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Towards a new model for North American economic integration

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SPEAKING NOTES ON NAFTA AND BUY (NORTH) AMERICAN PROCUREMENT

Thank you for the introduction.
For those who may not be familiar with our union, the United Steelworkers is one of Canada's largest industrial unions, representing more than 225,000 workers across the country, and more than 800,000 workers in the United States and Canada. We are one of North America's most diverse unions, representing men and women working in every sector of economy including mining, manufacturing, steel aluminum, forestry, petrochemicals, healthcare, education and telecommunications.

As a Union that represents workers on both sides of the border, we have a unique vantage point on NAFTA renegotiations, and a very strong interest in ensuring that any new agreement truly advances the interests of working people.

23 years after NAFTA entered into force, it is our view that the agreement has failed workers in all three NAFTA partner countries. Although, as the Canadian government is quick to note, trade volumes have increased dramatically in the post-NAFTA era, inequality has also increased and real wages have stagnated or, in the case of Mexico, fallen further behind.

There is no doubt that procurement and specifically "Buy America" policies are of the most challenging and contentious issues in the ongoing NAFTA negotiations, and let me start today with a few basic facts to set the stage for our discussion.

The U.S. public sector is one of the largest procurement markets in the world. It is close to ten times larger than the Canadian market.

U.S. federal and state government procurement account for roughly 10 per cent of U.S GDP.

By comparison, the Canadian procurement represents 13 per cent of Canadian GDP.

The history of “Buy America” provisions goes back many decades, but let me start by noting that The Buy American Act of 1988 and related executive orders limited foreign participation in U.S. federal procurement through bid preferences for U.S. firms and other discriminatory tests.

Under the Act, the President may waive discriminatory requirements in order to comply with U.S. liberalization commitments under the WTO Agreement on Government Procurement and procurement chapters in U.S. Free Trade Agreements.

Under the current 1993 NAFTA agreement, the United States scheduled 53 government entities and six government enterprises for liberalized procurement.
Further, under NAFTA, procurements valued at or above specified US dollar thresholds are open to bids by Canadian and Mexican firms.

The American Recovery and Reinvestment Act of 2009 (ARRA), implemented under the Obama administration, disrupted these NAFTA commitments

ARRA-financed procurement at the state and local levels for iron, steel, and manufactured products was effectively shut down to Canadian bidders, which caused considerable harm to Canadian producers and workers:

Buy American requirements for these goods were waived only if the mandatory use of made-in-USA products would increase the total cost of a project by more than 25 per cent.

But in February 2010, Canadian and U.S. governments agreed to allow Canadian iron, steel and manufactured goods to be used in future ARRA-financed procurement projects. This was a major achievement at the time for Canadian manufactured goods, and I am proud to say that our Union played a significant role in that agreement.

As a general rule, U.S. is far more protectionist than Canada with respect to public procurement. The U.S. has greater access to provincial markets than Canada does to state markets. Canadian suppliers are presently shut out from a range of federal and state purchasing, and are frequently forced to source goods from U.S. suppliers or partner with American firms in order to meet discriminatory domestic content requirements.

Most U.S. states, including those who have adopted commitments under the WTO Procurement Agreement, maintain Buy American or equally restrictive domestic preference laws.

Some states also attach domestic labour requirements to procurement contracts, for instance, giving preference to suppliers who comply with a requirement that 50 percent of workers employed in public works projects are resident in the procuring state.

Also, several state procuring entities give automatic preference to domestic firms in cases of low tie bids and numerous U.S. states maintain preferences that protect U.S. steel and aluminum.

Thus, while the U.S. enjoys near total access to Canada's provincial procurement market, coverage at the U.S. state level is limited, subject to various exceptions, and the 'grandfathering' of various restrictions.

Only 37 of 50 states are covered by WTO Procurement commitments,which provides uncovered states with the flexibility to freely adopt preferential procurement policies.

Canada by contrast, has basically liberalized its own procurement markets. Even if Canada were to pursue a "Buy Canadian" procurement policy, it would do very little to protect Canadian jobs because our markets are already wide open to European firms. CETA opened all procurement by Canada, its provinces, the European Union, its member states, and their sub federal units to competition from suppliers and firms originating in the partner country.

In fact, it would most likely be counterproductive, because at least U.S. firms are more likely to be integrated within North American supply chains that incorporate Canadian activities.

Moreover, because the US procurement market is so much larger than the Canadian market, simply retreating to our respective Buy American and Buy Canadian domestic procurement would not be good for Canadian jobs.

Trump and "Buy America"

Let me now turn to the position of the current US administration on Buy America provisions. Traditionally, the U.S. President has been the brake on congressional Buy American demands, but that is clearly not the case with Trump. As President Trump told a cheering crowd in a late 2016 rally in Iowa: "My administration will follow two simple rules - buy American and hire American,"

Trump has already signed an executive order making "Buy American" the official administration policy and mandated federal agencies to assess their compliance with a number of Buy American laws.

Buy America concerns were also heightened by President Trump's January 2017 memorandum mandating that pipelines laid in U.S. soil must use materials and equipment produced in the United States.

There is also a growing trend towards state protectionism, most recently in New York, which proposed to require that all state procurements to be sourced from New York vendors.

Finally, the U.S. Administration's decision to launch so-called 232 investigations to determine whether steel or aluminum imports threaten U.S. national security has also caused considerable concern for Canadian producers. The USW has strongly asserted, on both sides of the border, that Canadian steel and aluminum exports clearly do not threaten U.S. national security and hence Canada should be excluded from any order pursuant to the U.S. 232 investigations. I would note that those investigations seem now to be on the back burner.

