TESTIMONY OF DAMON A. SILVERS

POLICY DIRECTOR AND SPECIAL COUNSEL

AMERICAN FEDERATION OF LABOR

AND CONGRESS OF INDUSTRIAL ORGANIZATIONS ON

REGULATORY APPROACHES TO FOSTER ECONOMIC GROWTH

HOUSE LABOR, HHS AND EDUCATION APPROPRIATIONS SUBCOMMITTEE

APRIL 10, 2013

Good morning, Chairman Kingston, Ranking member DeLauro and members of the Committee. I am Damon Silvers, and I am the Policy Director of and Special Counsel to the AFL-CIO.

This hearing's subject, Regulatory Approaches to Foster Economic Growth, requires first addressing what our nation's strategy for fostering economic growth should be.

Between the Great Depression and 1980, America's economic strategy was centered on policies designed to ensure a virtuous cycle of rising productivity, rising wages, and increased public and private investment that fed productivity. Regulatory policy in the jurisdiction of this Subcommittee was critical to this strategy—including a strong minimum wage, enforcement of wage and hour regulation, and the enforcement of the National Labor Relations Act, giving workers the right to organize and bargain collectively. This national strategy led to the period of highest sustained economic growth in American history, and gave birth to the modern American middle class.

Since 1980, the United States has embraced a different economic strategy—and frankly an incoherent one. We have sought to maintain our status as the world's largest consumer market, while at the same time seeking to compete globally by lowering our labor costs. The result has been, not surprisingly, a series of financial bubbles and skyrocketing consumer debt. As part of this approach, the overall direction of regulatory policy since 1980 has been to weaken regulation of the workplace with the aim of lowering labor costs.

As a result, there were substantially fewer wage and hour inspectors at the Department of Labor in 2007 than there were in 1979, although our economy and our workforce are substantially larger.[1] During the post war era, the United States helped other countries adopt labor laws that protected workers' right to organize. By contrast in recent years the global organization Human Rights Watch has cited the United States' labor laws as actually enforced as violating international norms of human rights.[2] And this was before the effort to deny workers the protection of the law entirely by paralyzing the National Labor Relations Board.

Of course the world has changed since 1980. The United States now operates in a globalized economic environment. So what should our strategy be for growth in this environment, and what role should labor regulation play?

We could seek to be a low wage producer of consumer goods—seeking to compete in global markets on the basis of absolutely low labor costs with poor developing countries like Bangladesh or human rights violators like Burma. There is simply no way to do this other than to further dismantle workers' regulatory protections, drive American wages to poverty levels and leave our people prey to events like the recent fires at Walmart suppliers in Pakistan and Bangladesh that killed hundreds of garment workers.

Or we could seek to be a purely export oriented country, like Germany or China has been over the last fifteen years. But these countries' experience is that export oriented strategies, when practiced in isolation by large economies like the U.S., lead to trade and investment imbalances that can destabilize the world economy—as the Germans are currently discovering. This is partly why China now is engaged in a debate over whether to adopt regulatory policies designed to encourage wages to rise with productivity.

The point is that a low wage strategy is a recipe for national decline, and an export only strategy for growth is not sustainable when the world's other major economies are all pursuing the same strategy. The United States needs both a healthy domestic economy and robust export markets to prosper. To have a healthy domestic economy, the United States needs labor regulation that promotes wages for America's workforce that keep pace with our workforce's productivity. Stagnant wages and rising economic insecurity means weak consumer demand. Weak consumer demand means business is reluctant to make capital investments.

We as a nation have tried to make up for this fundamental set of facts about our economy in every possible way other than actually addressing the problem through labor regulations that encourage rising wages. And so in almost every day's news for the last five years we have seen the consequences of weakening labor regulation in terms of mass unemployment, falling wages, and reduced investment in capital, plant and equipment.

To be clear—America's workers have lived with stagnant wages for decades. And this has gone on while the productivity of our workers keeps rising. See Exhibit A. Without an effective National Labor Relations Act, without a minimum wage indexed to inflation, without effective and comprehensive FLSA enforcement—America's workers simply have not and will not receive a fair share of the value they are creating. For example the minimum wage in real dollars was its peak in 1979, and is now more than $1 an hour lower.[3] This is unfair, but it is at the heart of why our economy is not functioning properly. Wage stagnation is a key cause of our economy's chronic shortage of aggregate demand—the key fact about our economy that is preventing us from achieving healthy growth rates.

