

North American Free Trade Agreement (NAFTA)

The North American Free Trade Agreement, known usually as NAFTA, is a free trade agreement among Canada, the United States, and Mexico. NAFTA went into effect on January 1, 1994. NAFTA is also used to refer to the tripartite trading bloc of North American countries.

Overview of NAFTA

NAFTA removed duties on most of all U.S exports shipped to Mexico and Canada. The agreement gradually phased out other tariffs and duties over a period of 14 years. Restrictions on categories such as automobile parts, motor vehicles, computers, textiles and agriculture were to be removed. The treaty also protected intellectual property rights (patents, copyrights, and trademarks) and outlined the removal of restrictions on investment among the three countries. A supplemental agreement signed in 1993 made provisions regarding worker rights and environmental protection.

This agreement was an expansion of the earlier Canada-U.S. Free Trade Agreement of 1989. Remarkably , different from the European Union, NAFTA does not create a set of super national governmental bodies, nor does it create a body of law which is superior to national law. NAFTA is a treaty under international law.

Scope of NAFTA

NAFTA is more comprehensive in its scope and was complemented by the North American Agreement for Environmental Cooperation (NAAEC) and the North American Agreement on Labor Cooperation (NAALC).

The NAAEC agreement was in response to environmental concerns that non-native companies relocating to either three countries would lower their standards regarding environmental safety if they did not achieve a unanimous regulation on the environment. The NAAEC is more than just a set of environmental regulations. It established the North American Commission for Environmental Cooperation (NACEC), a mechanism for addressing trade and environmental issues, the North American Development Bank (NADBank) for assisting and financing investments in pollution reduction and the Border Environmental Cooperation Commission (BECC).

The NAALC supplement to NAFTA aimed to create a foundation for cooperation among the three members for the resolution of labor problems, as well as to promote greater cooperation among trade unions and social organizations in order to fight for the improvement of labor conditions.

Though most economists agree that it is difficult to assess the direct impact of the NAALC, it is agreed that there has been a convergence of labor standards in North America. Given its limitations, however, NAALC has not produced (and in fact was not intended to achieve) convergence in employment, productivity and salary trend in North America.

Controversy Over NAFTA

NAFTA has been at the center of controversy since its inception. Transnational corporations have tended to support NAFTA in the belief that lower tariffs would increase their profits. Trade and Labor unions in Canada and the United States are strongly opposed to NAFTA for the reason that they fear jobs would shift to Mexico due to the lower labor costs there. Some politicians have opposed free trade for fear that it will turn countries, such as Canada, into permanent branch plant economies.

Legal Disputes

In 1996, the gasoline additive MMT was brought to Canada by Ethyl Corporation, an American company when the Canadian federal government banned imports of the additive. The American company brought a claim under NAFTA Chapter 11 seeking US\$201 million from the Canadian federal government as well as the Canadian provinces under the Agreement on Internal Trade (AIT). They argued that the additive had not been conclusively linked to any health dangers, and that the prohibition was damaging to their company. Following a finding that the ban was a violation of the AIT, the Canadian federal government repealed the ban and settled with the American company for US\$13 million.

Impact over Mexican Borders.

Despite critics accusing NAFTA of depressing the incomes of poor corn farmers, several studies have rejected such allegations. This was always the trend even before the existence of NAFTA. Also, maize production increased after 1994, and there wasn't a measurable impact on the price of Mexican corn because of subsidized corn from the United States. The studies do agree that the abolition of U.S. agricultural subsidies will give a long-term benefit to Mexican farmers.

Chapter 11

Another contentious issue is the impact of the investment obligations contained in Chapter 11 of the NAFTA .Chapter 11 allows corporations or individuals to sue Mexico, Canada, or the U.S. for compensation when actions taken by those governments (or by those for whom they are responsible at international law, such as provincial, state, or municipal governments) have adversely affected their investments.

This chapter has been invoked in cases where governments have passed laws or regulations with intent to protect their constituents, that also impact a corporation's bottom line. Language in the chapter defining its scope states that it cannot be used to "prevent a Party from providing a

service or performing a function such as law enforcement, correctional services, income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care, in a manner that is not inconsistent with this Chapter."

Further, it has been argued that the chapter benefits the interests of Canadian and American corporations disproportionately more than Mexican businesses, which often lack the resources to pursue a suit against the much wealthier states .