

PRELIMINARY DRAFT, FOR DISCUSSION ONLY

NAFTA AND THE ENVIRONMENT
Fearsome consequences or major opportunities?

by
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on the topic

La nueva ecología en Norte Americana

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INTRODUCTION

Un dia, espero estar capable de comunicar en Espanol. Hasta esto momento, yo quiero decir solamente algunas palabras en Espanol para expresar mi gusto en estar aqui in Mexico y en asistir a questa conferencia.

When we look at the way human populations now act and interact as part of ecological structures, it is probably not unreasonable to treat North America as an ecosystem in itself, linked together both through the dynamics of natural system and through economic relationships.

The thread of my reasoning here in this brief paper is very simple:

1. There have been a lot of concerns expressed about NAFTA as a threat to social goals, including environmental goals, in all three countries.
2. All three countries of North America have expressed their environmental objectives very clearly (although implementation often does not follow), and want to see them respected in trade arrangements.
3. The GATT tradition is different. From experience with GATT and other trade deals, it seems clear that environmental objectives have to be explicitly addressed within NAFTA.
4. NAMI might help in educational efforts and in animating a broad consensus on strong environmental provisions within NAFTA"

But the problem is being approached from the wrong direction at the moment. The difficulty is that NAFTA negotiations are in the hands of trade policy people. These trade policy people work from a very strong tradition of economic analysis, and they are out to slay a particular dragon—the dragon of *protectionism*.

This view of the problem sees the solution as writing "trade rules governing environmental measures".

But I want to argue that this whole approach is backwards. The starting point is the need to assure the integrity of the ecological systems of the planet. At our scales of population and economic activity, it is no joke to say that the life-support systems on which we all depend are truly at risk.

We must therefore shape our trade policy, like all our other economic policy, within some over-riding agreed framework of environmental ground rules

Therefore, I want to talk about trade and environment questions involving the three countries of North America. In particular, I should like to discuss briefly with you the way in which the conflicts between trade values (the goal of unimpeded flows of goods and all) and environmental values (pursuit of a sustainable society through conservation of resources and preservation of biodiversity) might be resolved within the emerging North American community.

I start from the premise that economic integration is occurring, and will continue. The domain of the economy is now the globe (even if the domain of the polity still reflects much smaller communities). It is not desirable or sensible to fight this process — the big cliché of the Canada-US FTA debate (that "the status quo is not an option") is surely equally correct in relation to the on-going NAFTA negotiations. We can, however, and — in my view — we must resist the tendency toward unlimited growth and the perceived mandate for development even at the expense of social or environmental goals. Economic integration will occur, but needs to be channelled and guided by some agreed synthesis of common high environmental goals.

In all our three countries citizens and organizations are concerned about the apparently unquestioned imperative to grow, the relentless destruction of the environment, rapidly increasing loss of ecological heritage, and increasing disenfranchisement and poverty. Citizens are also concerned about arriving at solutions to these problems.

1. CONCERN ABOUT NAFTA

These concerned citizens look with trepidation on the proposed trilateral trade agreement. For different reasons they see it as a threat:

i. The growth imperative.

There is reluctance in political and industrial circles to address the need to limit growth and over-consumption,

and a concomitant reluctance to acknowledge the implications, both social and economic, of violating those limits.

In the process of wrapping the semantic capsule 'sustainable development' around this potentially unpalatable two sided world-view was born the genteel ploy of emphasizing the growth imperative for consumption in the South and the industrial communities comfortable with "business (much) as usual", while focusing on sustainability for purposes of dealing with the increasingly strident and influential concerns of environmental movements and scientific bodies documenting the possible dangers of global change. Thus there remains latent much of the old Stockholm debate between environmentalists and industrialist in the North and between developed nations of the North and developing nations of the South. (Dobell, 1992, p. 4)

Since our economies are growing and the ecosystems within which they are embedded are not, the consumption of resources everywhere has begun to exceed sustainable rates of biological production. Seen in this light, much of today's wealth is illusion derived from the irreversible conversion of productive natural capital into perishable human-made capital. (Rees, 1991, Draft. p. 9)

The result of unchecked growth has been the following:

Encroaching deserts (6 million ha/year; deforestation (11 million ha/yr of tropical forests alone); acid precipitation and forest dieback (31 million ha damaged in Europe alone); soil oxidation and erosion (26 billion tonnes/yr in excess of formation; toxic contamination of food supplies; draw-down and pollution of water tables; species extinction (1000s/yr); fisheries exhaustion; ozone depletion (5% loss over North America [and probably globally] in the decade to 1990); greenhouse gas build-up (25% increase in atmospheric CO₂ alone); potential climatic change (1.5-4.5C⁰ mean global warming expected by 2040); and rising sea-levels (1.2-2.2 m by 2100) and like trends are the result of either excess consumption or the thermodynamic dissipation of toxic by-products of economic activity into the ecosphere (Data from: Brown et al [Annual]; Brown and Flavin 1988; Canada 1988; WCRP 1990; Schneider 1990; US Environmental Protection Agency [reported in Stevens 1991]). (reported in Rees, 1991, Draft. p. 11)

Continued development and growth has even been perceived as an inevitable fact of life by the President of the World Bank: in a recent speech, Barber Conable suggested that " a basic truth is that development cannot be halted, only directed". (Conable, 1989, p. 15)

ii. The trade policy imperative.

There is a discrepancy between the establishment of environmental policy through international commitments and the denial of the policy through free trade agreements:

In June 1988 both the US and Canada participated actively in a world conference on The Changing Atmosphere: Implications for Global Security. The conference concluded that global atmospheric problems were the product of 'an unintended, uncontrolled, globally pervasive experiment whose ultimate consequences could be second only to a global nuclear war.' and recommended national efforts to

reduce carbon emissions by 20 % by the year 2005. yet later that year the Canada-US Free trade Agreement was ratified, entrenching energy and resource policies that are fundamentally at odds with the policy directions endorsed by representatives of the countries at the global warming conference. Under the terms of the free trade agreement; both countries forego, for as long as the agreement stands, the use of regulatory devices that could prevent the development of fossil fuel resources for export. (Shrybman, S. 1990, p. 22)

There is also a compromising of the environment as a result of trade agreements:

It [NAFTA] may limit Canada's or British Columbia's authority to establish relatively tough environmental standards; and it may limit the public's access to decision-making affecting the environment during the negotiation of an agreement and the operation of such an agreement. Therefore, the association urged the government of British Columbia to:

- undertake an environmental assessment (with full opportunity for public access to information and involvement) of the potential impact on British Columbia's environment and environmental decision-making process
- insist that the federal government do the same; and
- oppose any trade agreement with Mexico that:
 - i) would impair the province's ability to set relatively high environmental standards;
 - ii) does not specify that failure to establish and enforce reasonable environmental standards is considered to be a trade subsidy; or
 - iii) does not include mechanisms to facilitate public access to information regarding and public participation in, decision-making under the agreement (Environmental Law Association , Ministry of Development, Trade and Tourism,1991 p. 23)

iii. The difficulty of translating negotiated agreements into enforceable action.

There is a watering down of environmental resolve when action is required. For example a policy "to prevent pollution" frequently becomes translated into action "to reduce or mitigate pollution to the extent feasible and practicable" or "as appropriate" or words to that effect.

Compare, for example, conference statements like

12. The Ministers agreed that, in order to achieve ESID, industry initiatives should include the following objectives:

- a) Adoption of pollution prevention, the approach that prevents pollution at the source in products and manufacturing processes rather than removing it after it has been created (UNIDO, 1992, p. 7)

with operating guidelines like

the thrust of the world Bank's energy work is increasingly to promote development in the energy sectors of developing countries while taking prudent steps to mitigate damage to the environment" (the World Bank, 1989)

2. ENVIRONMENTAL CONCERNS THROUGH INTERNATIONAL DISCUSSIONS

Thus we see a number of discordant themes in the trade/environment area. We do, however, have general agreement on environmental goals, at least in the abstract.

Indeed, for at least twenty years we have engaged in fairly strong environmental rhetoric.

In June 1972 at the UN (Stockholm) Conference on the Human Environment the following statements were made:

To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and national governments will bear the greater burden for large-scale environmental policy and action within their jurisdictions.

This conference stated the common conviction that:

Principle 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well being and he bears a solemn responsibility to protect and improve the environment for present and future generations...

Principle 2:

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate

Principle 13:

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and co-ordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve the human environment for the benefit of their population. (Stockholm Conference on the Human Environment, June 1972)

Now in June of 1992 we are entering into a new world agreement, the "Rio Declaration on Environment and Development" at UNCED, and we have also been grappling with the GATT . [EXPAND] Do these recent international documents address environmental concerns or are these documents still just rhetoric?

UNCED

Indications to date suggest that the discussions at UNCED will not resolve the basic tensions between environmental goals and economic principles [ecological rights and economic privileges].