US Buy America NAFTA proposal:

Let me now turn to the procurement proposals that the US has put on the table the current NAFTA negotiations. As I mentioned earlier, under NAFTA, Canada and Mexico are exempt from Buy American requirements as long as the contract is being offered by a U.S. government agency and the amount is above certain modest thresholds.

The current U.S. proposal in NAFTA negotiations would remove those guarantees and block any attempts by Canada to include state and municipal procurement in NAFTA

The Trump administration proposal calls for boosting the minimum dollar threshold for government projects available for foreign bidders. It would also cap the total amount that Canadian and Mexican companies can receive in American procurement contracts at what U.S. companies get in those countries.

One of the lead Canadian negotiators described the proposal as "terrible" and "unacceptable". One Canadian insider described the U.S. demands as the "worst proposal in any trade agreement" that has ever been presented.

In our view, Canada must, at the very least, seek a restatement of the 2010 Obama agreement as part of NAFTA negotiations; especially since President Trump's economic plans allegedly consider major infrastructure to be a top priority

Canadian negotiators should also propose reciprocal bilateral procurement provisions for new public infrastructure and government procurement which would enforce non-discrimination against U.S. content in Canadian projects and Canadian content in U.S. projects.

In addition, Canada can and should do more to ensure that Canadian companies and workers benefit from Canadian public infrastructure projects. For example, it was recently revealed that Canadian-made product accounts for only 19 per cent of the steel used in the construction of the $4 billion Champlain Bridge in Montreal, by official estimate.

Provincial governments should also continue to work with their state governor counterparts to renew and update the reciprocity agreement signed in February 2010 around the Obama infrastructure stimulus program, especially if President Trump is successful in securing congressional passage of a similar infrastructure stimulus program.

Procurement provisions under NAFTA should not prevent governments from making purchasing decisions that could protect the environment or promote sustainable development, so long as these policies are non-discriminatory with respect to the other NAFTA partners.

Finally, negotiators should pursue a "**Buy North America"** procurement policy with the aim of circumventing the invasion of cheap foreign imports into the North American Market.

Many NAFTA manufactured goods are jointly produced with parts from all three countries. The United Steelworkers has long advocated for such a binational approach to support North American manufacturing on both sides of the border. Such a policy is realistic and desirable for both countries, given that North American manufacturing is highly integrated, with component parts crossing the Canada-U.S. border throughout the production process.

Few Americans know that the two key markets for their exports and source of energy imports are Canada and Mexico. The threat to the national markets in the NAFTA region is not from the NAFTA partners, but from other foreign producers in Asia such as China, Vietnam, Cambodia, Korean and Malaysia to name a few.

We must focus on our collective competitiveness and work towards a North American economy that draws on our collective strengths. Many manufacturers and distributors have bi-national operations which complement and supplement each other.

A "Buy North America" approach would allow companies with cross border supply chains to fully exploit the advantages of this integration, increasing demand for Canadian-made and American-made products.

Yes – low Mexican wages and labour standards are a problem for workers in the US and Canada. But that must be addressed through strong, enforceable labour provisions in the agreement.

We work very closely with Mexico's largest manufacturing and mining unions, and we know first hand that trade union rights, and worker rights, are not respected in Mexico. That has to change, and a renegotiated NAFTA must provide the language to move that change forward.

Another key concern for our union, of course, is the steel industry. Canada's steel industry has been beset by massive trade imbalances over the last decade. This has been due almost entirely to trade deficits with offshore producers like China, averaging $3 billion to $4 billion annually. In contrast, when it comes to our steel trade with the U.S., Canada has had as many annual surpluses as deficits in the same period. We should seek to negotiate with the U.S. on reciprocal access to public procurement of steel while favouring North American production over offshore imports.

The highly integrated steel market means Canada can argue that opening things up could benefit both economies. Canadian steel producers get some $1.5 billion (U.S.) in raw material from below the border.

Over the long term, "Buy North America" could provide more safety and stability to Canadian producers, manufacturers and workers than ad hoc policies aimed to stymie U.S. protectionism and/or even Canadian protectionist policies aimed to retaliate against the U.S.

NAFTA partners could not only co-operate in making decisions on procurement but in building transportation networks for example high-speed trains connecting Montreal and Toronto with Boston and New York

Of course, we must recognize the reality of U.S. protectionism, and seek exemptions and/or retaliatory measures over the short term when necessary. But the longer term goal, and the goal for these NAFTA talks, should be to join with Mexico to promote "Buy North American."

In conclusion, let me just say more generally that our union, on both sides of the border, is not anti-trade. However, we believe that trade as an instrument of economic policy must forge a new approach; one that would lift wages up rather than push them down, and one that would promote North American manufacturing and employment rather than more outsourcing and offshoring, and one that would begin to reverse the widening gap of income inequality. We also believe that trade policy must be supplemented with domestic policy that ensures that the gains from trade are fairly distributed and that economic disruptions caused by trade are addressed.

These objectives can only be met if a renegotiated NAFTA protects workers, democracy and the environment. We will measure the success of these negotiations by a standard that asks: Does it prioritize good jobs? Does it safeguard democracy? Does it elevate and effectively enforce workers' rights and environmental standards?

If the agreement does not address these concerns, and it does not protect our key economic sectors, Canada should be prepared to walk away from NAFTA.

Thank you very much and I look f