

NAFTA EFFECTS

POTENTIAL NAFTA EFFECTS: CLAIMS AND ARGUMENTS 1991-1994

ENVIRONMENT AND TRADE SERIES



COMMISSION DE
COOPÉRATION ENVIRONNEMENTALE

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Commission for Environmental Cooperation

A NORTH AMERICAN APPROACH TO ENVIRONMENTAL CONCERNS

Three nations working together to protect the environment

The Commission for Environmental Cooperation (CEC) was established by Canada, Mexico and the United States in 1994 to address transboundary environmental concerns in North America. While the idea to create such a commission originated during the negotiations of the North American Free Trade Agreement (NAFTA), it derives its formal mandate from the North American Agreement on Environmental Cooperation (NAAEC).

The NAAEC builds upon and complements the environmental provisions established in NAFTA. It creates a North American framework whereby goals related to trade and the environment can be pursued in an open and cooperative way.

In broad terms, the NAAEC sets out to protect, conserve and improve the environment for present and future generations. How? The parties to the Agreement set out the following objectives:

- to protect the environment through increased cooperation;
- to promote sustainable development based on mutually supportive environmental and economic policies;
- to support the environmental goals of NAFTA and avoid creating trade distortions or new trade barriers;
- to strengthen cooperation on the development of environmental laws and enhance their enforcement; and to promote transparency and public participation.

In signing the NAAEC, the governments of Canada, Mexico and the United States committed themselves to a core set of actions, including:

- reporting on the state of the environment;
 - striving for improvement of environmental laws and regulations;
 - effective enforcement of environmental law; and
 - publication and promotion of information.
-

Mission Statement

The CEC facilitates cooperation and public participation to foster conservation, protection and enhancement of the North American environment for the benefit of present and future generations, in the context of increasing economic, trade and social links between Canada, Mexico and the United States.

Introduction and Acknowledgements

This report is one of a series of analyses prepared by the Commission for Environmental Cooperation (CEC) as a background contribution to the preliminary phase of the NAFTA Effects Project. The goal of this phase of the project is to set up a framework to assess the effects of the North American Free Trade Agreement (NAFTA) on the environment in North America. The NAFTA Effects project responds directly to Article 10(2)(l) of the North American Agreement on Environmental Cooperation regarding matters as they relate to economic development, as well as Article 10(6) regarding cooperation with the NAFTA Free Trade Commission to achieve the environmental goals and objectives of the NAFTA and to assess its environmental effects.

The objective of this study is to identify the major claims and arguments made by governments, academics, non-governmental organizations (NGOs) and others in Canada, the U.S. and Mexico suggesting that there are potential direct and indirect environmental effects of the NAFTA. It also outlines some of the potential indirect environmental impacts of both economic and social change predicted to result from the NAFTA.

In 1995, the CEC began the exploratory Phase I of the project. It has focussed on the core elements of the NAFTA along with its more general regime, as well as its direct and immediate effects on trade and investment flows within North America. The CEC is preparing an analysis of trade and investment activity in the period immediately preceding the NAFTA, including the period from January 1, 1994 to the present. The physical environmental changes flowing from NAFTA-induced economic activity will be considered in this analysis.

Research for the NAFTA Effects project is being carried out by a trilateral team of experts. An advisory body comprised of 15 senior representatives from relevant business sectors and environmental communities in Canada, the U.S. and Mexico is overseeing the research.

This background paper was prepared as part of the research process for the project. Mark Spalding and Marc Stern are responsible for the body of the report; Jeffrey Stoub and Jane Barr assisted the Project Manager in preparing it for publication.

Sarah Richardson
Program Manager, NAFTA/Environment
Montreal
November 29, 1995

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Introduction

Between 1991 and 1994 a wide-ranging set of debates took place regarding the economic, social, and environmental consequences of trade liberalization among Canada, Mexico and the United States. Speculation, predictions, assertions and arguments about the possible effects of the NAFTA were made by observers from a wide variety of backgrounds, interests and associations. Some predictions focussed on what might happen to the environment if the NAFTA were adopted and if trade increased as predicted. Others concentrated on existing negative environmental conditions and suggested that the NAFTA either will do nothing to improve them, or will in fact aggravate them. The items cited in this background paper were gleaned from many sources, including government documents, scholarly journals, newspapers, conference reports and NGO position papers, among others. The researchers conducted an exhaustive collection of material from all sectors involved in the debate over the environmental effects of the NAFTA. Through the objective collection of documents, they attempted to gather materials that would provide an accurate reflection of the claims being made during the NAFTA debate.