The Draft text for the RIO Declaration [on the Environment and Development] reveals still far too strong an overhang of orientation to a model of the nation-state and national sovereignty and a reluctance to curb growth or to come up with international environmental standards, with an international court of environmental law, with the enshrinement of the right to a safe environment and to an environmental heritage, or with any form of international environmental governance.

In principle 2. "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. (2 April 1992, Rio Declaration on Environment and Development]

In principle 3.

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations
(2 April 1992, Rio Declaration on Environment and Development]

The Prep Com delegates also failed to define explicitly what is meant by development: it can be argued that there is a fundamental distinction between exploitative and humanitarian development. Even the chair of the drafting committee on "Rio Declaration on Environment and Development" continued to perpetuate the simplistic myth that the north is concerned about [only] the environment and the south is concerned about [only] development. (March 26, 1992, personal communication). Such claims overlook, of course, concerns embodied in declarations such as those in the "Constitutional Law for the Ecological Equilibrium and Protection of the Environment" (Government of Mexico, 1988)

Not only have the delegates been reluctant to argue for an agreement which limits growth and gives the environment primacy within the sustainable development context, they have also failed to recognize more fundamental non-anthropocentric rights

Principle 1 Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.
(2 April 1992, Rio Declaration on Environment and Development]

GATT

Other agreement such as GATT have succeeded in resolving the tension between environmental goals and economic principles [ecological rights and economic privileges] by giving primacy to unimpeded flows of goods and all and ignoring environmental values (pursuit of a sustainable society through conservation of resources and preservation of biodiversity).

GATT is built on the premise of nation states and meaningful national borders. Indeed the whole apparatus of international law has to presume that the relevant actors are national governments.

GATT, as presently interpreted, fails to recognize the "power of governments to implement environmental regulation ..." and brings about "increased economic pressures to reduce environmental standards." (Comments by Rolfe, C. , "Environmental considerations regarding a possible Mexico-Canada Free trade Agreement," for the West Coast Environmental Law Association, February, 1991).

Each one of the three states involved in the current NAFTA negotiations has attempted to object to other states using high environmental standards to influence trade, and in each case GATT has supported the state seeking to object to high standards:

"The Canadian pulp and paper industry has urged Canada to challenge U.S. laws requiring the use of recycled fibre in newsprint." (Shrybman, 1991, p. 13). The Canadian government has argued that a US. Environmental Protection Agency rule banning the use of all forms of asbestos violates the US. Canada FTA and GATT(Eric Christensen, "Pesticide Regulations and International Trade", Environment, Vol. 32. No. 9, November, 1990, p 45)

The U.S. recently proposed in GATT negotiations that nations be prevented from adopting domestic pesticide standards more stringent than international standards. (Eric Christensen, "Pesticide Regulation and International Trade", Mark Ritchie, "GATT, Agriculture and the Environment: The US Double Zero Plan, " The Ecologist, Vol. 20, No. 6, November, 1990, p. 214.)

The U.S.- based Non-Ferrous Metals Producers Committee is using the U.S.- Canada FTA to support its challenge to Canadian federal and provincial pollution control programs intended to reduce emissions

from the Canadian smelting industry. (Shrybman "Selling the Environment Short: an environmental assessment of the first two years of free trade between Canada and the United States", Canadian Environmental Law Association, January, 1991, p. 13) (cited in Rolfe, Chris, Environmental considerations regarding a possible Mexico-Canada Free trade Agreement for the West Coast Environmental Law Association, February, 1991).

And Mexico ... When in 1990 the U.S. placed an embargo upon tuna products from Mexico, "Mexico complained that the tuna embargo was inconsistent with obligations owed to Mexico under GATT. The September 1991 report of a three-member panel of experts established pursuant to the third-party dispute settlement procedures of GATT determined that the American embargo on Mexican tuna, even though designed to conserve dolphins was inconsistent with the GATT (McDorman, T. 1991, p. 2)

The GATT Panel stated that under the GATT " a contracting party may not restrict imports of a product merely because it originates in a country with environmental policies different from its own". (US. Mexico GATT Panel, 3 September 1991, at paras 2.1-2.2). It is this statement that has been seen as the biggest problem with the "GATT Panel report from an environmentalist point of view. (McDorman, T. 1992, p. 19). However, even the normally environmentally sensitive Nordic countries have indicated that a country is not free 'to require that imported products [be] produced as cleanly abroad as at home." (EFTA members press convening of working party, 82 Focus- GATT Newsletter 2-3 (July 1991) Any other conclusion reached by the GATT Panel would allow certain countries to dictate to others what standards must exist and this would clearly be an invasion of a country's sovereignty. Moreover, as the Panel concluded, any other conclusion would permit trade only between countries with identical regulations and this would amount to a dismantling of the GATT. (McDorman, T., 1992, p. 19)

The unwillingness to "impose standards" was underlined in the Venezuelan intervention when the delegate stated,

Potentially, any nation could thereby justify unilaterally imposing its own social, economic or employment standards as a criterion for accepting imports. Any influential contracting party could effectively regulate the internal environment of others simply by erecting trade barriers based on unilateral environment policies. (The Venezuelan intervention in the U.S.- Mexico GATT Panel, note 3, at para. 4.27).

