



NAFTA MUST BE RENEGOTIATED

A proposal from North American civil society networks

Politicians throughout North America (Canada, Mexico and the United States) are beginning to recognize what the majority of citizens already know - the North American Free Trade Agreement's (NAFTA) promises have not been fulfilled and new policies are urgently needed. There is growing awareness that quality jobs have disappeared, only to be replaced by insecure and low remuneration employment, while income inequality has risen to almost unprecedented levels.

As a result of widespread public concern, several candidates for the Presidency of the United States recognize the necessity for major changes to NAFTA. Recently, several members of the House of Representatives have introduced a bill requiring an assessment of NAFTA, renegotiation of some provisions and providing for US withdrawal unless certain conditions are met.

The Permanent Commission of the Mexican Congress, as well as several State Governors, responding to the wide-spread demands by well-organized campesino organizations, is demanding a revision of NAFTA given the devastation it has caused for agriculture and its harmful effects on the rural population.

Similarly, a Canadian Parliamentary Sub-Committee on International Trade recommended that the Permanent Committee on Foreign Affairs and International Trade undertake a comprehensive review of NAFTA Chapter 11 on Investment and Chapter 19 on trade disputes.

We four civil society networks from Canada, Mexico, Quebec and the United States believe that it is absolutely necessary to profoundly revise NAFTA beginning with those aspects that have proven most damaging for the socio economic and human rights of our peoples and for the environment.

At the same time, we reject the deeper continental integration currently being negotiated under the aegis of the Security and Prosperity Partnership (SPP) by large multinational corporations and governments with no transparency or input from civil society. As such, the SPP is nothing less than the privatization of public policymaking. The citizens of North America have several ideas for bringing about real prosperity and security on this continent. Integration negotiated behind closed doors, however, will bring neither.

Any just trade agreement among our countries must consider the enormous economic inequalities that exist between Mexico, the United States and Canada as well as the growing inequality within

each of our three countries. While even the World Trade Organization allows special and differential treatment for poorer countries, this is not the case with NAFTA.

The revision of the terms of this treaty must have as its objective the establishment of economic relations based on social justice and sovereignty within a paradigm of sustainable development. In this brief declaration we cannot mention all the necessary revisions. Here are ten priorities for the required renegotiation of NAFTA.

1. Agriculture

Safeguard domestic policy space to protect the livelihoods of family farmers. This includes allowing for the exclusion of basic foods, tariffs to protect special products and special safeguard mechanisms in any revision of the agreement and recognition of food sovereignty.

Promote environmentally sustainable production and rural development, by investing in rural infrastructure and schools to rebuild sustainable agricultural production and value added agricultural products. Protect such investments by promoting farmers' ability to earn a fair price for their products by disciplining export subsidies, export credit guarantees, cartels and anti-competitive practices. Eliminate dumping of commodities, i.e. exporting at below the cost of production, which is one of the principal causes of massive migration.

Promote inventory management to reduce oversupply available for dumping, to reduce price volatility and to counter long term price depression.

Repeal provisions that interfere with governments' right to provide adequate and stable market returns for farmers in all countries, adequate supplies of safe food for consumers, and ensure the viability of the multifunctional role of agriculture in societies, including promoting sustainable land use and environmental practices and ensuring fair treatment of farm labor.

Repeal provisions that impede the right of governments to pursue their own domestic and agricultural policies, as long as those policies do not facilitate the dumping of agricultural commodities onto world or domestic markets at below the cost of production.

Repeal provisions that pre-empt or otherwise render ineffective any existing antitrust and anti-competitive business practice laws. Allow publicly funded procurement programs that give preference to local farmers.

Repeal provisions that proscribe laws that give consumers the right to know about the origin and methods of food production through non-discriminatory labeling and product traceability that accurately reflects the country of origin, the presence of genetically engineered ingredients or cloned meat, and other novel food.

2. Energy

Safeguard sovereignty over natural resources, especially energy and its use for just and sustainable national development.