This background paper surveys the claims in order to assist in the development of a framework for use in assessing the actual effects of the NAFTA on the environment. As such, the report does not cover environmental laws and institutions related to dispute settlement procedures, transparency and community right-to-know issues. Nor does it cover other procedural or policy matters related to the creation and implementation of the three NAFTA

environmental institutions: the Border Environment Cooperation Commission (BECC), the North American Development Bank (NADBank), and the Commission for Environmental Cooperation (CEC). It should also be noted that this survey merely sets forth the material in an organized fashion in order to document the claims that were being made. In no way does it attempt to analyze, judge or interpret their contents.

This background paper is divided into six major areas: Macroeconomic Issues, Legal/Compliance Issues, Border Issues, Public Health Issues, Sectoral Issues, and Natural Resource Issues. These major themes are each divided into relevant sub-issues, where the nature of the predictions and the answers they elicited are shown by listing the claims, counter-claims and institutional responses made as a result of the debate. Section 1, Macroeconomic Issues, addresses five sub-issues. The predictions that lower environmental standards and perceived lax regulations in Mexico would lead to increased industrial migration are listed in the first sub-section, and are particularly strong and numerous. Counter-claims include the positions that there is little empirical evidence that industries relocate to take advantage of lower environmental standards, and that other factors are more important determinants of relocation. The next sub-section shows another side of the debate: some observers predict that, given the economic growth expected as a result of the NAFTA, there should be additional resources with which Mexico can address its environmental concerns. Another sub-section lists the predictions of greater environmental problems in Mexico's interior due to

economic growth as a result of the NAFTA.

Legal/Compliance Issues, Section 2, tends to subsume all other issue areas because many predictions assumed that environmental harm, if any, would be the result of challenges to federal and sub-federal environmental standards due to trade disputes. Considerable concern is expressed over the possibility that state, provincial, and municipal environmental protection laws could be challenged as trade barriers under the NAFTA and are thus incompatible with international trade rules. Counter-claims and institutional responses focus on the legitimacy and integrity of domestic environmental laws. This section also includes claims that American environmental standards could be the subject of rollback pressure to maintain competitiveness.

The theme of the third section is Border Issues. This area was frequently the subject of predictions because of its importance as the focus of the intersection of trade between the US and Mexico. Issues include the threats of increased air pollution, water pollution, demand on scarce water resources, solid waste disposal problems, illegal hazardous waste dumping, potential for chemical emergencies, and pressures on wildlife. Predictions regarding the dispersion of industrial development away from the border are also included here.

Section 4 examines Public Health Issues. These include the heightened possibility of the spread of infectious diseases due to increased migration to the border, and the introduction of

tainted food to Canada and the US because of lower sanitary and phytosanitary standards in Mexico. These issues, however, were not the cause of a significant amount of debate regarding the potential effects of the NAFTA.

On the other hand, Sectoral Issues, Section 5, were the subject of many predictions, primarily because sustainable energy policies were omitted from the NAFTA. The following issues are covered in this section: the reduction in air pollution in Mexico due to greater use of natural gas, increased damage to natural resources in Mexico due to expansion of the petrochemical sector, lower incentives for energy conservation in the US due to more secure access to Mexican oil reserves and Canadian hydroelectric power, damage to natural resources from accelerated development of hydroelectric power, reduced subsidies to the agricultural sector that could lower environmental impacts, and the increased export of environmental technologies to Mexico.

Finally, Section 6 details the debate surrounding Natural Resource Issues, which was the subject of several predictions. These included the claim that the NAFTA will accelerate fishery exploitation in Mexico due to competitive pressures, that it will heighten Mexican and Canadian forest exploitation due to increased foreign investment and competition, and that mining development in Mexico will increase because of greater foreign financing and investment.

A large percentage of the sources of environmental predictions are from the US, a smaller number are

Canadian sources, and comparatively few are Mexican. One important reason for this focus is that because of the already existing US-Canada Free Trade Agreement (FTA), and because Canada and Mexico are separated by the United States, fewer environmental concerns were raised in Canada about the extension of the free trade area to include Mexico.

