

# Environmentalists' views on NAFTA: sovereignty and sustainable development

Sofia Gallardo C.\*

**T**he environmental and social demands of the new trilateral movement that has arisen because of the North American Free Trade Agreement (NAFTA) and its side agreement, the North American Agreement on Environmental Cooperation (AEC), go beyond the traditional issues that are a normal part of government agreements on international trade.

For the first time, U.S., Canadian and Mexican environmentalist movements mobilized to exert some influence on their governments' international trade policy, which up to then had remained beyond the citizenry's reach.

Their main objective has been to confront the high risks NAFTA poses to the environment, by incorporating ecological topics into the negotiations, topics which had originally been excluded as they were considered "externalities" which would go against the principles of free trade.

\* Professor-researcher, International Studies Division at the Center for the Research and Teaching of Economics (Centro de Investigación y Docencia Económicas, CIDE).

The three countries' environmental movements confronted a NAFTA which has little in common with conventional free trade agreements. The many accords of this kind signed since World War II have aimed at bringing down tariffs on trade goods.

If NAFTA were a treaty of that type it would have provoked little

controversy. Instead, this agreement is a result of globalization policies which translate into an ambitious effort at economic integration covering many areas (in resource trade, for example), similar to what is taking place in the European Community.

Moreover, NAFTA is part and parcel of a process of globalization which over the last 25 years has been

*This paper seeks to provide some answers to the following questions: why is the environmentalist movement divided on NAFTA; why is the debate characterized by divergences in the environmentalist movement on the subject of national sovereignty; what are the points in common and the main differences on the subject of sustainable development in the context of NAFTA; and what are the environmentalist movement's points of view on present international trade processes?*



characterized by the rise of the global power of transnational corporations and the relative decline in governments' power and/or will to oversee economic activity.

The consequences are distortions in the development process both within nations and between them, massive imbalances in international finance and high levels of both public and private debt, stagnation, instability, mass unemployment, a growing imbalance in income distribution, increasing poverty and hunger, accelerated depletion of natural resources and degradation of the environment.

Up to the early seventies, most types of environmental degradation were essentially local phenomena, which could be eliminated through local and national action. But the world economy is currently moving toward increasingly non-sustainable development and globalization's negative effects on the environment are pushing the planet's capacity to its limits.

In view of this situation, the ecology movement acts in a global context and acquires a global character, not only because of its concerns and standards, but also the way in which it seeks to exert influence: "think globally and act locally."

In this context, between 1990 and 1992 the U.S., Canadian and Mexican environmentalist movements' strategy for influencing NAFTA was to build national, binational and trinational environmental or multi-issue networks,<sup>1</sup> with the aim of circulating information, drawing up joint proposals for sustainable development and increasing their

<sup>1</sup> The multi-issue networks are made up of organizations representing trade unionists, environmentalists, human-rights advocates, women, health institutions, ethnic minorities, immigrants, legislators, and small and medium-sized businesses.

political clout in order to influence the negotiations.

This was possible because they sought to improve their political and social position at the local and national levels through alliances with government sectors, non-government organizations, and even groups with protectionist economic interests.

The activity of the three countries' environmentalist groups reached two peaks of great intensity between 1990 and 1994. The first was during the debate in the U.S. Congress on prolonging the "fast track" and the drawing up of the Integrated Border Environmental Plan; the second occurred during negotiations on the Agreement on Environmental Cooperation and the proposal to form a North American Development Bank to clean up the Mexico-U.S. border.

Toward the beginning of the NAFTA negotiation process, a broad multi-issue coalition was formed to oppose the treaty in the United States. It expressed the fear that the agreement with Mexico would be a replay of the Canadian experience—the Free Trade Agreement between the United States and Canada (FTA)—of attracting indiscriminate foreign investments (including polluting industries) and losing control over natural resources (oil, coal, forests and fisheries).

The members of this coalition consider this would be exacerbated due to the fact that Mexican laws on managing, protecting and preserving the environment are often not enforced. They were concerned about the possible lowering of U.S. and Canadian environmental standards—which in any case have been very low since the enactment of President Reagan's deregulation policies and the FTA.

