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North American Free Trade Agreement

: Canadian environmental review :

questions and answers October 1994

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*North American Free Trade Agreement*

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*Questions and Answers*

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## **NAFTA AND THE ENVIRONMENT**

***During the NAFTA negotiations, how much attention was paid to protection of the Canadian environment?***

***The NAFTA includes more environmental provisions than any previous trade agreement.***

***The approach that the Government of Canada took in these negotiations had four main elements:***

- Trade-related environmental issues, such as standards, were addressed directly in the negotiations;***
- Negotiators consulted closely with representatives of environmental organizations on the International Trade Advisory Committee (ITAC) and the Sectoral Advisory Groups on International Trade (SAGITs);***
- The potential environmental effects of the NAFTA were reviewed by an interdepartmental committee. The review has now been made public; and***
- Canada intensified its bilateral and trilateral environmental co-operation. Last March, the government announced a \$1-million Green Plan initiative to fund technical assistance on environmental standards and enforcement in Mexico. In September, ministers of the environment of the three countries agreed to the creation of a formal North American Commission on the Environment.***

***Both the Organization for Economic Co-operation and Development (OECD) and the General Agreement on Tariffs and Trade (GATT) have initiated, with Canada's strong support and active participation, detailed analyses of the relationship between trade and the environment.***

***What does the NAFTA do for the environment?***

*Specifically, there are numerous clauses in the NAFTA that involve environmental considerations:*

*The PREAMBLE explicitly identifies sustainable development and environmental protection and enforcement as fundamental objectives;*

*CHAPTER 1 (Objectives) acknowledges the general primacy of trade restrictions taken to enforce environmental obligations in international environmental and conservation agreements that deal with endangered species, ozone-depleting substances and hazardous wastes;*

*CHAPTER 7 (Sanitary and Phytosanitary Measures) permits NAFTA countries to take measures they consider appropriate to protect human, animal and plant life or health within their respective territories;*

*CHAPTER 9 (Standards-Related Measures) explicitly protects the rights of Canada's federal, provincial and local governments to determine the level of environmental protection that they consider appropriate for their own circumstances;*

*CHAPTER 11 (Investment) recognizes that NAFTA countries should not lower health, safety or environmental standards as a means of attracting an investment;*

*CHAPTER 17 (Intellectual Property) allows NAFTA parties to exclude from patentability plants, animals or inventions that could cause serious prejudice to biodiversity or to the environment; and*

*CHAPTER 20 (Dispute Settlement) provides a specific mechanism for the submission of environmental concerns to dispute settlement panels so that panels take such concerns into account when making a decision.*

***Did the government heed the concerns of environmentalists during the negotiations?***

***-- Yes. The NAFTA contains more environmental provisions than any other trade agreement.***

***-- Throughout the negotiating process, the government actively sought input from provinces and environmental groups. Environmentalists sit as members of the ITAC and the SAGITs.***

***-- As an example of consultations, a workshop organized by the government last spring brought together 46 ITAC and SAGIT members, as well as environmental groups, for a NAFTA briefing. Discussions centred on how negotiators would ensure that environmental concerns were addressed in the NAFTA.***

***-- ITAC and SAGIT environmental representatives were invited to meet the NAFTA Environmental Review Committee.***

## **THE ENVIRONMENTAL REVIEW OF THE NAFTA**

***Why didn't the government subject the NAFTA to a full environmental assessment with quantitative results?***

*--There are two different processes by which policies and projects are reviewed for environmental considerations.*

*--In the case of projects, such as dams, mines and factories, the potential environmental effects can be quantified.*

*--In the case of policies, which set frameworks or guidelines, the environmental impact will depend on future actions.*

*--Therefore, environmental reviews of policies can anticipate trends but cannot make precise measurements.*

***Is this review credible? It was done by a government committee, not by an independent body.***

*-- The review is credible. The Committee called on a variety of expert advice, including environmental groups.*

*-- Moreover, as a government committee it was able to consult the negotiators, review the state of negotiations and offer advice, while the negotiations were still under way.*

*-- The interchange between the Committee and the negotiators ensured that environmental concerns were taken into consideration at every phase of the negotiations.*

*-- The review was not an after-the-fact evaluation. It was part of an ongoing process that influenced the outcome of the NAFTA.*

***What were the conclusions of the review?***

*-- The NAFTA contains more environmental provisions than any other trade agreement.*

*-- It concludes that the NAFTA will not have a significant effect on Canada's environment.*

*-- The evidence suggests that business migration for environmental reasons*

*(pollution haven investment) is unlikely to be a significant problem.*

*-- Mechanisms will exist to ensure that the relationship between trade and the environment will continue to be addressed.*

***Why did the committee only look at the environmental impact on Canada, and not all of North America?***

*-- Each of the countries is responsible for its own environment and thus for making its own review.*