In the Index that follows, each claim, counter-claim and institutional response includes a short heading that contains a date, context and source.

The sources are identified by their acronyms, which are defined in the acronym list at the end of the study. The headings were used to compile a reference chart, found in Annex A, which allows the reader to evaluate the degree of support for each claim and counter-claim and to note institutional responses. Each claim, counter-claim and institutional response includes a citation at the end of each entry, enabling cross-reference to the bibliography for further research.

Index of Claims and Arguments about Potential NAFTA Environmental Effects

1. MACROECONOMIC ISSUES

9/3/91 *Statement to the USTR*
NRDC

Increased investment from NAFTA could compound environmental problems. (NRDC, 1991:4)

6/1/92 *Wall Street Journal*
CIM

“But why, then as opposition to NAFTA has begun to stem more from US concerns for jobs in light of an anemic economic recovery, hasn’t Mexico’s resolve on the environmental front fallen off? In fact, we may be seeing the emergence of a trend in which there is a direct correlation between environmental protection and renewed economic growth in both the US and Mexico.” (Goebel, 1992)

7/1/93 *El Financiero*
GM

“The three governments are guilty of having created a trade agreement made especially to meet the interests of multinationals without giving serious and responsible consideration to the negative repercussions of the agreement on ecosystems and natural resources.” (López, 1993:16)

7/8/93 *Wall Street Journal*
SC

NAFTA will bring economic benefits by increasing industrialization and that brings pollution along with it. (McCloskey, 1993:A13)

a. Industrial Migration to Mexico due to Lower Environmental Regulation

Claims

3/13/91 *National Journal*
“*Environmentalists*”

Heavily polluting industries such as steel making and chemical production will expand rapidly in Mexico, taking advantage of low environmental regulation. (Stokes, 1991:864)

8/12/91 *Position Paper*
CNI

“Powerful incentives to move south often are created by the difference in environmental compliance costs between Mexico and the US.” (Christensen and Leonard, 1991:6)

10/16/91 *House Testimony*
FOE

“Trade agreement may stimulate the flight of polluting industries to countries with weak environmental regulatory regimes.” (Hearings before the Subcommittee on Rules of the House, 1991)

9/24/92 *Wall Street Journal*
PC

The NAFTA has been designed to create a low wage, weak environmental regulatory enforcement haven for manufacturing. (Gutfeld, 1992:R9)

9/24/92 *Wall Street Journal*
not attributed

The NAFTA “will encourage companies to move to Mexico to take advantage of weaker enforcement there, and then export products back to the US.” (Gutfeld, 1992:R9)

10/14/92 *Plaintiffs’ Brief, PC vs. USTR*
PC, SCLDF, and FOE

The NAFTA “seeks to create a free trade bloc involving two developed countries (the United States and Canada) and a developing one (Mexico) that has weaker environmental standards and enforcement than its more developed counterparts... Mexico’s less stringent environmental requirements tend to lower production costs, which, when coupled with the removal of trade barriers under NAFTA, may create incentives for businesses to locate in Mexico.” (Public Citizen, 1992:6-7)

10/14/92 *Audley Affidavit, PC vs. USTR*
PC, SCLDF and FOE

“Under NAFTA, Mexico’s weaker environmental standards and enforcement activities may provide an incentive for some businesses to relocate to Mexico.” (Public Citizen, 1992:12)

3/16/93 *Senate Hearing*
Sen. Max Baucus

“Can US industry avoid US laws by relocation to Mexico?” (Senate Hearing, 3/16/93)

9/22/93 *House Testimony*
GU

“NAFTA provides an incentive for companies from Asia and Europe, as well as the United States, to move operations to Mexico... [These] companies will have little interest in increasing environmental protection... They will continue to use their political and economic power to limit improvements in environmental standards.” (Hearings before the Subcommittee on Energy and Power, 1993:78)

9/28/93 *Senate Testimony*
PC, SC, HS, PIRG, CWA

“The NAFTA encourages US companies to relocate to Mexico to save on production costs.” (Hearings before the Senate Finance Committee, 1993:278)

