2.2 The AFL-CIO

When the negotiations on NAFTA started in the early 90s, the AFL-CIO’s approach to it can be described as on the one hand pragmatic, on the other as defensive. The choice of FTAs as a key instrument of trade policy did not correspond with the Federation’s idea of a good way to regulate trade, especially with “developing countries”. At the same time the labor movement faced the political difficulty of challenging the determination of the government to go ahead with free trade agreements. For this reason the decision was not to challenge the FTAs as such, but to try to ensure that workers rights and environmental standards were included as binding conditions in trade agreements. As explained by Thea Lee, AFL-CIO Policy Director, “It is true that FTAs themselves are not progressive instruments. In general we have never been supportive of FTAs and have never been arguing for the negotiation of new ones. The fact is we don’t have enough political force to stop them all together, in most cases. Sometimes we can slow them down, sometimes we can shake them a little bit. But in general, in the past we have not had enough political leverage to be able to take them down all together. As I started out saying, struggling to have social clauses within the FTAs is a defensive instrument. We are actually working at some of the other provisions of the FTAs, like the investment chapter, the intellectual property chapter and the government procurement, the services chapter and probably the agriculture chapter as well. We have a much broader critique of the FTAs, but I guess we have taken a very pragmatic approach which is: if we can not stop them, the least we can do is to ensure that we get something good out of it for workers.”

To include workers rights and environmental standards within trade agreements was something already experienced by the labor movement in the USA since the successful campaigns that in 1984 succeeded in including worker rights conditionalities in the Generalized System of Preferences (GSP), the unilateral preference program that the US

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15 “The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a voluntary federation of 56 national and international labor unions. The AFL-CIO union movement represents 11 million members, including 2.5 million members in Working America, its new community affiliate” - [http://www.aflcio.org/aboutus/thisistheaflio/](http://www.aflcio.org/aboutus/thisistheaflio/).

16 In 2005 seven unions representing around 6 millions workers decided to quit the AFL-CIO and create the Change to Win movement. Info on: [http://www.changetowin.org/](http://www.changetowin.org/)

17 Thea Lee, Interview on March 16th, 2009, by Bruno Ciccgilione

18 “The U.S. Generalized System of Preferences (GSP), a program designed to promote economic growth in the developing world, provides preferential duty-free entry for about 4,900 products from 132 designated
uses for developing countries. Indeed since 1984, in order to be eligible for the trade benefits provided by the GSP, countries needed to adopt—or be taking steps to adopt—internationally recognized labor standards. The process started including coordinated work between the unions of the developing country with US unions, preparing reviews and filing cases under the GSP annually, when there happened egregious abuses of workers rights. According to the AFL-CIO this did put external pressure on various governments, which—though apparently less affected by pressure from the International Labour Organization (ILO)—proved to be more reactive to the risk of losing the trade benefits provided under the GSP: “In Central America (...) a lot of Central American Unions would say that in the ten years preceding the Central American Free Trade Agreement almost every major labor law reform that happened was a result of an AFL-CIO petition under the GSP. (...) The same thing happened with Bangladesh, working close with the unions there around the export processing zones, because the government in 1991 set up export processing zones and banned unions. We started filing cases under the GSP and, although slowly, this started to produce some change. The government actually has allowed workers associations to be formed, it's the beginning of a movement to form free unions”19.

Starting from this background experience, the challenge of NAFTA was approached by trying to include labor and environmental standards in the agreement. But the struggle was not successful. The only result were some side agreements, whose results were “frustrating”, the AFL-CIO representatives argue, and this increased the determination to push—in all of the other FTAs negotiations following the NAFTA—to have strong commitments on labor rights included into trade agreements, and to gain the ability to use possible trade sanctions in case of violation of the labor rights20.

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19 Thea Lee Interview on March 16th, 2009, by Bruno Ciccaglione
20 This struggle produced some results in the negotiations of the bilateral FTA with Jordan and Cambodia, which are considered quite advanced examples of binding labor regulations included within bilateral FTAs negotiated by the USA. See also Protecting Labor Rights through Trade Agreements - Sandra Polansky - Journal of International Law and Policy, July 14, 2004 - http://www.carnegieendowment.org/pdf/files/2004-07-polaski-JILP.pdf. According to the AFL-CIO Thea Lee, the most advanced example of including Labor and Environmental standards in trade agreements has been the USA-Peru FTA, see the next chapters.
The AFL-CIO gives a positive evaluation of the results obtained in specific bilateral negotiations like in the Peru FTA, which includes “a commitment for both parties to the agreement, including the United States, to adopt, maintain, and enforce in law and in practice the ILO core labor standards as outlined in the Declaration of the Fundamental Principles and Rights at Work”\(^{21}\). (...) These commitments are subject to the same dispute settlement mechanisms as all the commercial provisions in the agreement”\(^{22}\). Nevertheless the AFL-CIO representatives suggest that this success should not be overestimated. They argue that only the multilateral level, like the WTO, would be the proper venue for discussing trade policies and their link to labor rights or environmental standards. In that context, the AFL-CIO bitterly admits, “we are still not allowed to use the 'L' word: Labor”\(^{23}\).

