

110TH CONGRESS
1ST SESSION

H. R. 4329

To assess the impact of the North American Free Trade Agreement (NAFTA), to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2007

Ms. KAPTUR (for herself, Mrs. BOYDA of Kansas, Mr. HUNTER, Mr. HARE, Mr. KUCINICH, Mr. MICHAUD, Mr. RYAN of Ohio, Ms. SUTTON, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To assess the impact of the North American Free Trade Agreement (NAFTA), to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NAFTA Accountability
5 Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) **RISING DEFICITS IN UNITED STATES TRADE**
4 **ACCOUNTS.**—One of the purposes of the North
5 American Free Trade Agreement (NAFTA), as stat-
6 ed in the preamble, is to “create an expanded and
7 secure market” for goods and services. Instead, the
8 NAFTA has resulted in a spiraling United States
9 trade deficit with Mexico and Canada that will ex-
10 ceed \$135 billion in 2007, and more than \$919 bil-
11 lion since the agreement’s inception. Rather than
12 harmonious development and expansion as envi-
13 sioned and growing trade surpluses for the United
14 States, the NAFTA has resulted in United States
15 job losses and escalating trade deficits which are
16 draining more than \$10 billion a month from the
17 United States economy.

18 (2) **LACK OF FAIR AGRICULTURAL TRADE.**—
19 United States agriculture is 18 times more efficient
20 than that of Mexico. One of the purposes of the
21 NAFTA is to reduce distortions to trade. In addi-
22 tion, the NAFTA is supposed to promote conditions
23 of fair competition and to establish mutually-advan-
24 tageous rules governing trade. However, since the
25 NAFTA, there has been a rapid escalation of one-
26 way trade of Canadian grain exports of wheat,

1 durum wheat, and barley to the United States, dis-
2 rupting markets and marketing channels. Surges in
3 the importation of certain Mexican fruits and vege-
4 tables threaten United States domestic production
5 and the importation of livestock and meat products
6 from the NAFTA Parties has exacerbated the severe
7 problems facing United States livestock producers.
8 Surges in United States farm exports to Mexico,
9 such as yellow corn, white corn, and dried beans
10 have contributed to the collapse of Mexico's ejido
11 farm economy, dislodging over 4 million Mexican
12 peasants, with no transitional plan for their accom-
13 modation. These landless peasants now wander the
14 continent seeking employment. Human exploitation
15 of the landless peasants by criminal elements has
16 markedly increased. With the final phaseout on De-
17 cember 31, 2007, of the tariff on white corn and
18 beans, it is estimated an additional one to two mil-
19 lion Mexican peasants will be uprooted from their
20 farmlands, worsening the situation and adding to
21 the illegal immigration challenges facing the United
22 States.

23 (3) JOBS, WAGES, AND LIVING STANDARDS.—
24 One of the purposes of the NAFTA is to “create
25 new employment opportunities and improve working

1 conditions and living standards” in the respective
2 territories of the NAFTA Parties. Instead, there has
3 been a substantial loss of over 1 million living-wage
4 jobs in the United States and the collapse of Mexi-
5 co’s small farm and indigenous business sector. A
6 survey of United States companies conducted 20
7 months after the implementation of the NAFTA
8 found that 90 percent of the companies that had an-
9 ticipated an increased number of jobs from the
10 NAFTA have, in fact, not increased employment
11 since the NAFTA was implemented. In the first year
12 of the NAFTA’s implementation, United States
13 workers had the sharpest drop of real hourly wages
14 on record. In Mexico, more than 1 million agricul-
15 tural jobs alone have evaporated since the implemen-
16 tation of the NAFTA while wages stagnate around
17 \$4 per day. In addition to the loss of purchasing
18 power by workers in both nations, there has been
19 erosion in the standards of living in the United
20 States, Canada, and Mexico as poverty rates rise
21 and real income stagnates. Moreover, usurious re-
22 mittance practices, whereby Mexican workers in the
23 United States transfer money back home further
24 trap workers in an unending cycle of exploitation. It
25 is estimated these remittances represent nearly \$20

1 billion of economic activity for Mexico, the second
2 largest source of income after petroleum. However,
3 workers lose up to 40 percent of the value of their
4 wages in the transfer.

5 (4) EROSION OF THE UNITED STATES MANU-
6 FACTURING BASE.—One of the purposes of the
7 NAFTA is to enhance the competitiveness of firms
8 in the global market. However, rather than increase
9 the ability of the manufacturing sector in the United
10 States to compete in the world market, the NAFTA
11 has facilitated and accelerated the outsourcing of
12 United States manufacturing facilities and jobs to
13 lower-wage Mexico. The NAFTA has contributed,
14 conservatively, to a net loss of over 1 million manu-
15 facturing jobs in the United States during the last
16 13 years. Conversely, Mexico has become an export
17 platform displacing United States production. An
18 unprecedented flood of imports of manufactured and
19 agricultural goods now enter the United States. Fur-
20 ther, Mexico has experienced an outsourcing of pro-
21 ductivity to even lower-wage China, as Chinese im-
22 ports to Mexico have grown and are imported into
23 the United States.