Fall 1993 *Academic Journal*
Stewart

“Environmentalists feared that a free trade regime would cause industries to migrate from the United States to Mexico, attracted in part by Mexico’s less demanding environmental standards. Such migration would accelerate environmental degradation in Mexico and the border area, lead to increased transboundary spillovers of pollution from Mexico into the United States, and fuel demands for relaxation of US environmental standards.” (Annual Symposium, 1993:752)

12/23/94 *Wall Street Journal*
CTC

Furniture factories will continue to move to Mexico to escape Los Angeles air-quality standards. (Fighting “NAFTA”, 1994:A1)

Counter-claims

4/18/91 *New York Times*

DDF

“‘[Pollution havens were] something conceivable four or five years ago when we did not have the contacts and information we have now,’ said the spokesman for the Mexican delegation, Fernando Menéndez Garza, air pollution coordinator for Mayor Manuel Camacho of Mexico City. He added that enforcement had increased at least five-fold in the last two years and that any company seeking to relocate to Mexico was told that it must comply with emission standards at least as strict as where it came from.”

10/91 *Review of Environmental Issues*

USTR

Industries likely to relocate ought to meet four criteria: high environmental compliance costs, exposure to expanded import competition from Mexico, low relocation costs relative to US environmental compliance costs, and low environmental costs in the new location. A USTR study completed in 1991 found only one US industry in 455 that met these criteria. (Office of the USTR, 1991)

1/92 *Independent Study*

Provincial Gov't of British Columbia, Canada

Despite the high abatement costs associated with many capital intensive industries, several factors make them unlikely candidates for relocation due to potential savings through reduced abatement expenditures. Human resource and infrastructure considerations can override environmental regulatory factors in siting decisions. Low per-employee

productivity would undermine cost-savings from lax pollution controls. Potential levies for infrastructure also figure against relocation in pursuit of savings. More importantly, private firms must consider both current *and* future regulatory action. Rising enforcement efforts, in response to both domestic and international pressures, indicate that opportunities to evade expensive pollution control measures in the present may not be available in the medium to long term. (West and Senez, 1992)

2/92 *Academic Paper*

NBER

Evidence from *maquiladora* activity indicates that industrial relocation to Mexico is driven by low labour costs, not by low pollution abatement costs. (Grossman and Krueger, 1992)

9/24/92 *Wall Street Journal*

IIE and US "trade officials"

The problem is overstated. Mexico has an increasing demand for a cleaner environment. It is too expensive to re-engineer to take advantage of lax standards. The pollution actually results from “overcrowding, lack of running water and sewage, and small companies looking to save money on environmental control.” (Gutfeld, 1992:R9)

10/92 *Official Report*

Government of Canada

“There is little or no empirical evidence of industries relocating to take advantage of possible reduced costs of complying with lower environmental standards.” The report identifies several reasons for this conclusion: pollution abatement costs are generally only one

percent of production costs, other factors are more important in relocation decisions, pre-NAFTA tariffs were generally already low in polluting industries, and future enforcement of Mexican standards is likely to increase — thereby undermining any long-term savings expected from relocation. (Government of Canada, 1992:9)

“There is likely to be minimal, or no relocation of Canadian industry due to the projected differences in pollution abatement costs.” (Government of Canada, 1992:10)

b. Greater Resources for Enforcement in Mexico due to Economic Growth

Claims

2/92 *Academic Paper*
NBER

As GDP per capita increases, air quality improves — indicating a positive relationship between economic growth and environmental protection. (Grossman and Krueger, 1992)

3/16/92 *Houston Chronicle*
Ampudia

“In Mexico we are aware of the magnitude of the environmental challenge. Our border registers an enormous activity, with more than 240 million crossings a year, with intense economic activity, and with a population that has doubled in the last ten years. Mexico has already enforced its environmental legislation and increased by 800 percent its budget for this purpose. A dramatic increase has been seen in the number of qualified inspectors... In this context, through the negotiation of NAFTA, Mexico is

looking for a commercial accord that will benefit our nations, and will be extremely careful of the environment and the rational use of our natural resources. Mexico will not accept any project, domestic or foreign, if it does not strictly comply with environment criteria.” (Ampudia, 1992)

10/92 *Official Report*
Government of Canada

“Economic growth is not automatically detrimental to the environment. Emissions [of SO₂ in Canada from 1970 to 1990] decreased despite growth in the Canadian economy.” (Government of Canada, 1992:8)

3/3/93 *The Washington Post*
Sen. John Chafee (R-R.I.)