However, this coalition split up shortly after May 1, 1991, when President Bush presented his Action Plan, in which he committed himself to putting environmental issues on the

table for negotiations. The ecology movement remained divided.<sup>2</sup>

Both the NAFTA and AEC negotiation process as well as the actions of environmental networks and groups were oriented in large part by the political dynamics and timetables operating in the United States.

In particular, the debate on AEC became politicized when a strong opposition to NAFTA arose in the U.S. AEC's implicit mission—like that of the Agreement on Labor Cooperation—was to get support from Democratic congressmen, citizens' coalitions, trade unions and moderate environmentalist organizations, so NAFTA would be approved on Capitol Hill. This placed the debate on environmental subjects within the more general field of political concerns underlying the process of economic integration between nations with very different levels of development.

The division in the environmentalist movement hinged on the question of a renegotiation of NAFTA and whether the AEC could make up for NAFTA's deficiencies with regard to the environment.

The moderate coalitions<sup>3</sup> favored respecting the original text of the treaty and stressed the

<sup>2</sup> Identification of U.S., Canadian and Mexican networks and environmental groups, as well as analysis of their positions and activities aimed at influencing NAFTA, are developed in: Sofia Gallardo C., "Debate on the Environmental Cooperation Agreement," in *Estados Unidos: Informe Trimestral* (Quarterly Report on the United States), División de Estudios Internacionales del Centro de Investigación y Docencia Económicas, Mexico City, Winter 1993, pp. 34-48.

<sup>3</sup> Coalition of seven U.S. moderate conservationist groups (led by National Wildlife Federation and Natural Resources Defense Council), Pollution Probe in Canada, Autonomous Institute for Ecological Research and the Group of 100 in Mexico, and the Southwest Voters Network on the U.S.-Mexican border.



## A just and sustainable trade and development initiative for North America

1. The networks propose a democratic program for a just and sustainable North America instead of the treaty signed by Bush, Mulroney and Salinas. They consider that NAFTA has a "neo-liberal" orientation directed at eliminating most trade barriers and encouraging investment so as to promote accelerated integration of the three countries, in the name of competitiveness.

2. Principles for a just and sustainable development must be based on respecting basic human rights, promoting sustainability, reducing inequalities, promoting democracy and participation, and supporting the elimination of protectionism on the part of their governments.

3. The proposals for eliminating inequalities between and within the nations are to reform multilateral institutions (GATT, IMF and the World Bank), reduce the debt burden, support small-scale development foundations and promote trade adjustment.

4. Respect for and improvement of international rules on workers' rights and environmental standards is essential, as is encouraging the creation of international environmental standards equivalent to those of the ILO in the field of labor, and enforcing environmental and labor codes (as well as formulating new ones) for transnational, binational, national and local firms.

5. Alternatives must be based on respect for and enforcement of international human-rights laws, high-wage, high-skill development, alternative energy and natural-resources policies, sustainable agriculture, and recognition of the supremacy of Agenda XXI and the Conventions on Climate Change and Biodiversity, the Principles for Forest Management and the Rio '92 Declaration on international development and trade agreements.

6. Efforts should be made to promote the sustainability of the Mexican-U.S. border, through the principle that "the polluter repairs the damage," establishment of a Regional Health and Environment Commission and respect for and implementation of the "right to know" on both sides of the border.

establishment of a strong North American Commission for the Environment, with powers that would cross national borders, as a means to guarantee protection of the environment and natural resources.

The opposing networks<sup>4</sup> rejected NAFTA and the AEC, having come to

<sup>4</sup> Alliance for Responsible Trade and Citizens' Trade Campaign with the participation of Greenpeace, Friends of the Earth and Public Citizens among others in the United States; the Canada Action Network (led by the Canadian Environmental Law Association); the Mexican Action Network on Free Trade (Union of Environmentalist Groups, Debase, and the Group for Environmental Studies, among 100 other organizations); Border Health and Environment Network (led by the Border Ecology Project and Arizona Toxic Information), the Southwest Network for Economic and Environmental Justice and ecology groups coordinated by the Texas Center for Policy Studies on the eastern side of the U.S.-Mexican border.

the conclusion that the agreements treated environmental protection and the conservation of natural resources as non-tariff trade barriers and favored a model of economic integration that would benefit only a small segment of the population in each country, and produce even more inequality and ecological damage.