*-- The review does look at the North America-wide impact when dealing with environmental effects that cross borders.*

*-- Canada would not appreciate another country telling us what the effect of the NAFTA would be on our environment. We respect the right of other countries to do their own review.*

*-- As a result of the NAFTA, there will be greater environmental co-operation. The three countries have established mechanisms to further environmental co-operation, including the planned establishment of a trilateral Environment Commission.*

***Why wasn't the Canada-U.S. Free Trade Agreement subjected to an environmental review?***

*-- The FTA went into effect in 1989. The government's environmental review policy was announced in 1990.*

*-- What has been achieved in the NAFTA effectively makes the FTA more environmentally sensitive.*

*-- As the NAFTA incorporates the FTA, the environmental provisions of the NAFTA now apply to our single largest trade relationship.*

**ON POLLUTION HAVENS...**

***Under the NAFTA, will Canadian companies be encouraged to move to Mexico to escape environmental regulations at home?***

- Migration of industry to Mexico for environmental reasons is highly unlikely, if at all. The NAFTA itself recognizes that participating countries should not lower environmental standards to attract investment.***
  
- In reality, the average cost of meeting environmental regulations is modest (often less than two or three per cent of total costs). This means that business decisions seldom hinge on environmental considerations alone.***
  
- As well, Mexico has a tough environmental law, passed in 1988, which it is now striving to enforce. Mexico also has introduced an environmental review process to which new manufacturing investments must be subjected to ensure compliance with new environmental standards.***
  
- In general terms, polluting companies are usually less efficient in their use of raw materials.***
  
- Business is fast recognizing that environmentally sensitive processes increase competitive advantages.***



**ON ENFORCEMENT...*****Is Canada pressuring Mexico to improve its environmental enforcement?***

*-- Mexico is striving to improve its environment. And Canada is co-operating with Mexico on environmental issues.*

*-- Mexico passed a comprehensive environmental law in 1988. Regulations set standards comparable to those of industrialized countries on hazardous waste disposal, air pollution and other emissions regulations.*

*-- Mexico has also legislated a requirement for environmental impact assessments on new capital investments. In fact, the economic opportunities stemming from a NAFTA offer Mexico an unprecedented opportunity to improve its environmental protection and enforcement procedures.*

*-- Mexico has also started cracking down on polluters. More than 300 environmental inspectors work at the federal level, and there are others at the state level. More than 900 plants have been closed on a temporary or permanent basis.*

*-- In 1991, Mexico permanently shut down an oil refinery in Mexico City because of pollution. In response to new government regulations, large businesses such as General Motors will construct new plants away from the heavily polluted Mexico City metropolitan area.*

*-- The NAFTA commits the three countries to work together to enhance their standards and requires co-operation on the "development, application and enforcement of standards." Canada is already co-operating with Mexico on enforcement issues under the terms of a Canada-Mexico bilateral environmental agreement.*

**ON STANDARDS...**

***Does NAFTA set minimum environmental standards for its members?***

*-- NAFTA discourages members from reducing their standards, while preserving their freedom to establish higher standards than currently apply.*

*-- Thus, each country's sovereignty over measures suitable to its own needs and conditions is preserved, while the environment is protected.*

*-- Canada also believes that the issue of the minimum standards necessary to protect the global environment is best addressed in multilateral agreements.*

***Could harmonization of international standards compromise Canadian public health and worker safety regulations under a NAFTA?***

*-- The short answer is no. Canada, Mexico and the U.S. share the same resolve to ensure that standards are not only maintained, but are improved.*

*-- Under the NAFTA, each country maintains the right to implement standards that are even more stringent than those recommended by international organizations.*

*-- Harmonization of standards certainly doesn't imply acceptance of the lowest common denominator. In the NAFTA, quite the contrary is the case. NAFTA countries specifically undertake to work together to improve standards affecting human, animal or plant life, or health or the environment.*

***Are the provinces going to be bound by the provisions on standards in the NAFTA?***

*-- The three countries have undertaken on a best endeavours basis to ensure that the provinces and States respect the basic rights and obligations of the standards provisions.*

*-- Since certain standards and enforcement activities fall within the domain of state and provincial governments, their participation is vital.*

***Will it be possible for Mexico to attract Canadian jobs and investment by lowering its environmental standards, or by not enforcing them properly?***

*-- This is highly unlikely.*

*-- The NAFTA states that countries should not lower their environmental standards to attract investment.*

*-- The economics of creating a so-called pollution haven don't add up. It's estimated that the average cost of meeting environmental regulations is modest -- less than two or three per cent of start up costs.*

*-- Mexico has reformed its environmental laws, and they are being enforced. For example, new manufacturing investments must go through an environmental review process to ensure that they meet new standards.*