“The best way to ensure that Mexico’s environment is cleaned up is to help Mexico become a prosperous country, and that means NAFTA.” (Behr, 1993)

5/3/93 *The Washington Post*
AS

“Studies show that the relationship between industrialization and environmental degradation resembles a bell curve. Pollution is greatest in the earliest phases of industrialization but begins to level off and then decrease as more wealth is available for controlling pollution. As one of the wealthier developing countries, Mexico is almost at the point where it will be able to begin devoting more resources to environmental cleanup. The free trade agreement will help get it there faster.” (Purcell, 1993:A19)

11/3/93 *El Financiero*
Profepa

Without NAFTA, many programs intended to promote environmental protection through enforcement and binational cooperation will likely not survive or will be severely limited. Institutions proposed to target international funds at environmental protection, such as the North American Development Bank, may also lose support. (Oñate, 1993:20)

9/28/93 *Senate Testimony*
EDF

“The NAFTA package will provide the regulations and funding necessary to mitigate the impact of increased development on the Mexican environment.” (Hearings before the Senate Finance Committee, 1993)

11/93 *US Government Report*
Clinton Administration

“The economic changes that come with the NAFTA... will expand the public and private resources for pollution control and other environmental effects.” (Government of the US, 1993)

3/1/94 *Position Paper*
CCC

The NAFTA will increase Mexico’s economic growth and, therefore, provide additional resources for Mexico to better address its environmental concerns. (Canadian Chamber of Commerce, 1994)

12/23/94 *Wall Street Journal*
“Mexican officials”

Without a growing economy, Mexico can not afford to pay for environmental controls and cleanups. (Fighting “NAFTA”, 1994:A1)

12/23/94 *Wall Street Journal*
Santiago Oñate Laborde “Mexico’s top environmental official”

“With NAFTA, we’ll have a more healthy economy and companies will have access to better [environmental] technology”, (Fighting “NAFTA”, 1994:A1)

Counter-claims

12/91 *Position Paper*
NRDC, GC, and INAINE

The draft NAFTA text “lacks a detailed, objective examination of means to channel finances from public and private sources directly into needed environmental infrastructure and regulatory programs. The ‘trade = prosperity = environmental improvement’ formulation is, for all intents and purposes, presented as an article of faith.” (NRDC and GC, 1992:5)

9/16/92 *Senate Testimony*
NRDC

There is no comprehensive, long-term strategy to fund environmental monitoring, enforcement and infrastructure. (Ward, Senate Testimony, 1992)

3/30/93 *Position Paper*
WCELA

“This simplistic idea at best confuses regulatory standards with the state of the environment. It also runs contrary to the simple evidence that the earth is facing an unprecedented environmental crisis after 150 years of equally unprecedented economic growth and growth in trade.” (Rolfe, 1993:2)

Fall 1993 *Academic Journal*
Stewart

“Some environmental advocates assert that economic growth inevitably causes increased environmental degradation. Because economic growth is both the objective and the result of trade liberalization, these advocates strongly oppose trade liberalization. They point to the severe pollution and other environmental problems of the *maquiladora* area as evidence that trade liberalization causes environmental degradation.” (Annual Symposium, 1993:752)

12/23/94 *Wall Street Journal*
CTC

US investors in Mexico are exploiting a poor nation that does not have the funds for cleanup. (Fighting “NAFTA”, 1994:A1)

Institutional responses

The NAFTA environmental side agreement guarantees citizen access to domestic courts to augment public entity enforcement. (NAAEC Article 6 and 7)

c. Unfair Competitive Advantage to Mexico-Based Industry due to Lower Environmental Standards

Claims

9/16/92 *Senate Testimony*
NRDC

Poor enforcement of environmental regulations can exacerbate competitive imbalances within the US-Mexico-Canada trade relationship as firms gain economic subsidies by exploiting pollution havens. (Ward, Senate Testimony, 1992)