24 (5) DETERIORATING HEALTH AND ENVIRON-
25 MENT.—Other purposes of the NAFTA are “to safe-

1 guard the public welfare” and “to strengthen the de-
2 velopment and enforcement of environmental laws
3 and regulations”. Yet, since the implementation of
4 the NAFTA, the public welfare has been under-
5 mined by increased imports of food products that do
6 not meet United States health standards and the
7 lack of necessary environmental investment along
8 Mexico’s northern border and the maquila zones. In
9 addition, the NAFTA has accelerated the relocation
10 of United States manufacturing facilities to Mexico’s
11 border zone, where hundreds of new manufacturing
12 plants have been added. Without adequate environ-
13 mental safeguards, the uncontrolled industrial and
14 population growth in the border zone has aggravated
15 pollution and health hazards, increasing the inci-
16 dence of infectious diseases and human exposure to
17 toxins.

18 (6) RISING ILLEGAL DRUGS AND INADEQUATE
19 INSPECTION.—Rather than safeguarding the public
20 welfare, the NAFTA has allowed the increased flow
21 of illegal drugs and controlled substances into the
22 United States from Mexico at accelerated rates. Al-
23 most all cocaine and marijuana illegally entering the
24 United States now comes through Mexico, with an
25 increasing portion carried by trucks which undergo

1 more limited inspection under the NAFTA. Fewer
2 than 2 percent of all cargo entering the United
3 States in inspected.

4 (7) WEAK PROTECTION OF LEGAL RIGHTS.—
5 The promotion of sustainable development as well as
6 the protection and enhancement of basic human
7 rights are stated objectives of the NAFTA. As envi-
8 sioned, the NAFTA is to increase economic oppor-
9 tunity together with expansion of political freedoms
10 and human rights. Yet these objectives are not being
11 fulfilled, especially in Mexico, where citizens continue
12 to experience greater infringements of such basic
13 rights and freedoms. Ordinary citizens frequently
14 use the term “impunity” to describe the lack of a
15 transparent and just legal system. United States
16 businesses complain of corruption and lack of fair
17 play in Mexico’s judicial and law enforcement sys-
18 tems.

19 (8) NAFTA SHOULD NOT BE EXPANDED.—The
20 Congress approved the NAFTA in order to achieve
21 economic, social, and environmental benefits for the
22 people of the United States. Based on currently
23 available information, the goals and objectives of the
24 NAFTA are not being achieved. Therefore, the

1 NAFTA should not be expanded to include any
2 other country.

3 (9) NAFTA TO BE RENEGOTIATED AND BENE-
4 FITS CERTIFIED.—Based on the experience with the
5 NAFTA since its implementation, it has become evi-
6 dent that further negotiation is required to resolve
7 fundamental inadequacies within the NAFTA with
8 respect to trade balances, currency differentials,
9 health and environmental conditions, agricultural
10 provisions, systems of justice, illegal immigration,
11 and NADBANC operation. If the NAFTA is to con-
12 tinue, Congress must require certification of specific
13 measures of economic, social, legal, and environ-
14 mental progress. Otherwise Congress has no choice
15 but to withdraw its approval of the NAFTA.

16 **SEC. 3. CONDITIONS FOR CONTINUED PARTICIPATION IN**
17 **THE NAFTA.**

18 (a) IN GENERAL.—

19 (1) WITHDRAWAL OF APPROVAL.—Notwith-
20 standing any other provision of law, unless each of
21 the conditions described in paragraph (2) is met—

22 (A) the approval of the NAFTA by the
23 Congress provided for in section 101(a) of the
24 North American Free Trade Agreement Imple-

1 mentation Act shall cease to be effective begin-
2 ning on October 1, 2009; and

3 (B) not later than April 1, 2009, the
4 President shall provide written notice of with-
5 drawal to the Governments of Canada and Mex-
6 ico in accordance with Article 2205 of the
7 NAFTA.

8 (2) CONDITIONS FOR CONTINUING PARTICIPA-
9 TION IN NAFTA.—The conditions described in this
10 paragraph are that before December 31, 2008—

11 (A) the President—

12 (i) renegotiate the terms of the
13 NAFTA in accordance with paragraphs
14 (1), (2), and (3) of subsection (b); and

15 (ii) provide the certification to the
16 Congress described in subsection (b)(8);

17 (B) the Secretary of Labor provide the cer-
18 tification described in subsection (b)(4);

19 (C) the Secretary of Commerce provide the
20 certification described in subsection (b)(5);

21 (D) the Secretary of Agriculture and the
22 Administrator of the Food and Drug Adminis-
23 tration provide the certification described in
24 subsection (b)(6)(A);

1 (E) the Administrator of the Environ-
2 mental Protection Agency submit the certifi-
3 cation and report described in subsection
4 (b)(6)(B); and

5 (F) the Attorney General of the United
6 States provide the certification described in
7 subsection (b)(7).