Rather than considering high standards an "imposition", perhaps we should contemplate, high standards as "the expression of collective will" . Given the recognized urgency of the global situation, the relevant goal should perhaps be the highest tenable common standards so that at least within the North American context, through a strongly principled NAFTA, our energy could be directed toward moving upward to these standards rather than in using the GATT to condone and even foster lower standards.

Thus the goal of trade policy and GATT is almost the antithesis of the goal of international agreement on environmental standards.

GATT prohibits discrimination among like products according to their mode of manufacture. An environmental agreement, on the other hand, would like to discriminate strongly in favour of environment—friendly processes and production methods.

In the long run, the only way this can be effectively accomplished is by thorough-going resource pricing and internationalizing of all environmental costs. But even then we need strong social ground rules, and government action to create a framework for the system, expressing agreed environmental objectives and establishing a regulatory strategy to achieve them.

We must, in other words, assure that trade policy is the servant of our broader [environment] and development goals. Anything less than full environmental pricing must be seen as a trade-distorting subsidy and unacceptable in a liberal trading regime.

The point is to establish clearly some prior international understanding on the primacy of the environmental concern. Protecting the ecological systems on which we all depend must be the foundation for other relationships. We must cast the requirement of sustainability [sustaining the environment] as the starting point for any negotiations on trade policy or economic activity. "The environment"—particularly the renewable resource base, ecological systems and the

gene pool — represents the trust fund and the core asset which has to be preserved throughout all our other activities.

The GATT argument, and the conventional economic argument, is that we have to become rich enough to be able to afford environmental protection, clean up, and a high quality of life.

The sustainable development argument, properly interpreted, seems to me almost exactly contrary. Of course trade liberalization is important and will help to generate higher incomes and a taste for a higher quality environment. But still more important is to achieve the full internalization of resource costs and environmental costs, and thus cut off unsustainable activities before they need to be cleaned up. [Otherwise we will be caught up in a never ending cycle of "rectification of avoidable error".]

Smith (1992) notes that the Tokyo Round introduced explicit reference to the "environment" in setting out possible exceptions to GATT rules. The WWF in a recent paper proposes that such reference should be written explicitly into the GATT itself, and specifically into article xx.

3. POSSIBILITY OF COMMON ENVIRONMENTAL CONCERNS BEING ADDRESSED WITHIN AND THROUGH NAFTA

There has been a lot of commentary on NAFTA thus far; the "environment" has now emerged as a major topic. More generally trade/environment issues are becoming the contemporary challenge. But presently these issues are too much dominated by trade policy and notions of sovereignty.

On the issue of a North American Free Trade Agreement there has already accumulated a great deal of literature [refs. Hart, CD Howe, Murray Smith, Conference volumes, BC consultation documents, etc.]

On the more particular question of trade and environment, there is also beginning to accumulate a vast literature. The issue is being addressed by a GATT working party and OECD studies, and is a major topic for discussion at UNCED. Also a number of reports [IISD conference, GATT report,...]

Does NAFTA become the realization of the dire predictions enunciated by its critics or an opportunity for significant change? Is it possible to summon up the political will to limit growth, to achieve respect for human rights, to attain social justice, to enshrine ecological rights and to entrench fair and ecologically sound employment?

We need to do a lot more than admit there is a problem (Aridis, 1992)
 "All measures taken so far are bandaid solutions ... we need real solutions (Carbajal, 1992)
 "Future economic growth will compound existing problems unless specific steps are taken to integrate free trade and environmental protection. (Emerson, 1991)
 Human rights, labour rights and environment deserve equal treatment with trade rights (Axworthy , 1991.)

Within Canada, United States and Mexico there are laws, policies, and regulations in place which appear to preserve and protect the environment; yet industry is continually in non-compliance with these environmental provisions and government is continually violating its own policies by not enforcing regulations. Without a commitment to achieve enforceable means to attain a limit to growth, and without a commitment to set up an infrastructure to enforce regulations, the current North American situation which is now urgent will become irreversible.