Affirm the responsibility and the right of democratically elected governments to establish national and local energy policies, to defend and promote public ownership of energy production and distribution, and to regulate the activities of private sector energy corporations within the context of national and local policy.

Affirm that access to energy resources for basic human needs is a right of citizenship and must not be denied by unfair markets and corporate greed. Energy resources in each of our countries must be democratically managed in the public interest.

Respect the Mexican Constitution which establishes that energy resources are the social property of all Mexicans.

Eliminate Article 605 that obligates Canada to continue exporting non-renewable resources, such as petroleum and natural gas to the United States even if these exports cause a domestic shortage in Canada.

3. Foreign Investment

Regulation of foreign investment is indispensable so that it may play a role in sustainable national development and so that each country can pursue its own development path.

Allow governments to stipulate performance requirements for investors to support social and environmental goals, such as requirements related to technology transfer and percentage of domestic content, among others.

Eliminate the Chapter 11 “investor-state” clause which gives investors the right to sue governments to obtain compensation for measures taken in the public interest that might diminish the value of their investment.

Eliminate the ban on capital controls and allow governments to restrict outflows of fly-by-night investments.

4. Financial Services

Restore the ability of NAFTA members to direct financial resources to national priorities and regulate and introduce disincentives for speculative investments, such as a tax on foreign exchange transactions and financial speculation generally. Also, subject hedge funds to stock exchange regulation.

Eliminate the provision in Article 2104 that obliges governments to accept direction from the International Monetary Fund in the event of a financial crisis.

5. Role of the State and Services

Renegotiate Chapter 10 on Government Procurement, Chapter 12 on Services and Chapter 15 on Competition Policy to lift restrictions that prevent governments from fulfilling their responsibilities to guarantee the full economic, social and political rights of their peoples.

Public enterprises must not be required to act solely in accordance with commercial considerations but instead be free to provide services that may embody a degree of subsidy. For example, a national postal service should be able to deliver mail to remote communities for the same price as local delivery without being accused of unfair competition with private couriers.

6. Employment

Rules of origin should include a set percentage of national content within the regional content rules to achieve higher growth and more jobs.

Governments should have the right to use procurement to promote national development and job creation by giving preference to national suppliers within limits that respect the need to purchase goods and services that are economical and of high quality as well as to reduce environmentally damaging transportation of locally available goods.

Government procurement can be an effective tool for the promotion of local and/or minority owned businesses, thus creating job opportunities at home. Other social goods can be promoted through procurement, such as living wages and “sweatfree” initiatives. No trade agreements should limit the policy space of governments to direct tax revenues to support local employment and/or other labor and environmental social goods.

International Labor Organization core labor rights, as well as acceptable conditions of work related to wages, hours and occupational safety and health, must be fully respected and enforced in each country. The labor side agreement has largely failed to bring about needed legal and institutional reforms, much less justice in the individual cases presented to the National Administrative Offices. The agreement must be renegotiated to incorporate labour rights into the accord, thus ensuring that these rights can be fully realized.

Recourse to emergency measures and safeguards are also important for maintaining national control over economic development.

7. Migration

Migrant workers, regardless of their immigration status, must have the same workers rights and conditions as those enjoyed by the citizens of the receiving country.

As stated elsewhere in this document, governments should be allowed the policy space to create economic opportunities that will allow their citizens to stay in their home countries, if they choose. This includes, among other policies, safeguards for family farmers and conditions on foreign investment to support good jobs.

Achieve an agreement on migration that goes beyond the narrow existing U.S. NAFTA visa programs for business people and certain professions and includes provisions for family reunification and clear paths to citizenship for undocumented workers.

8. Environment

Nothing in the agreement should prevent any party from taking actions necessary to protect the environment, including the establishment of import and export restrictions to prevent the irrational overuse of natural resources and the use of subsidies to prevent adverse environmental effects.