*-- As well, Mexico is cracking down on polluters, with an expanded team of environmental inspectors now employed at the federal and state levels.*

*-- The NAFTA requires pre-publication of environmental regulations for comment. Other NAFTA countries and the public will be able to express their views.*

*-- The NAFTA requires the three countries to work together to enhance co-operation on environmental regulations and enforcement.*

**ON ENVIRONMENTAL IMPORT CONTROLS...**

***Does NAFTA allow countries to forbid the import of goods that have been made using processes that damage the environment?***

*-- Investigations of the manner in which goods are produced would infringe on a country's sovereignty.*

*-- Canada would not appreciate environmental inspectors from other countries passing judgement on our practices. We respect other countries' sovereignty as much as we expect them to respect ours.*

*-- But NAFTA does provide for the establishment of working groups to launch co-operative projects on such issues as good manufacturing and laboratory practices.*

***Why didn't NAFTA provide for the use of countervailing duties to combat companies that cut environmental corners to make cheap goods?***

*-- Measures to reduce pollution are not normally expensive -- on average about two per cent of operating costs and one per cent of capital costs.*

*-- Imposition of a duty might not result in a change of practice. The industry may simply pay it, absorbing the duty as a cost of doing business.*

*-- The countervail also would not apply to sale of the industry's goods at home or to non-NAFTA countries. So its deterrent effect would be further limited.*

*-- The relationship between trade and environment is complex. Canada will continue to examine this issue in international forums and pursue co-operation with Mexico and the U.S. to upgrade standards and enforcement.*

***Why not impose an environmental duty to pay for enforcement measures, as some environmental groups have suggested?***

*-- The purpose of free trade is to eliminate barriers. A "Green Import Tax" would substitute one set of import duties for another.*

*-- A duty would also put NAFTA suppliers at a disadvantage relative to suppliers from outside the continent.*

*-- It would also discriminate against exporters when companies supplying their domestic markets should also bear the cost of environmental protection.*

**ON OZONE DEPLETION...*****What about the issue of ozone depletion?***

*-- The NAFTA is unlikely to add to the global consumption of ozone-depleting chemicals, such as the well-known chlorofluorocarbons (CFCs).*

*-- All three NAFTA countries are signatories to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. This multilateral agreement restricts the amount of ozone-damaging chemicals that any NAFTA country can consume.*

*-- Canada is committed to a complete ban on the use of CFCs by 1995. Progress has already been made. In June 1991, Canada's consumption of CFCs was 45 per cent less than it was five years earlier.*

*-- Mexico, as a developing country, is entitled to a 10-year deferral under the Montreal Protocol. However, it has stated its intention to follow the schedule for developed countries with complete phase-out of damaging chemicals by the year 2000.*

**ON THE GREENHOUSE EFFECT...**

***What sort of effect would a NAFTA have on the greenhouse effect, with increased emissions of carbon dioxide triggered by increased industrial activity?***

***-- Since any incremental greenhouse emissions are likely to be small, compared to expected trends in global totals, the environmental effects of the NAFTA are likely to be relatively insignificant.***

***-- The review team concluded that the modest economic growth generated in Canada by the Agreement would not result in a significant increase in carbon emissions. Canada is committed to stabilizing greenhouse gas emissions.***

***-- All three countries signed the United Nations Framework on Climate Change, committing member countries to limit emissions and report progress. Successful efforts under these agreements will help reduce the greenhouse gas emissions that have traditionally resulted from economic growth.***

**ON AIRBORNE POLLUTANTS...**

***What will be the effects after a NAFTA of the long-range transport of common airborne pollutants, including acid rain?***

*-- Airborne pollution doesn't always rise with economic growth. In fact, evidence shows that sulphur dioxide emissions fell significantly in Canada between 1970 and 1990, from a high of 6.9 million tonnes to 3.7 million tonnes.*

*-- Canada has negotiated a strong agreement with the U.S. on acid rain. The objective is to reduce its production and thus its spread between countries.*

*-- Under the terms of the Air Quality Accord, Canada and the U.S. pledge to control air pollution that flows across the international boundary.*

*-- The U.S. is scheduled to decrease annual sulphur dioxide emissions by more than nine million tonnes -- 40 per cent less than the 1980 level -- by the year 2000. In the case of common pollutants originating in Mexico, it is highly unlikely that these would reach Canadian borders.*

*-- Southwesterly air flows are usually accompanied by rain, and common pollutants from far south would be washed out of the atmosphere before reaching us.*

*-- Mexico is also starting to substitute cleaner-burning natural gas for current consumption of high sulphur oil. This will reduce sulphur and nitrogen oxide emissions that produce acid rain.*

***The review points out that organic chemicals are not as easily removed from the atmosphere as common pollutants and appear to travel further from where they are produced. How does the review address this?***