9/28/93 *Senate Testimony*
PC, SC, HS, PIRG, CWA

“NAFTA puts US companies following environmental and other social rules at a competitive disadvantage for staying in the United States and doing the right thing by following US laws.” (Hearings before the Senate Finance Committee, 1993:278)

Institutional Responses

The North American Commission for Environmental Cooperation was created, in part, to resolve potential allegations that a NAFTA party persistently fails to enforce its domestic environmental laws. (NAAEC, Part V)

d. Avoidance of Environmental Laws by Private Firms due to Competitive Pressures ***Claims***

7/7/91 *Los Angeles Times*
Mexican Government Report

Mexican firms will shirk environmental responsibilities to reduce operating costs unless Mexican officials substantially improve enforcement of environmental laws. [From a confidential report prepared for the Mexican government, as described in the US media.] (Darling, 1991)

8/12/91 *Position Paper*
CNI

“Unrestricted competition under NAFTA could force Mexican industry to ignore environmental laws.” (Christensen and Leonard, 1991:8)

7/12/93 *La Jornada*
RFSA

Economic sanctions, in place of commercial sanctions negotiated under NAFTA's environmental agreement, may not prove strong enough to halt industrial pollution since many companies may choose to simply pay the fines and avoid making changes in their operations. (Restrepo, 1993)

Institutional Responses

The North American Commission for Environmental Cooperation was created, in part, to resolve potential allegations that a NAFTA party persistently fails to enforce its domestic environmental laws. (NAAEC, Part V)

e. Greater Environmental Problems in the Interior of Mexico due to Economic Growth from NAFTA

Claims

11/27/90 *Position Paper*
NWF

10/16/91 *House Testimony*
NWF

11/27/91 *Position Paper*
NWF

The NAFTA will attract more foreign industries to Mexico, further taxing the country's ability to meet national and international environmental protection standards. The environmental consequences of the *maquiladora* industries already evident along the border will be spread throughout Mexico due to NAFTA. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b; National Wildlife Federation, 1991c)

8/12/91 *Position Paper*
CNI

"NAFTA will simply accelerate the environmentally destructive and ultimately unsustainable development that has occurred under the *maquiladora* program." (Christensen and Leonard, 1991:10)

10/16/91 *House Testimony*
FOE

Expanded trade can increase damage to the environment. More severe air pollution due to increased interstate trucking appears to be a common problem generated by past free trade agreements. (Hearings before the Subcommittee on Rules of the House, 1991)

2/92 *Academic Paper*
NBER

Since Mexico enjoys comparative advantage in a set of activities (agriculture and labour-intensive manufactures) that on the whole are "cleaner" than the average, the composition effect of trade liberalization may well reduce pollution there due primarily to contraction in chemical products, rubber and plastics production. Investment liberalization, in addition to trade liberalization, will reverse these effects, promoting growth in these and other heavily polluting industries such as paper products, primary metal, fabricated metals and transportation equipment. Since the NAFTA includes both trade and investment liberalization, the later concerns are germane. (Grossman and Krueger, 1992)

9/8/92 Conference
Cárdenas

"[NAFTA] is an unacceptable situation in all three countries. These are agreements that may condition the lives of several generations, political relations and institutionality, as well as the guidelines of economic and social development. Of the little that has been leaked and the experience of the US-Canada agreement, one can foresee that Mexico's development will be subordinated to the interests of the US economy and particularly to those of the large multinational corporations that operate from this country."
(Cárdenas, 1992)

9/24/92 *Wall Street Journal*
PC

The NAFTA will make already severe pollution in Mexico worse. (Gutfeld, 1992:R9)

11/93 *US Government Report*
Clinton Administration

"The NAFTA will tend to aggravate problems associated with Mexican industrial centers and transport arteries." (Government of the US, 1993:74)

12/23/94 *Wall Street Journal*
CTC

The environmental damage apparent in the *maquiladoras* will become the norm throughout Mexico. (Fighting "NAFTA", 1994:A1)

9/95 *Paper Quadri*

"It is possible that, despite the environmentally benign efforts... that will act within a system of free trade, the absolute increase in natural resource use and environmental services brought by accelerated growth in production and consumption, even considering the reduction of environmental burden per unit of production, will tend toward constantly more extensive pressures on the environment." (Quadri, 1995:78)