The agreement should explicitly recognize the priority of Multilateral Environmental Agreements signed by each country, such as the Kyoto Protocol, and guarantee their fulfillment.

Explicitly prohibit the production and import of insecticides, fungicides and toxic substances that are prohibited in their country of origin.

States must have the right to explicitly prohibit the export of fresh water and the privatization of water services free of challenges under NAFTA's investor-state provisions. Any changes to interstate sharing water agreements must be approved through a transparent and democratic process involving affected communities and other stakeholders.

9. Intellectual Property Rights

Removal of intellectual property provisions that impede the transfer of technology and knowledge, as well as the production of generic medicines in each country in order to guarantee the human right to health care.

A new intellectual property regime cannot be achieved by amending NAFTA alone since such a regime would also require changes to the Trade-Related Intellectual Property Rights (TRIPS) agreement in the World Trade Organization and the implementation of proposals for access to knowledge being debated within the

World Intellectual Property Organization (WIPO) and proposals for technology transfer from the United Nations Conference on Trade and Development (UNCTAD).

NAFTA members should support an amendment to TRIPs to require disclosure to patent authorities of genetic resources and traditional knowledge used in products for which patents are sought. NAFTA members should support negotiating proposals in WIPO that protect and ensure the sustainable use of genetic resources and traditional knowledge. The indigenous communities who have been the custodians of those resources and that knowledge should be financially remunerated and technically supported through licensing fees and by other means to ensure compatibility of WIPO agreements with the Convention on Biological Diversity and other multilateral environmental agreements. Such genetic resources and traditional knowledge shall not be defined as an "investment" in NAFTA nor in Bilateral Investment Treaties.

10. Dispute Settlement Provisions

A new impartial, transparent, just and compulsory mechanism for dispute settlement that is open to the public and available to all the member countries is needed. The list of arbitration panelists should be enlarged to include jurists, economists, and other candidates from civil society.

NAFTA was imposed undemocratically on our peoples. Civil society in all three countries demands its renegotiation as reflected in the US election campaign, in strong mobilizations within Mexico and in protests at the most recent Security and Prosperity Partnership summit at Montebello, Quebec. We four networks from North America renew our commitment to a struggle that began with the negotiation of the Canada-US Free Trade Agreement twenty years ago. We demand that the executive branches of our governments listen to their peoples and their Parliamentarians. We shall watch vigilantly how US Presidential candidates fulfill their campaign promises.

Another world is possible and necessary: a world in which peoples' rights prevail over corporate profits.

Alliance for Responsible Trade (USA)

Common Frontiers-Canada

Red Mexicana de Acción frente al Libre Comercio (RMALC)

Réseau québécois sur l'Intégration continentale (RQIC)

March 3, 2008

Common Frontiers, le Réseau québécois sur l'Intégration continentale (RQIC), the Mexican Action Network on Free Trade (RMALC), and the Alliance for Responsible Trade (ART-US) are all members of the Hemispheric Social Alliance, a network that has played a central role in opposing 'free trade' negotiations throughout the Americas. The four North American coalitions are representative of a range of organizations including church groups, labour, student unions,

women's groups, environmental organizations, international development agencies, human rights and other social justice advocates.

For more information:

In Quebec and Canada:

Pierre-Yves Serinet / Normand Pépin

Réseau québécois sur l'Intégration continentale (RQIC)

Tél. (514) 276-1075 / (514) 217-6529; pepinn@csd.qc.ca / rqic@ciso.qc.ca

John Dillon

Common Frontiers-Canada

Tel. (416) 463-5312 ext. 231; jdillon@kairoscanada.org

In Mexico:

Alberto Arroyo Picard (Spanish) / Alejandro Villamar (English)

Red Mexicana de Acción Frente al Libre Comercio (RMALC)

Tel. (52) (55) 5356-0599; rmalc@prodigy.net.mx

In the United States:

Tom Loudon

Alliance for Responsible Trade (ART-US)

Tel. (301) 699-0042 / (301) 204-9549 toml@quixote.org