What are the key ingredients in an economic strategy that seeks to encourage both healthy domestic consumption and robust exports? First, we must have a productive and empowered workforce. That requires workers have a voice on the job and it requires they have effective access to lifelong learning on the job. Across all of the developed world, voice, access to training in the private sector, and the high productivity that goes with it are associated with workers having an effective right to organize and bargain collectively.

Second, employers must be incentivized to invest in the capital goods that enable employers to make best use of a skilled workforce. This requires a variety of public policies in finance and other areas beyond the jurisdiction of this committee, but it also requires that the door to the low road be slammed shut by enforcing the minimum wage and the forty hour work week.

Third, we have to have regulatory structures that effectively internalize externalities in the workplace. This means that there are real costs when workers are injured, killed or made sick on the job. In the absence of effective regulation of these long term health hazards, the costs are borne in the first instance by workers and their families, and in the long run in a variety of ways by society as a whole. The costs associated with sick, injured and dead workers are not priced into the cost structure of the products whose production generates these negative health outcomes. The results of regulatory failure in areas like asbestos and silicon dust exposure are large health costs borne by workers and the general public and highly inefficient economic outcomes.

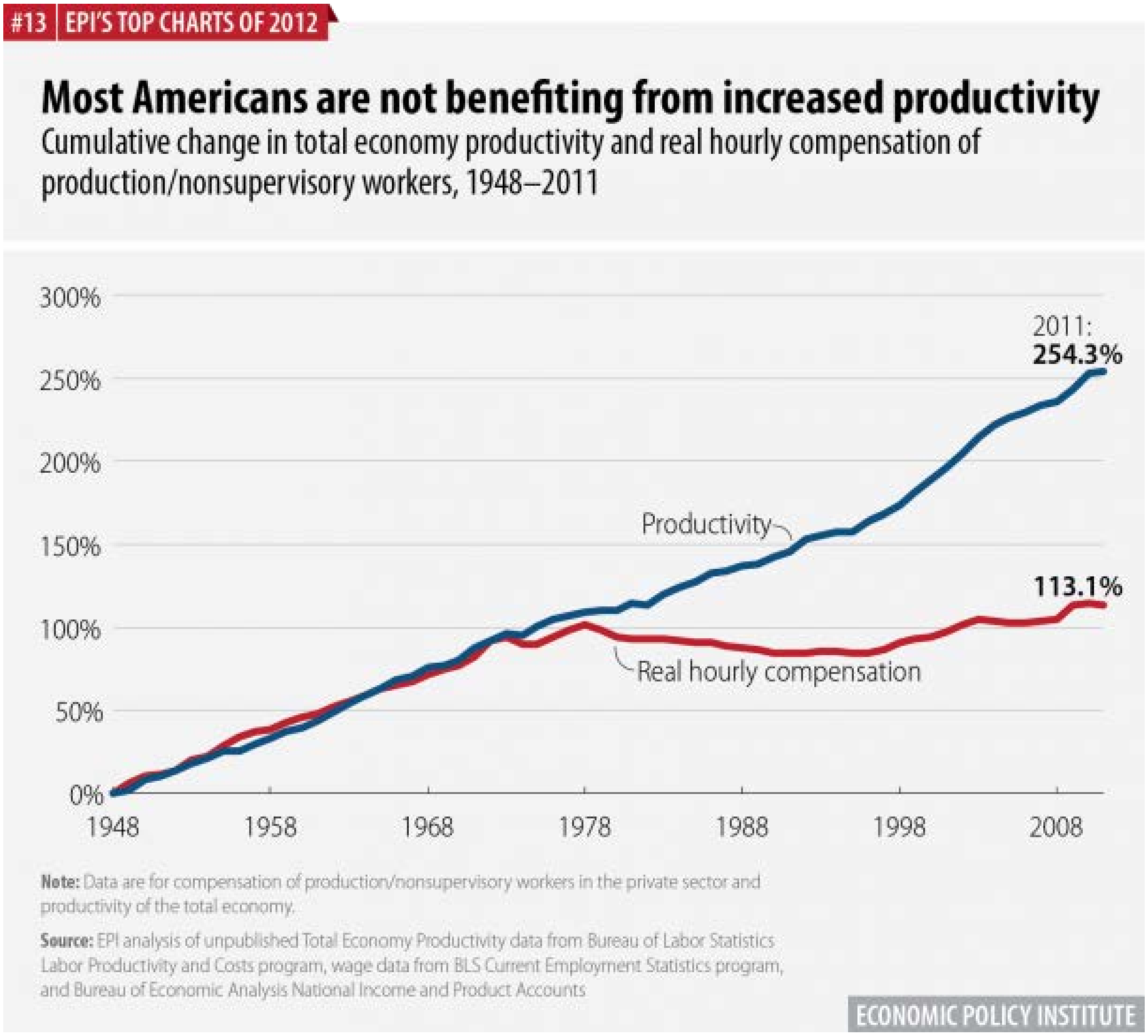
Internalizing externalities in the form of effective health and safety regulation has significant collateral competitiveness benefits. Multiple studies have shown that "safety and operating performance measures should be viewed in as in concert with each other rather than as competing entities."[4] In particular, health and safety and environmental regulation has a demonstrated positive interaction with technological change, spurring change that has broader positive competitiveness implications, and directly reduces the cost of compliance with health and safety regulations themselves.[5]