The three countries negotiating the NAFTA all enunciate strong environmental objectives but will all three countries have the political will to ensure that there will be long term preservation and protection of the environment and to insist that such preservation and protection of the environment become an integral part of the NAFTA agreement? Will our governments translate their rhetoric into action and ensure that high environmental standards will be enforced?

Mexico: President Salinas has expressed his commitment to the environment in the following way:

" Social liberalism therefore presupposes a State that promotes and encourages private initiative, but has the capability to firmly regulate economic activity and thus prevent the few from taking advantage of the many; a State that channels attention and resources towards meeting Mexicans' basic needs, is respectful of labor rights and union autonomy, and protects the environment." (Carlos Salinas de Gortari, *Social Liberalism: Our Path, Mexico: On the Record*, Vol. 1. No. 4 (March 1992)

In March 1988, Mexico enacted its General Law for Ecological Equilibrium and Environmental Protection. It is a comprehensive statute designed to ensure that there is

an adequate legal basis for protecting the environment. Indeed, the law is based in large part on US. law and experience.

A central element of the 1988 law is the requirement for environmental impact assessments to be completed on all new investment projects, in both the public and private sectors. To ensure they comply with these requirements, many privately owned companies have already created special environmental offices to analyze the environmental impacts of proposed business activities (US. government publication] Free trade Negotiations with Mexico Environmental Matters, p. 3)

In 1990.. the Government [of Mexico] shut down all 24 Military industrial installation in the Mexico City area because of potential environmental risks." (Free trade negotiations with Mexico, Environmental matters, US. government publication]

Canada: The Canadian Government has expressed its concern for the environment through the objectives and goals of the "Green Plan".

Canada's Green plan for a healthy environment is a co-ordinated package of actions to help Canadians work together in partnership to achieve, within this decade, a healthy environment and a sound , prosperous economy.

Canada's Green Plan is second to none in its comprehensive approach to a full range of environmental challenges, funding, accountability and provision for public involvement ," he [Minister of Environment,de Cotret] added.

Canada's Green Plan offers new policies, programs and standards to clean up, protect and enhance our land, water and air, our renewable resources, the Arctic, parks and wildlife, and to reduce waste generation and energy use. it also includes measures to maintain global environmental security, foster environmentally responsible decision -making and improve our emergency preparedness....

Canada's Green Plan is a major step forward of our country. It greatly expands, organizes and focuses our environmental activities. It is an optimistic document about the future of our environment," Mr. de Cotret said. (Government of Canada's release " Federal Government releases environmental green plan" December, 1990.)

Goal

to ensure that citizens today and tomorrow have clean air, water and land essential to sustaining human health and the environment....p. 1

Goal

the balanced use of strong and effective environmental laws, with market-based approaches for environmental protection. p. 20

INITIATIVES

- Over the next five years, strengthen federal inspection, information exchange and investigation programs to better enforce environmental regulations

In 1991, develop and adopt a comprehensive Code of Environmental Stewardship covering all areas of federal operations and activities. The Code will be complemented by a list of targets on issues ranging from waste generation to contaminated sites clean-up and emission standards, establishment of an office of Environmental Stewardship and measures to ensure that federal purchasing polices and practices integrate environmental considerations. Implementation of the code will ensure that the activities and operations of the federal government meet or exceed the standards and practices it is recommending for others. (p. 21) Government of Canada's release " Federal Government releases environmental green plan" December, 1990.)

United States:

President Bush has also reiterated the United States' concern for the environment in the following letter to Congress.

"A NAFTA offers an historic opportunity to bring together the energies and talents of these great nations, already bound by strong ties of family, business and culture. Prime Minister Mulroney and President Salinas are both leaders of great vision. They believe as do I, that a NAFTA would enhance the well-being of our peoples. They are ready to move forward with us in this unprecedented enterprise. In seeking to expand our economic growth, I am committed to achieving a balance that recognizes the need to preserve the environment, protect worker safety, and facilitate adjustment. ... At my direction, Ambassador Hills and my Economic Policy Council have undertaken an intensive review of our NAFTA objectives and strategy to ensure thorough considerations of the economic, labor and environmental issues raised by you and your colleagues.