Counter-claims

9/93 *Fact Sheet*
WWF

"Economic development resulting from the NAFTA will not accelerate environmental degradation." The institutional responses of the three governments provide "a structure which address each of Mexico's environmental problems forcefully, which will greatly increase the input of environmental groups, and which will institutionalize recent favourable changes in Mexico."
(World Wildlife Fund, 1993)

Institutional Responses

Mexican government spending on enforcement was increased in response to complaints. Mexico also increased the quality and quantity of its regulations to win favour in the US and thus the passage of NAFTA. More loans were made available from the World Bank and the Inter-American Development Bank to fund environmental projects in Mexico. The US increased its cooperation with Mexico on enforcement actions, including training environmental enforcement officials.

2. LEGAL ISSUES

a. Potential for Challenges to Federal and Sub-federal Environmental Standards under NAFTA Provisions

Claims

10/16/91 *House Testimony*
FOE

Past trade agreements illustrate that domestic environmental and consumer health and safety standards that affect another country's ability to export to, or invest in, the United States can be undermined due to challenges by trade partners. (Hearings before the Subcommittee on Rules of the House, 1991)

4/24/92 *Congressional Testimony*
NRDC

"NAFTA could preempt national, state, and local environmental standards as 'non-tariff trade barriers'". (NRDC, 1992)

9/24/92 *Wall Street Journal*
not attributed

Following a finding of pesticide residue on produce exported to the US, "Mexican farmers might challenge a US law banning a pesticide that is allowed in Mexico, arguing that the ban is an unfair barrier to trade."
(Gutfeld, 1992:R9)

Challenges to environmental laws will end up before international or trilateral tribunals more interested in free trade.
(Gutfeld, 1992:R9)

10/14/92 *Plaintiffs' Briefs*
PC vs. USTR PC, SCLDF and FOE

Under NAFTA's food safety provisions, "standards must be based on scientific principles and risk assessment and may restrict trade only to the extent

necessary to achieve their legitimate goals. These and other aspects of NAFTA's food safety provisions are likely to give rise to challenges to many US food safety laws, such as the Delaney Clauses of the Federal Food, Drug and Cosmetic Act, which prohibit certain carcinogenic food and color additives, and California's Proposition 65, Safe Drinking Water & Toxic Enforcement Act, which prohibits exposures to certain carcinogens and reproductive toxins without providing a clear warning. Countless other food safety measures may also be vulnerable to challenge under the NAFTA". (citations omitted) (Public Citizen, 1992:15)

12/14/92 *Ad: The Washington Post*
SC, GU, FOE, HS, NCL, PAA, EII, RAN, CTC, FTC, FET, CWA, PC, IATP, NTC, CIEL, PAN, AWI, CA, SAPA, MMF

Trade panels under NAFTA and GATT are not transparent. Multinationals can, therefore, circumvent democracy (avoid Congress) and have a better shot at attacking laws through the NAFTA and GATT bureaucracies, e.g., Tuna-Dolphin Case. (SABOTAGE, 1992:A20)

1/15/93 *La Jornada*
CONIECO

Business leaders will not accept an environmental side agreement to NAFTA that will make the US into an "environmental police force". "We will also not permit Mexican authorities to negotiate stricter environmental laws. What US legislators want to do is make the laws stricter so that when Mexican industry can't comply they will "impose the so-called compensating ecological tax." [The US] wants to "apply protectionist measures for their products