***-- The NAFTA contains several provisions that would permit Canada to influence the production and use of organochlorines in Mexico and the U.S.***

***-- For example, the NAFTA would:***

- ***allow a country to prohibit the importation of products that contain residues in excess of those allowed by the importing country;***
- ***necessitate the publication of proposed standards so that they could be commented upon by the governments or nationals of other member countries;***
- ***require the development of enhanced environmental standards; and***
- ***provide for the creation of a working group on environmental standards and enforcement.***

***-- Canada and Sweden are co-chairing a United Nations task force to develop a protocol for the international control of organic pollutants by 1994.***



**ON THE ARCTIC...**

***The Arctic plays a vital role in regulating the global climate. Is the NAFTA likely to cause it to become more polluted than it is already?***

***-- Any increased production or use of pollutants in Canada as a result of the NAFTA are expected to be minimal, given Canada's existing legislative and regulatory requirements and the modest economic effect of the NAFTA.***

***-- Canada will continue its research and monitoring in this area. The increased bilateral and trilateral environmental co-operation being developed in conjunction with the NAFTA will complement ongoing international efforts to address these issues.***

**ON LAND AND FOOD...**

***Is it possible that increased agri-food export opportunities could be an incentive to expand Canada's agricultural land base at the expense of marginal lands and wetlands?***

***-- This is not expected to occur.***

***-- Mexico's agri-food exports to Canada are already largely duty-free, and a major proportion of this trade is complementary to Canadian production.***

***-- Although Canadian exports of such commodities as grains, oilseeds and red meats to Mexico are expected to increase under a NAFTA, their volume is likely to remain modest in comparison to total Canadian production.***

***-- Canada and Mexico have both recognized the importance of wildlife and wildlife habitat in a series of international agreements, including the Convention on International Trade in Wildlife Species and the Convention on Wetlands and Wildlife Habitat. These agreements provide ongoing forums in which to address these issues.***

***How will the NAFTA stop products treated with pesticides outlawed in Canada from entering this country?***

***-- Maximum residue levels have been established for produce entering Canada, and those that exceed these are simply prohibited entry.***

***-- Health and Welfare Canada maintains a monitoring system at Canadian border points.***

***-- The importation of produce into Canada from these locations is not uncommon now.***

***-- Pesticides are registered for specific combinations of crops and pests. Mexico and the U.S. both produce different crops, and have different pests, than those found in Canada. Consequently, some pesticides registered in those countries are not necessarily registered for use in Canada.***

***-- Of prime importance to Canada is the safety of these products for human consumption.***

**ON FISHING...**

***Is it possible that a NAFTA would further jeopardize Canada's declining fish stocks?***

***-- Canada retains full control over policies dealing with conservation issues, including the granting of commercial fishing licences policies and foreign participation in Canadian fisheries.***

***-- The government will ensure that new market opportunities provided by NAFTA are developed only in conjunction with sound conservation practices.***

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**ON FORESTRY...**

***Will the opportunities of the NAFTA for the Canadian forest industry result in the harvesting of more trees than ever?***

*-- The phasing out of tariffs and many non-tariff barriers is expected to lead to an increase in Canadian exports of forest products to Mexico.*

*-- Tariff rates now are the highest on particle board (66 per cent) and on newsprint (32 per cent), so these products could experience the largest proportional increases.*

*-- Particle board is made from residual wood chips. Increased production would not directly increase tree harvesting. Rather, excess wood chips would be used. This reduces environmental problems in Canada associated with the disposal of excess chips, which now are commonly burned.*

*-- Increased exports of newsprint to Mexico would not result in a significant incremental increase in current production levels. Once again, wood residue rather than virgin fibre would provide the raw material for part of the increased production.*

*-- In terms of increased tree harvesting to meet demands for construction lumber, and so on, Canada follows sound conservation practices, including reforestation, and is committed to sustainable development.*

**ON OIL IMPORTS...**

***Under a NAFTA, would there be an increased risk of oil spills at sea as a result of increased imports of oil from Mexico?***

*-- Less than two per cent of Canadian oil imports now come from Mexico, and they enter the country free of duty.*

*-- Imports should not increase significantly under a NAFTA.*

*-- International shipping regulations continue to ensure that the transportation of oil by sea is as safe and secure as possible.*

**ON WATER...**

***Will Canada be forced into allowing inter-basin water exports under the NAFTA?***

***-- No. The large-scale export of water was not part of the NAFTA negotiations. The Government of Canada has developed a firm policy on water transfers or diversions. The policy expressly prohibits such projects.***

***Will the government introduce legislation to ensure water cannot be exported, as it did with the FTA?***

***-- Yes. The NAFTA implementing legislation will contain a specific provision confirming Canadian sovereignty over water resources.***

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