Yet over and above forms of organization, the main differences within the region's ecology community are expressed—implicitly or explicitly—regarding issues of national sovereignty and sustainable development.

### **The debate on national sovereignty**

The Bush proposal for a North American Environmental Commission, and later the 1993 negotiations on the North American Agreement on Environmental Cooperation, triggered a

far-reaching trilateral debate on national sovereignty, at a time when the globalization process had put the classic concept of sovereignty into crisis.

NAFTA proposes a new international collaboration between governments and societies that tends to reduce the traditional powers of sovereign states. It sets up supranational agencies and commissions that intervene into both internal and external sovereignty, since they seek to assure that stipulations and recommendations will be applied by member countries in commercial, environmental and labor cases.

A space has arisen for a range of organizations and social movements to become political players and exert influence at the local and transnational level. To paraphrase Daniel Bell, in conditions of accelerated globalization the nation-state has become too small



for the big problems of life, and too big for the small ones.

In the context of the AEC negotiations, debates on national sovereignty were about the power to make, enforce and repeal laws. These arguments take on a different meaning in the three countries, since the national interest and the way power and political authority are organized and exercised vary widely between them.

The three governments expressed diverging concerns on this subject during the negotiation process. The United States and Canada sought to guarantee that Mexico would comply with their environmental rules and regulations so as to prevent it from lowering production costs, attracting investments and making unfair trade deals while causing a lowering of environmental standards in the U.S. and Canada and violating their sovereignty.

Canada and Mexico considered that the application of trade sanctions to guarantee compliance with environmental rules and regulations would open up the possibility of covert protectionism and a weakening of their sovereignty vis à vis a hegemonic United States.

At the end of the negotiations, trade sanctions or suits in the courts of the country infringing the law were chosen as alternative ways of guaranteeing compliance with national environmental laws. Mexico changed its position to acceptance of trade sanctions, in line with the U.S., while Canada preferred such cases to be dealt with in court. For Mexico, allowing foreign interference in its judicial system means its sovereignty will be more vulnerable, given the lack of any real separation between the executive, legislative and judicial powers in its political system.

The seven biggest U.S. conservationist organizations, together with Canada's Pollution Probe and

Mexico's Autonomous Institute for Ecological Research, Union of Environmentalist Groups and Group of 100, made their approval of NAFTA conditional on a change in specific clauses in the side agreements. They proposed that trade sanctions be applied, that protectionist trade measures be eliminated and that national sovereignty be respected.

The opposing groups were even more explicit and proposed that: a) each nation should have the right to draw up and enforce laws controlling trade, in order to achieve environmental and social goals such as the protection of the environment and health, and conservation of wildlife and natural resources; and b) environmental management which respects sovereignty should be understood as being based on democratic, institutional and coordinated participation of representatives of the government, the community of environmental technicians and scientists, and society's ecology and development organizations.

In contrast to moderate environmentalist networks and groups, the organizations opposing NAFTA considered that the AEC limited national sovereignty. These organizations differed, nevertheless, on whether trade sanctions were appropriate, as well as the scope of the North American Environmental Cooperation Commission (ECC).

The U.S. and Canadian organizations wanted a strong supranational commission that would harmonize environmental standards and effectively enforce trade sanctions. The Mexican network came out in favor of a weak trilateral commission that would issue recommendations, in coordination with strong national commissions that would guarantee the enforcement of each country's environmental laws.

There was agreement that the Environmental Cooperation Commission should take on a positive role in promoting sustainable development rather than acting as a more or less punitive tribunal. It would have to create sources of funding for solving the problems presented to it when there is no way to resolve them on a national basis.