The AFL-CIO approach to coalition building, both at the national level (with different kinds of social movements) and at the transnational level (both with unions and other national coalitions) seems to have gradually evolved over the years. After the difficulties with speaking a common language with the Canadian coalition opposing the US-Canada FTA, when facing the NAFTA the AFL-CIO started to participate in national coalitions in the US. “The early coalition building was a little bit uncomfortable. For instance labor and environmental groups were not used to work together at that time. A lot of the unions saw the environmentalists as some kind of elite “hippie types” and the environmental groups saw the unions as kind of selfish blue collar workers that they had nothing in common with”\(^{24}\). The process took some time and part of the challenge was to find a language that worked for everybody, and was able to incorporate each other’s main concerns in the common arguments. Nevertheless this experience evolved over the years and was the basis for further development, since according to the AFL-CIO, some of the early relationships built on

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\(^{21}\) Adopted in 1998, the Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. To read the text of the Declaration see [http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang–en/index.htm](http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang–en/index.htm)

\(^{22}\) Ibid.

\(^{23}\) Ibid.

\(^{24}\) To make things even more complicated was that “on NAFTA for example some environmental groups ended up supporting NAFTA. I would say there were corporate supported environmental groups that bought the argument that the NAFTA could be a good thing, that the environmental side agreement was really going to help them and so on. What was interesting was that about five years after NAFTA had been in place, most of these environmental groups came over to our side” - Thea Lee, Interview by Bruno Ciccglinone
the trade front between labor and environmental groups have contributed to what the AFL-CIO considers now a “very strong relationship on clean energy”.

2.3 Mexican Trade Unions and more

As we already mentioned, when the NAFTA negotiations started in 1991, in Mexico the scene was still dominated by corporatist trade-unionism, closely linked to the government, at the time under the control of the PRI (Institutional Revolutionary Party)\(^\text{25}\). This explicit support for the decision of the government to sign, implement and to keep on supporting the NAFTA, continued even when, for the first time after 70 years, the PRI was defeated in an election by the PAN (National Action Party) in 2000. Only a minority of the trade union movement opposed the NAFTA at the beginning and that minority included some independent unions like the Frente Autentico del Trabajo (FAT) and the Electric Workers Union.

The position of the official trade unions on NAFTA also supported what was defined as the “two faces strategy” of the government: on the one hand supporting an unconditional opening of the markets that was going to allow the “sell out” of most of the resources of the country, but on the other hand strictly defending “national sovereignty” when it came to labour standards, stating that only the Mexican government was allowed to rule on those issues. At this stage these positions implied an open contrast with the trade unions of Canada and the US, which they accused of conducting protectionist policies for the sake of their own workers and to the disadvantage of the Mexican workers.

According to the analyst of the Labor Analysis Center and Trade Union Department in Mexico\(^\text{26}\), Hector De La Cueva\(^\text{27}\), “We were facing this argument that was aiming to divide the workers of the North and the workers of the South. So we started to build a different

\(^{25}\) The CTM (Confederación de Trabajadores de México – Confederation of the Workers of Mexico) “in 1946 joined in forming the newly formed PRI, the successor party of the PRM, becoming once again one of its constituent parts. As the formal division between the PRI and the state was blurred, the boundaries between the CTM and the party and the state likewise became harder to distinguish” - La Botz, Dan, The Crisis in Mexican Labor, New York: Praeger, 1988.

\(^{26}\) The Labor Analysis Center and Trade Union Department in Mexico (Centro de Investigación Laboral y Asesoría Sindical en México) is a founding member of the Mexican network Action Facing Free-Trade (Acción frente al Libre Comercio) and of the Hemispheric Social Alliance (Alianza Social Continental).

\(^{27}\) Hector de La Cueva is director of the the Labor Analysis Center and Trade Union Department in Mexico (Centro de Investigación Laboral y Asesoría Sindical en México). He was the first General Secretary of the Hemispheric Social Alliance.