexican States.

United Steelworkers June 18, 2019

The USW thanks the CIIT for the invitation to participate in consultations regarding Bill C-100, *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States*. We thank you for providing us the opportunity to make a written submission.

The United Steelworkers represents over 800,000 members across North America, including 225,000 active members in Canada. The union represents workers in virtually every sector of the economy and in every geographical region of the country, including those in trade-exposed sectors and regions.

Throughout the re-negotiation of the North American Free Trade Agreement, the USW has been at the forefront in advocating for the interests of working people, not only in Canada, but also in the United States and Mexico. In both Canada and the United States, the USW was the most vocal group demanding the removal of the illegal Section 232 tariffs on Canadian steel and aluminum products. We did not believe that the agreement should have been signed while those tariffs were still in place. The months of tariffs had direct impacts on our members – we experienced over 700 temporary and permanent layoffs in communities across Canada.

While the USW is happy that the tariffs have now been removed, we do not support the rush to implement the “new NAFTA” or CUSMA. Canada should not be relying solely on the U.S. Democratic Party to push for strengthened labour, environmental and pharmaceutical provisions through its Congressional ratification process. **To go a step further, expedited ratification by Canada effectively undermines the efforts being made the Democratic Party to improve the labour, environment, enforcement and other provisions of the CUSMA.**

We have demanded – and continue to demand – improvements to the free trade agreement, in particular in relation to labour and the environment. While there are several aspects of the CUSMA that improve on NAFTA – such as the removal of investor state dispute settlement provisions – we maintain numerous concerns regarding the new agreement that must be rectified before it is implemented.

The USW’s concerns cover both the content of the CUSMA, as well as the process by which it is being ratified.

While there was some promise in the stated goal of negotiating a progressive trade agreement – in terms of labour, environment, gender, and Indigenous rights—we believe the CUSMA ultimately falls short in achieving these objectives. In order to accomplish these goals, several fundamental amendments are necessary:

1. The Labour Chapter – Chapter 23

a. Enforcement:

The USW points to problems with enforceability of this chapter. Currently, the text states that a complainant must demonstrate that a violation results from a government's **“sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties” and must affect international trade.**¹ This is an onerous test that excludes non-tradeable sectors, such as health and education. Ultimately, it will allow the continued violation of labour rights in Canada, the United States and Mexico².

Perhaps the central problem with the enforcement mechanism in the Labour Chapter (and in other trade agreements) is that it is governments themselves that decide whether or not to pursue a complaint regarding an alleged labour violation. This can undermine any potential recourse in many cases, as complaints are often time-consuming and expensive to pursue. **Workers and workers’ organizations are left without options should a government fail to act.**

We assert that the text must include strengthened enforcement provisions and must contain proper monitoring and reporting, along with adequate funding to ensure effective and ongoing monitoring and enforcement.

The USW submits that a violation of workers’ rights should be subject to challenge, whether or not there is a direct and *sustained impact on trade and investment*, as it currently requires under article 23.5 (e.g. single egregious violations must not be exempt).

Additionally, **the USW strongly asserts that workers and entities representing workers must have the right to make a complaint regarding an alleged labour violation, with a clear and timely process for investigations and judgements.** We also support the creation of an independent secretariat to ensure that labour provisions are properly enforced.

b. Employment Discrimination:

The USW asserts that **Article 23.9, which includes** includes reference to the protection of workers from employment discrimination on the basis of sex (including sexual harassment), pregnancy, sexual

¹ Article 23.5

² “Report on the Impacts of the Renegotiated North American Free Trade Agreement.” AFL-CIO. September 27th, 2018

orientation, gender identity and caregiving responsibilities **must be binding** –as it originally appeared—**rather than voluntary**.

c. ILO commitments:

The CUSMA must include a commitment to the ILO’s core conventions rather than the Declaration of Rights at Work

The USW pledges its support to **independent** trade unions in Mexico and wants a commitment to support trade unions/workers in Mexico, ensuring that labour law reforms benefit workers; strengthened enforceability provisions and criteria for violations would help strengthen workers’ rights in all three countries

2. The Environment – Chapter 24

Need for clear obligations and enforcement mechanisms:

- a. The Environment chapter must include clear obligations, rather than stating each country shall “ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection³”

- b. The lack of any reference to combatting climate change in the CUSMA constitutes a serious flaw.

Overall, weak language and obligations in this chapter render it significantly less effective than it could be with strong and clear commitments and enforcement mechanisms.

3. Pharmaceuticals – Chapter 20 (Intellectual Property)

The agreement to extend biologic patent protections to 10 years must be removed – the negotiators’ concession on this is in direct opposition to alleged commitment to reduce drug prices through a Pharmacare program. While the PBO estimates “that CUSMA-induced increase in expenditures for consumers and drug plans would amount to at least \$169 million in 2029, increasing annually thereafter⁴”, which is likely an underestimation of actual costs⁵.

³ Article 24.3

⁴ https://www.pbo-dpb.gc.ca/en/blog/news/CUSMA_prescription_drugs?platform=hootsuite

⁵ Sinclair, Scott. “USMCA and Drug Costs – Time to Stand up to Big Pharma.” Canadian Centre for Policy Alternatives. April 11, 2019.

4. Regulatory Cooperation – Chapter 28

The United Steelworkers also expresses serious concern on Chapter 28—Good Regulatory Practices. Specifically, the push to harmonize regulations in the three countries appears to prioritize commercial interests. The text allows advance notice to corporations, along with the ability to comment on and eventually challenge any impending regulatory changes that affect food safety, rail safety, workers' health and safety, among others⁶. While the ISDS system is gone, will this have similar effects? The USW fears the power that will be provided to corporate entities to use Chapter 28 to push for harmonized regulations in the interest of "cutting red tape" will undermine the ability to regulate in the public interest.

As an example of the dangers of regulatory cooperation that is, ultimately, in commercial interests, the pressure to align rail safety regulations with those of the United States *may* have contributed to the Lac Megantic disaster⁷.

The Steelworkers assert that each country needs to retain its ability to regulate in the interests of public health, workers' health and safety, and a clean environment.

5. Additional Concerns that must be addressed prior to ratification

The USW also points out the failure to stand up in defense of **supply management and Canada's agricultural and dairy workers**, allowing the U.S. access to Canadian markets. This is particularly problematic, because Canada did not make any gains on obtaining access to U.S. government **procurement** contracts. Furthermore, there is no gender chapter and no reference to the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**), which should be included in the agreement. We believe that commitments to UNDRIP must be included in the final text of the agreement.

Finally, the United Steelworkers notes that high tariffs on **softwood lumber** remain and have not been central to any CUSMA negotiations, leaving our forestry sector members vulnerable. We advocate for the elimination tariffs against softwood lumber products, prior to ratification of the CUSMA.

⁶ Trew, Stuart. "CUSMA's "Good Regulatory Practices" are a bad idea for workers, consumers and sustainable trade." Canadian Centre for Policy Alternatives. May 24th, 2019.

⁷ Trew, Stuart. "CUSMA's "Good Regulatory Practices" are a bad idea for workers, consumers and sustainable trade." Canadian Centre for Policy Alternatives. May 24th, 2019.

6. Concluding Remarks

The USW does not support the rush to implement the CUSMA and argues that meaningful consultations must take place prior to implementation. This includes full analysis of the agreement's potential implications on workers, civil society, Indigenous people, and the environment.

Ultimately, the CUSMA requires many substantive changes in order to become a progressive trade agreement. Only with meaningful amendments on labour, environment, enforceability, among others, will the USW be able to support this trade agreement.

Respectfully Submitted,

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