8 (b) AREAS OF RENEGOTIATION AND CERTIFI-
9 CATION.—The areas of renegotiation and certification de-
10 scribed in this subsection are as follows:

11 (1) RENEGOTIATE THE NAFTA TO CORRECT
12 TRADE DEFICITS.—The President is authorized and
13 directed to confer with the Governments of Canada
14 and Mexico and to renegotiate the terms of the
15 NAFTA to provide for implementation of emergency
16 adjustments of tariffs, quotas, and other measures
17 to stabilize and balance the flow of trade among the
18 NAFTA Parties when the United States has an an-
19 nual deficit in trade of goods and services with an-
20 other NAFTA Party that—

21 (A) exceeds 10 percent of United States
22 exports to that Party; or

23 (B) equals or exceeds \$500,000,000 for
24 three or more consecutive years.

1 (2) RENEGOTIATE THE NAFTA TO CORRECT
2 CURRENCY DISTORTIONS.—The President is author-
3 ized and directed to confer with the Governments of
4 Canada and Mexico and to renegotiate the terms of
5 the NAFTA to provide for the implementation of
6 emergency adjustments of tariffs, quotas, and other
7 measures to mitigate the adverse effects of rapid or
8 substantial changes in exchange rates between the
9 United States dollar and the currency of another
10 NAFTA Party.

11 (3) RENEGOTIATE THE NAFTA TO CORRECT AG-
12 RICULTURAL PROVISIONS.—The President is author-
13 ized and directed to confer with the Governments of
14 Canada and Mexico and to renegotiate the terms of
15 the NAFTA to provide for the implementation of
16 emergency tariffs, quotas, and other measures to
17 bring the levels of wheat, durum wheat, and barley
18 imported from Canada to levels that are comparable
19 to the levels of these products imported during the
20 10-year period before the date the NAFTA entered
21 into force with respect to the United States. The
22 President is further authorized and directed to re-
23 negotiate the terms of the NAFTA to establish and
24 strengthen provisions to prevent imports of agricul-
25 tural commodities from any NAFTA Party from un-

1 fairly displacing United States production, to pro-
2 vide improved mechanisms for relief for United
3 States producers that are adversely impacted by
4 such imports, and to address the serious and grow-
5 ing problem of Mexico's displaced ejido peasant
6 farmers and crime associated with lawless zones on
7 both sides of the United States-Mexico border.

8 (4) CERTIFICATION OF GAINS IN UNITED
9 STATES JOBS AND LIVING STANDARDS.—If the Sec-
10 retary of Labor and the Secretary of Agriculture,
11 after consultation with appropriate government
12 agencies and citizen organizations, determine that—

13 (A) the number of jobs resulting from in-
14 creased exports of United States goods and
15 services to other NAFTA Parties exceeds the
16 number of jobs lost because of imports of goods
17 and services from other NAFTA Parties since
18 January 1, 1994, and

19 (B) the purchasing power of wage-earners
20 in the United States has increased since Janu-
21 ary 1, 1994,

22 the Secretaries shall so certify to the Congress.

23 (5) CERTIFICATION OF INCREASED DOMESTIC
24 MANUFACTURING.—If the Secretary of Commerce
25 and the Secretary of Agriculture, after consultation

1 with the appropriate government agencies and cit-
2 izen organizations, determine that the export of
3 United States manufactured and agricultural goods
4 to the NAFTA Parties exceeds the imports of manu-
5 factured and agricultural goods from the NAFTA
6 Parties, the Secretaries shall so certify to the Con-
7 gress. In making the determination, the Secretaries
8 shall not include any goods originating outside the
9 United States that are exported to another NAFTA
10 Party, nor imports from another NAFTA Party that
11 are destined for other countries.

12 (6) CERTIFICATION RELATING TO HEALTH AND
13 ENVIRONMENTAL STANDARDS.—

14 (A) IN GENERAL.—If the Secretary of Ag-
15 riculture and the Administrator of the Food
16 and Drug Administration, after consultation
17 with appropriate government agencies and cit-
18 izen organizations, determine, with respect to
19 imports from NAFTA Parties, that since Janu-
20 ary 1, 1994, there has been a reduced incidence
21 of contaminated and adulterated food, food con-
22 taining additives or pesticide residues exceeding
23 United States standards, or food containing ad-
24 ditives or pesticide residues which cannot be le-
25 gally used in the United States, the Secretary

1 and Administrator shall so certify to the Con-
2 gress. In making this determination, all foods
3 and food products, including fruits, vegetables,
4 grains, oilseeds, and meats, both fresh and
5 processed, shall be reviewed. Special attention
6 shall be given to foods which have had a history
7 of violations.