The environmental networks and groups in the United States and Canada agreed that the side agreements have no "teeth," or only "false ones," alluding to the inoffensive character of the trade sanctions. The AEC does not include either the mechanisms nor the guarantees necessary to enforce sanctions, and in the majority of cases limits itself to suggesting instead of demanding.

The Americans and Canadians viewed the AEC as restricted to national laws and the definitions that each country gives to appropriate government actions, since there is neither a call to change or create national laws nor punishment or legal recourse on the part of citizens if one of the parties does not fulfill its obligations. Mexican anti-NAFTA groups did not agree, since they consider the obligation to enforce environmental laws and the corresponding sanctions a matter of national sovereignty.

The Mexican Action Network on Free Trade (RMALC) regretted that the AEC had been granted authority to enforce sanctions, as this means allowing a supranational entity to infringe on national sovereignty, and considered that accepting trade sanctions opened up the possibility that AEC, while incorporating weak mechanisms for the enforcement of environmental rules and regulations, would be used for protectionist purposes.

In this context, anti-NAFTA organizations feared the treaty would lead to a downward harmonization of



environmental regulations in order to favor short-term business transactions. This would limit the sovereignty of federal and provincial governments in setting environmental standards.

The statements on sovereignty made both by governments and environmentalist organizations have been oriented toward protecting their nations' capacity to govern themselves and defend their national interest, as each one conceives it. Hence, each puts particular emphasis on the character of the environmental cooperation commission, trade sanctions, environmental standards or the participation of society.

### Conceptions of sustainable development

The debate on the AEC posed problems of environmental management whose solution demands coordinated action on the part of the member countries' governments and organizations concerned with this issue. It pointed out the need for a sustainable development model to offset the contradictions of globalization, reduce the North-South conflict and minimize the costs to society within the nations involved.

Although there are still very many definitions of sustainable development, the majority of them start off from two fundamentals. The first appeared in the World Commission on the Environment and Development's document *Our Common Future*: development is sustainable if it satisfies the needs of the present without compromising future generations' capacity to meet their own needs. This position favors the rationalization of development, the regulation of free trade with the aim of avoiding global degradation of the environment, the conservation of resources and an improvement in their distribution among nations and individuals.

The second was formulated five years later, in the *UN Report on*

*Human Development*, and defines the term as a process in which economic, fiscal, trade, energy, agricultural and industrial policies are designed to achieve a sustainable social, economic and environmental development. This view aspires to an international society produced by universalization of reforms which guarantee sustainable economies, democratic political systems based on structures of social equality and respect for human rights.

In the context of the NAFTA and AEC negotiations, there were three different implicit ideas for sustainable development in North America.

The three governments posited a sustainable development that concentrates on preventing the environment from becoming a barrier to trade. The majority of pro-NAFTA organizations put forward the idea of a sustainable development that seeks environmental protection and management without substantially affecting the logic of (transnational) capital. The environmental networks and groups opposing NAFTA came out in favor of a sustainable development that tries to alleviate the afflictions of the human condition (poverty, an unhealthy and degraded environment, violation of human rights, etc.).

The three conceptions share the idea of development. They consider that economic growth, the expansion of trade and environmental protection are goals that can only be achieved in conjunction. They hold that sustainable development will enable humanity to correct the damage inflicted on the biosphere, without preventing us from enjoying the fruits of development.

There is a fourth perspective of sustainable development, which is a subset of the third position but which in itself does not refer to development. This perspective hopes to encourage a sustainable biosphere.

The fundamental difference between the first three conceptions and the fourth one is that sustainable development conceives of the environment as something that is there to be manipulated to the benefit of humanity, whereas the sustainable biosphere is something to whose needs the human being has to adapt—since its reestablishment is a prerequisite for alleviating the situation of humanity.

These approaches reflect different ideas about what is economically suitable, politically possible, socially just and environmentally necessary in the North American economic integration process. Each one sets different priorities according to its own role in that process.

The only explicit proposal for sustainable development was that drawn up by the networks opposing NAFTA, in order to put forward guidelines for a new free trade treaty for North America.