Seen in this strategic context, recent rulemaking efforts of the Department of Labor and the National Labor Relations Board in areas such as the silica dust exposure, minimum wage and overtime protections for home health aides, and the improvements to the NLRB's election processes are long overdue contributions to a broader effort to improve the sustainability of the United States as a high wage economy. This is even more true of the regulatory efforts by the NLRB to ensure workers are informed of their rights under the National Labor Relations Act.

In contrast, efforts to dismantle worker protections threaten two seriously negative consequences for our economy. First, they threaten to contribute to further downward pressure on wages and thus on aggregate demand and on GDP. Second, in a longer term strategic sense, this type of approach to regulation undermines key drivers of the types of physical and human capital investments necessary to sustain and propel a modern high wage economy.

In conclusion, the AFL-CIO is grateful for the opportunity to appear before this Committee on such a critical subject for our nation's future, and I look forward to your questions. Thank you.

EXHIBIT A.


#13 EPI'S TOP CHARTS OF 2012
Most Americans are not benefiting from increased productivity
Cumulative change in total economy productivity and real hourly compensation of production/nonsupervisory workers, 1948–2011
300%
250%
200%
150%
100%
50%
0%
1948
1958
1968
1978
1988
1998
2008
2011:
254.3%
Productivity
113.1%
Real hourly compensation
Note: Data are for compensation of production/nonsupervisory workers in the private sector and productivity of the total economy.
Source: EPI analysis of unpublished Total Economy Productivity data from Bureau of Labor Statistics Labor Productivity and Costs program, wage data from BLS Current Employment Statistics program, and Bureau of Economic Analysis National Income and Product Accounts
ECONOMIC POLICY INSTITUTE

[1] National Employment Law Center, "Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities, p. 52 (Sept. 2009)

[2]Human Rights Watch, The Employee Free Choice Act, A Human Rights Imperative, pp. 5-6 (January, 2009).

[3] Economic Policy Institute, "Declining Value of the Minimum Wage is a Major Factor Driving Inequality," Issue Brief #351, Feb. 21, 2013, at http://www.epi.org/publication/declining-federal-minimum-wage-inequality/.

[4]Anthony Veltri, Mark Pagell, et al., "A Data-Based Evaluation of the Relationship between Occupational Safety and Operating Performance." The Journal of SH&E Research, Spring 2007.

[5] Congress of the United States, Office of Technology Asssessment, "Gauging Control Technology and Regulatory Impacts in Occupational Safety and Health: An Appraisal of OSHA's Analytic Approach," September, 1995, and Nicholas A. Ashford, "The Importance of Taking Technological Innovation into Account in Estimating the Costs and Benefits of Worker Health and Safety Regulation," in *Costs and Benefits of Occupational Safety and Health: Proceedings of the European Conference on Costs and Benefits of Occupational Health and Safety 1997*, Mossink and Licher, eds. 1998, pp. 69-78.