8 (B) BORDER AREA POLLUTION.—If the
9 Administrator of the Environmental Protection
10 Agency determines that conditions affecting
11 public health in the United States-Mexico bor-
12 der zone have not worsened since January 1,
13 1994, the Administrator shall so certify to the
14 Congress. In addition, the Administrator, in
15 consultation with the Secretariat for the
16 NAFTA Commission on Environmental Co-
17 operation, shall report to the Congress on the
18 outcomes of the Administration's investigations
19 on pollution and health hazards in and around
20 the United States-Mexico border zone since the
21 implementation of the NAFTA and a plan to
22 remedy such pollution and health hazards. The
23 report shall include—

24 (i) a description and status report of
25 all industrial site cleanup and environ-

1 mental improvement projects begun in the
2 border zone since January 1, 1994;

3 (ii) information available from local,
4 State, and Federal health agencies reflect-
5 ing the incidence since January 1, 1990, in
6 and around the border zone of hepatitis,
7 neural stem birth defects, lupus, chronic
8 adolescent diarrhea, tuberculosis, non-
9 neural birth defects, cholera, botulism, and
10 other disorders commonly related to indus-
11 trial pollution, inadequate infrastructures,
12 and hazardous waste; and

13 (iii) information on the incidence of
14 air and water pollution since January 1,
15 1990, and the causes, levels, and types of
16 pollution which have occurred.

17 (7) CERTIFICATION RELATING TO ILLEGAL
18 DRUGS.—If the Attorney General of the United
19 States determines, after a review by the Drug En-
20 forcement Administration and consultation with ap-
21 propriate government agencies and citizen organiza-
22 tions, that increased imports from the NAFTA Par-
23 ties are not resulting in an increase in crime with il-
24 legal drugs or other controlled substances from Mex-
25 ico or Canada, the Attorney General shall so certify

1 to the Congress. The Attorney General through the
2 Drug Enforcement Administration shall conduct a
3 thorough review and report to the Congress regard-
4 ing the flow of illegal drugs from Mexico and Can-
5 ada and the relationship of such flow of illegal drugs
6 to trade of other commodities and services with the
7 NAFTA Parties and shall make recommendations to
8 remedy the serious challenges to law enforcement by
9 such flow of illegal drugs.

10 (8) CERTIFICATION RELATING TO DEMOCRACY
11 AND HUMAN FREEDOMS.—If the President, after
12 consultation with appropriate government agencies,
13 international organizations, and citizen organiza-
14 tions, determines that the Government of Mexico—

15 (A) is elected in free and fair elections,

16 (B) protects the rights of its citizens to or-
17 ganize into political parties,

18 (C) protects the rights of its citizens to
19 free speech and the right of the news media to
20 operate without fear of government control or
21 reprisal,

22 (D) protects the rights of its citizens to as-
23 semble and to organize associations to advance
24 human rights and economic opportunities, and

1 (E) receives fair and impartial litigation of
2 suits and trials according to the rule of law in
3 a transparent justice system,
4 the President shall so certify to the Congress.

5 **SEC. 4. CONSULTATION WITH CONGRESS.**

6 The President shall consult at least semiannually
7 with the Congress regarding the negotiations described in
8 paragraphs (1), (2), and (3) of section 3(b). The United
9 States Trade Representative shall consult with the appro-
10 priate committees of Congress in the development of any
11 technical and conforming amendments that may be re-
12 quired to carry out the provisions of this Act.

13 **SEC. 5. SENSE OF CONGRESS THAT NAFTA NOT BE EX-**
14 **PANDED.**

15 Until such time as the conditions described in section
16 3(b) are met, it is the sense of the Congress that the Presi-
17 dent should not engage in negotiations to expand the
18 NAFTA to include other countries and that trade pro-
19 motion authority should not be renewed with respect to
20 the approval of any such expansion of the NAFTA.

21 **SEC. 6. DEFINITIONS.**

22 As used in this Act:

23 (1) NAFTA.—The term “NAFTA” means the
24 North American Free Trade Agreement entered into

1 between the United States, Canada, and Mexico on
2 December 17, 1992.

3 (2) NAFTA PARTY.—The term “NAFTA
4 Party” means the United States, Canada, or Mexico.

5 (3) UNITED STATES-MEXICO BORDER ZONE.—
6 The term “United States-Mexico border zone”
7 means the area that comprises the 12-mile zone on
8 the Mexican side of the United States-Mexico border
9 and the counties within any State of the United
10 States that are contiguous with Mexico.

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