Environmental issues in the NAFTA

- Protection of Health and Safety: We will ensure that our right to safeguard the environment is preserved in the NAFTA
 - we will maintain the right to exclude any products that do not meet our health or safety requirements and we will continue to enforce those requirements
 - we will maintain our right to impose stringent pesticide, energy conservation, toxic waste, and health and safety standards
 - we will maintain our right, consistent with other international obligations, to limit trade in products controlled by international treaties (such as treaties on endangered species or protection of the ozone layer).
 - Enhancement and Enforcement of Standards: we will seek a commitment to work together with Mexico to enhance environmental health and safety standards regarding products and to promote their enforcement
 - we will provide for full public and scientific scrutiny of any change to standards before they are implemented.
 - we will provide for consultations on enhancing enforcement capability, inspection training, monitoring and verification
 - we will consult on national environmental standards and regulations, and will provide an opportunity for the public to submit data on alleged non-compliance.
- (Response of the Administration to issues raised in connection with the negotiation of a North American Free Trade Agreement. May 1, 1991, p. 5)

We need to give content to all these declarations.

The current global ecological crisis is urgent and a serious shift in perspective is necessary if the crisis is to be addressed. This shift in perspective must permeate all future considerations of trade and development related to the environment, health, human rights and social justice. Through this new perspective we must begin perceiving that the ecological preservation and protection must be given primacy and that an integral part of ecological preservation and protection is the correction of presently distorted market mechanisms.

The onus of proof would then shift from those objecting to increased growth and to potentially ecologically unsound interventions having to demonstrate harm to those advocating industrial interventions into the ecosystem having to demonstrate worth and safety.

All three of our countries have spent years enunciating the goal of protecting and preserving the environment. What we now need to do is achieve the highest attainable synthesis of our common goals in

the coordination of policy in a North American community, not some lowest common denominator achieved through some process of mechanical compromise [re - integrative bargaining—we need to achieve a bargaining set with sufficient diversity to be able to trade off objectives for one country in one area with goals for others in others.]

Such standards should be related to environmental, social justice, human rights and health provisions. The enshrining of high standards conforms in principle to declared objectives of all three countries. These declared objectives are present not only in legislation from all three countries but also in many international covenants and declarations to which all three countries to varying degrees subscribe [have ratified] . These declared objectives are evident in the preamble to Bill C 13 (Environmental Assessment Review Act) in Canada, in the intent behind the Mexican Constitutional Law for the Ecological Equilibrium and Protection of the Environment and in the Standards set by the U.S. Environmental Protection Agency.

So I would like to ask whether NAFTA can provide a lead in a [more] fruitful direction, which achieves a better reconciliation of the differing perspectives, situations and orientations of the different players and at the same time establishes high common standards. Differences in North America are not so great as in the world as a whole, and should be more easily bridged. All three countries share the same lofty rhetoric and indeed the same idealistic -- apparently potent -- legislation. All three fall down badly on implementation, on monitoring and on enforcement.

But all also can see the writing on the wall, and might be ready to turn around the decision structures and alter the priorities in the direction necessary to move towards sustainable development. All may be ready jointly to move against the threats of "jobs blackmail" and "competitiveness blackmail" which have stalled any realistic moves thus far towards adequate pricing of resources or adequate weighting of preservation and future interests.

Working together we may be able to reach meaningful agreements on measures to avoid both "the race to the bottom" in jurisdictional competition and the costs associated with the "first over

the top" fear. What is needed is strong political will to entrench high common standards and strong enforcement measures to be enshrined in a code of commitments that will be an integral part of the NAFTA.

So I am not here to wring hands about the threat posed by Mexico as a pollution haven in a North American community. (In fact, in many ways all of North America currently could be described as a pollution haven for industry and settlement). Rather, on the assumption that we will, for political reasons, have a little time before a final agreement is reached, I want to ask how we can use this lull to translate some of our nice rhetoric into realistic commitments to action within a trade agreement.

4. POTENTIAL ROLE FOR NAMI IN THE COORDINATION OF POLICIES IN A NORTH AMERICAN COMMUNITY

I would also like to suggest that perhaps NAMI could provide leadership in bringing together independent thinkers from all three countries to articulate a broader vision within which the process of economic integration might proceed. A model might be found in an independent group (the so-called "Group of Forty") which met in Stockholm in 1972, and at that time stated the following:

II There is a fundamental conflict between traditional concepts of economic growth and the preservation of the environment. During the last century, uncontrolled continuous growth in the industrial production of environmentally harmful substances and products in some regions of the world has produced dangerous amounts of pollution and has been responsible for an inordinate waste of resources. At the same time, an increasing concentration of economic power and industrial activity has led to a centralization within a few nations of the benefits from the use of the earth's natural resources, and the international political influence that is derived from the control of these resources. It has become clear that more rational distribution of industrial power is necessary if the global problems of environment and society are to be solved. Such a redistribution would achieve at the same time a more equal apportionment of economic and political benefits among nations and individuals.