The Alliance for Responsible Trade (USA) made the initial proposal and held several trinational meetings—the first in March, 1993—which culminated in September 1993 with the document *A Just and Sustainable Trade and Development Initiative for North America*. Citizens' Trade Campaign (USA), the Mexican Action Network on Free Trade and the Canada Action Network joined in this effort.

In spite of their six points of convergence (see table on page 70), three differences arose between the northern and southern coalitions in the process of drawing up this proposal. First, the American networks supported trade sanctions in cases of violations of environmental standards as a guarantee of a treaty "with teeth" that would assure protection for the environment as well as fair trade. The Mexican network categorically opposed these as it considered them to be an attack on national sovereignty and a weapon for unfair trade.



Secondly, the U.S. networks were in favor of reforming existing multilateral organisms, while the Mexican network proposed the creation of new multilateral organisms that would represent the interests of both North and South.

Thirdly, the U.S. networks proposed respect for immigrants' human rights while the Mexican network added the need to recognize the free circulation of labor as part of NAFTA.

These three disagreements were overcome through eliminating incompatibilities in the text—the issues of trade sanctions, creation of new multilateral organisms and free circulation of labor were not included. These differences were crucial because they meant advantages or disadvantages for the United States and Mexico, and are a sample of how the progressive networks operate in accordance with well-defined national and local interests, and show that they are not willing to accept negative effects emanating from far-away places.

### Final reflections

The success registered by North American environmental networks and groups was their contribution to making governments publicly recognize the existence of mutual implications in North American trade integration as well as the global nature of environmental problems; and that

they generated a new social process going far beyond the NAFTA and AEC negotiations.

Hence the need to propose setting up a regional ecological system associated with prevailing or alternative development guidelines. New forms of cooperation between governments, new institutional structures with the participation of non-governmental organizations and different funding mechanisms were put forward.

During the NAFTA and AEC negotiations, the vast majority of trade-related networks and environmental groups agreed on the need to guarantee a democratic process through law and free access to information; one that would include broad participation on the part of the general public. They also agreed on demanding environmental minimums, the internalization of environmental costs, clean production processes and protecting the rights of nature.

The points on information and participation were partially covered in the negotiations, but they present some ambiguities. However, environmental minimums did not appear in the final document.

Consequently, the treaty did not satisfy the majority of concerned environmentalists, despite the fact that some had given it their support. Ecology organizations had considered NAFTA and the AEC as means of influencing their

governments, both from within and outside government institutions, as a political opportunity to advance toward the solution of existing environmental and conservation problems and prevent further degradation of ecosystems.

Yet divergences within the North American environmental movement did not only involve questions of organization and the various groups' inclusion or exclusion by their respective governments. Differences also showed up in their ideas on national sovereignty and sustainable development.

In the debate on sovereignty, the positions of the U.S. and Canadian organizations were different from those of their Mexican counterparts with regard to the Commission for Environmental Cooperation, enforcement of trade sanctions, environmental standards and national laws. This reflects the existence of different interests in the North and South.

As NAFTA goes into effect, ecology groups in the three countries face encouraging prospects. They are making an effort to meet in order to discuss the establishment and functioning of the North American Environment Commission, and look towards making trilateral proposals to their respective governments. The need has arisen for a continental network on free trade, given the proliferation of trade treaties in the region **M**

Mexico, Colombia and Venezuela completed negotiations for a Free Trade Agreement in May. As a result of the agreement, tariffs will be immediately lifted from 40% of Mexico's exports to Colombia, while 5% more will become tariff-free over five years and the remaining 55% over ten years. As for Venezuela, only 1% will immediately become tariff-free, with tariffs scheduled to be lifted from the remaining 99% over ten years.

At the same time, tariffs will immediately be removed from 50% of Colombian exports to Mexico, and from the remaining 50% over ten years, while Venezuela agreed to the same terms as Mexico.

The Free Trade Agreement was signed by the heads of state at the Fourth Ibero-American Summit in June at Cartagena, Colombia and will go into effect on January 1, 1995.

*Raquel Villanueva*  
Staff Writer.