III The exploitation of third World national and regional resources by foreign corporations, with a consequent outflow of profits from the exploited regions, has resulted in a vast and growing economic disparity among nations and a monopoly of industrialized countries over production, energy, technology, information and political power. Complementary to this is the flooding of developing countries with surplus goods and capital, with a resultant distortion of their economies, and the deformation of their environments into monocultures in the interest of further enriching the industrial states. The foreign investments, economic development and technological practices of such industrial states must be curbed and altered by the basic claim of a region's people to control of its resources. Use of these resources, however, should not be dictated by the accidents of geography, but must be allocated in such ways as to serve the needs of the world's people in this and future generations. The authority of any region's people over resources and environment includes the obligation to recognize that the environment is an indivisible whole, not subject to political barriers. The environment must be protected from avoidable pollution, destruction and exploitation from all sources. (Earth Talk, 1972, p. 170)

Much conventional technology and many of its proliferating products have proved ecologically harmful. We cannot reject technology per se but must restructure and reorient it. Ecologically sound technologies will minimize stresses to the environment. A rapid development of the new approach should be complemented by a technology review and surveillance system to assure that any new technology is ecologically compatible and will be used for human survival and fulfillment. It is not enough to add anti-pollution devices to existing technologies, although this might well be the initial stage of phasing out present polluting technologies. (Earth Talk, An Independent Declaration on the Environment, 1972)

5. CONCLUSION:

1) At the last NAMI meeting in November in Santa Fe, participants indicated that they were struck by "the speed at which the environmental issue has risen to the top of the NAFTA agenda". Throughout the past 20 years there have been numerous declarations related to the environment. These declarations reflect deep international concern, but, once passed, give only momentary relief to the anguish that the international community senses about the environment and then they sink into oblivion. International environmental standards have to be ratified and enforced. NAFTA needs to reflect the strong international principles that have been enunciated by the General Assembly in declarations, such as "Historical Responsibility of States for the Preservation of Nature for Present and Future Generations (UN Assembly Resolution 35/8 (1080); "Interrelationships between Resources, Environment, People and Development "(UN General Assembly Resolution 36/179, 1981); "International Cooperation in the Field of the Environment" (UN General Assembly 36/192:, 1981); "World Charter for Nature" (UN General Assembly Resolution 37/7, 1981) and by the IUCN in the World Conservation Strategy (1980) itself.

If we in a North American community are seriously to address the issue of the environment, NAFTA must embody a set of international principles and environmental objectives that can explicitly override or supersede the trade imperatives which otherwise drive our economic relationships.

2. As part of its role of "exploring ideas for increased cooperation among the peoples of the North American continent", NAMI — itself an independent/ informal community of commentators — should

promote participation in a series of informal tripartite non-governmental consultations to establish a synthesis of high standards and an infrastructure to ensure that these standards are enforced.

3. Beyond agreed legislative standards, however, we must look to changing the underlying attitudes and values which drive economic decisions. We must work towards a new perspective or outlook for consumers and producers, where both consumers and producers will be socially and environmentally , individually and organizationally, responsible. NAMI could make a serious contribution through its educational activities.

Ultimately we need to move through participation and education to shape not just consumer-driven corporations but principle-driven corporations (the true 'socially responsible" green corporation), and not just interest-based negotiations, but value-based consensus. It's a task we can all work on.

Muchas gracias

REFERENCES

- Aridis, H. Quoted in Kootnikoff, L. " Mexico city had only 6 days of clean air throughout 1991," *Vancouver Sun*, January 4, 1992
- Artin, T. (1973). *Earth Talk, Independent Voices on the Environment*. New York: Grossman Publishers,
- Axworthy, T. (1991). in Knepper, W. (1991). *Harmonizing Economic Competitiveness with Environmental Quality: A North American Challenge*. Santa Fe, New Mexico: The North American Institute, p. 11.
- Border Trade Alliance, Mexico, February , (1992)
Exhibit 2. "Protecting the Environment. Mexico's Public Works Program for the Border Region" (note participation of President Salinas)
- B.C. Government Report (1991). Ministry of Development and Trade and Tourism report on BC. consultations with the private sector re.: Mexico, Canada and the United States: the trilateral free trade proposal. Victoria, Canada: Ministry of Development, Trade and Tourism.
- Bush, G. " Letter provided to Chairman Rostenkowski and Majority leader Gephardt: similar letter sent to every Member of Congress, May 1, 1991
- Canadian Environmental Protection Act, 1988, Government of Canada
- Government of Canada's release " Federal Government releases environmental green plan" December, 1990.
- The Canadian Environmental Protection Act, 1988, C 22.
The Environmental Contaminants Act, 1974-75-76, C 72.
The Fisheries Act, 1977, C 35
The Department of the Environment Act, R.S., C 14 (2nd Supp.), s2
The Government Organization Act 1979, C 13
The Hazardous Products Act, R.S., C H-3, S 1
Fisheries Act, Statutes of Canada 1976077, c35
- ... computer print-out sent by Consulate of Mexico, latest news from April 12 and April 13 related to the environment CHECK
- Colby, M. (1990). "Environmental management in development; the evolution of paradigms." *World Bank discussion papers* V. 39
- "Constitutional Law for the Ecological Equilibrium and Protection of the Environment" Mexican document, 1988)

EFTA members press convening of working party, 82 Focus- GATT Newsletter 2-3 (July 1991). In McDorman, T. "The 1991 U.S.- Mexico GATT Panel Report on Tuna and Dolphin: Implications for Trade and Environment conflicts, January 1992,

Dobell, R. (1992). "Regarding those in other places, other times" *Redirections*. Victoria, Canada: Centre from Sustainable Regional Development.

Emerson, 1991, cited in Knepper, W. (1991). *Harmonizing Economic Competitiveness with Environmental Quality: A North American Challenge*. Santa Fe, New Mexico: The North American Institute, p. 7

GATT. U.S. Mexico GATT Panel, 3 September 1991. In McDorman, T. "The 1991 U.S.- Mexico GATT Panel Report on Tuna and Dolphin: Implications for Trade and Environment conflicts", January 1992,

Hart, M. A. (1990). *North American Free Trade Agreement: The strategic Implications for Canada*. Institute for Research on Public Policy, Ottawa.

Hill, R., and R. Wonnacott. "Free trade with Mexico: What form should it take?" *Commentary*. No.28, March, 1991. C.D Howe Institute.

Jeanneau, S. "Mexico-U.S. free trade talks: Why Canada should get involved" *Econoscope*. September 1990 The Royal Bank of Canada. Special edition

Knepper, W. (1991). *Harmonizing Economic Competitiveness with Environmental Quality: A North American Challenge*. Santa Fe, New Mexico: The North American Institute.

Lipsey, R. "Canada at the U.S. -Mexico Free Trade Dance." *Commentary*. No.20, August 1990. C.D Howe Institute.

McCrae, J.(). "Dirty technology belongs in third world" World Bank Environmental division

McDorman, T. "The 1991 U.S.- Mexico GATT Panel Report on Tuna and Dolphin: Implications for Trade and Environment conflicts," January 1992,

Northcotte, V. "Women in the maquiladoras" *Briar Patch*. September 1991,

Ramphal, S. (1992). "From Stockholm to Brazil and Beyond" keynote address. *Globe 92*

Rolfe, C.. (1991) "Environmental considerations regarding a possible Mexico-Canada Free trade Agreement for the West Coast environmental law association"

Salazar, J. "Free trade and Mexican agriculture" *Briarpatch*. September 1991, pp. 37-39)

Salinas de Gortari, C. "Social Liberalism: Our path", in Mexico: *On the Record*. Vol. 1. No. 4 (March 1992)

Shrybman, S. (1991) "International Trade and Environment: Assessment of Present GATT Negotiations. " *Alternatives*. Vol. 17 No. 2 1

Shrybman, S. "Selling the Environment Short: an environmental assessment of the first two years of free trade between Canada and the United States", *Canadian Environmental Law Association*, January, 1991, p. 13)

Smith, Murray (1992) "Dealing with Nontariff Barriers in a Trilateral Free Trade Agreement" in *Negotiating and Implementing a North Merican Free Trade Agreement*, Leonard Waverman (Ed) Vancouver: The Fraser Institute

Protecting the Environment Mexico's public works program for the Border Region," undated, and unsigned document)

United Nations document. Stockholm Convention on the Human Environment, 1972

U.S. government publication Free trade Negotiations with Mexico Environmental matters,

U.S. Response of the Administration to issues raised in connection with the negotiation of a north American Free Trade Agreement. May 1, 1991

Venezuelan intervention in the U.S.- Mexico GATT Panel, note 3, at para. 4.27. In McDorman, T. "The 1991 U.S.- Mexico GATT Panel Report on Tuna and Dolphin: Implications for Trade and Environment conflicts, January 1992,

World Bank. (1989). "Striking a balance: the environmental challenge of development" Washington, the World Bank.

Wonnacott, R.J. "Canada and the U.S. - Mexico Free Trade Negotiations." *Commentary*. No.21, September 1990. C.D Howe Institute.