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- and in reality are not the least bit interested in caring for Mexico's environment." (Sandoval, 1993)
- 3/4/93 *Letter to USTR*
DOW, CIEL, FOE, SC, PC, HS, HSI, IATP, CRA, NFFC, EII, MMF, API, RAN, WDCS, PAWS, FFA, EIA, ESI, IPPL, NYPIRG, CNI, NTC, WRI
- The NAFTA Article 105 undermines the ability of sub-federal governments to innovate in the realm of public policy and does not assure their ability to "establish initiatives that exceed federal and international standards." (Defenders of Wildlife, *et al.*, 1993:5)
- "Under Chapter 10 of NAFTA, ...green procurement initiatives are vulnerable to challenge." (Defenders of Wildlife, *et al.*, 1993:8)
- 3/16/93 *Senate Hearing*
Sen. Max Baucus
- "Can NAFTA be used to attack US law?" (Senate Hearing, 3/16/93)
- 3/18/93 *La Jornada*
Larios
- Mexico's laws should not necessarily be changed because of requirements set out under NAFTA because such changes could further threaten Mexico's weak economy already hit hard by crisis. Instead of changing its laws, Mexico should improve environmental consciousness among its citizens and push for other environmental improvements. (Larios, 1993)
- 6/9/93 *Letter to USTR*
NRDC
- The risk assessment, or balancing test, requirement regarding human health standards will not allow parties to adopt or maintain "zero risk" policies, such as
- in the Delaney Clause of the Federal Food, Drug and Cosmetic Act. (NRDC/Ward, 1993)
- 6/30/93 *Opinion, PC vs. USTR*
Judge Richey
- "Those laws that are found to be contrary to the NAFTA's free trade provisions either cannot be applied or can become the basis of trade sanctions. In addition, by virtue of the Supremacy Clause, a state law that conflicts with the NAFTA is preempted by the NAFTA." (Citations omitted) (Public Citizen, 1992:14)
- 7/8/93 *Wall Street Journal*
SC
- The NAFTA will endanger wildlife laws which limit the import of ivory, tropical birds, dolphin-safe tuna and sea-turtle-safe shrimp. (McCloskey, 1993:A13)
- 9/13/93 *Letter to USTR*
CTC
- "State and local laws impacting trade that enact stricter environmental standards than international dispute resolution standards could be challenged as illegal trade barriers." "State and local procurement laws and policies designed to create 'green markets' for recycled materials, energy conservation technologies and other environmentally desirable products and services could be subject to challenge in front of a tribunal."
- Federal legislation designed to protect marine mammals, wildlife and fisheries "could be subject to challenge as illegal trade barriers." "Efforts to conserve forests...and to otherwise restrict the export of natural resources...could be undercut as unfair trade practices." (Citizens Trade Campaign, 1993)
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9/22/93 *House Testimony*
GU

“NAFTA undermines so-called green procurement regulations and standards that are applied by many of our State and local governments and the Federal Government... NAFTA’s procurement rules in Chapter 10 provide that many of these innovative energy saving initiatives could be viewed as technical barriers to trade and could be challenged by our NAFTA partners.” (Hearings before the Subcommittee on Energy and Power, 1993:80)

9/28/93 *Senate Testimony*
PC, SC, HS, PIRG, CWA

“Some important US environmental and consumer protections [if challenged under NAFTA] could well run afoul of [NAFTA’s test] requirements.” Important state and municipal laws may also be threatened under the NAFTA’s test procedures. Process-based standards may also be challenged under the NAFTA. (Hearing before the Senate Finance Committee, 1993:277)

10/6/93 *Position Paper*
SC

“Under NAFTA, US environmental laws could be required to meet tests not found in US domestic law concerning their compatibility with international trade rules.”

“NAFTA also requires that standards be ‘based on scientific principles’ and ‘risk assessment’ (NAFTA, Article 712.3). Regulations based on consumer preference or on the precautionary principle could be subject to challenge. The sound-science test would permit NAFTA dispute panels to second-guess food safety laws.” (Sierra Club, 1993:6-8)

Fall 1993 *Academic Journal*
Stewart

Environmentalists were concerned that the NAFTA would lead to “an evisceration of US efforts to bar imports of goods, such as Mexican-caught tuna, because of the environmental harm caused by the means of production.” (Annual Symposium, 1993:752)

12/23/94 *Wall Street Journal*
Colgan

Canadian companies may use the NAFTA to challenge Maine’s regulation of organically grown produce. (Fighting “NAFTA”, 1994:A1)

Counter-claims

10/92 *Official Report*
Government of Canada

“The NAFTA will guarantee the right of governments in Canada to select the level of environmental protection appropriate to Canadian environmental conditions and priorities.” (Government of Canada, 1992:5)

Fall 1993 *Academic Journal*
Stewart

“Environmental, health and safety regulation of products can obstruct trade... [and] may have the purpose or effect of preferring and protecting domestic producers.” (Annual Symposium, 1993:755)

9/14/93 *Position Paper*
NWF

“None of the US’s environmental laws are disallowed under NAFTA... Conservation laws that are non-discriminatory can be successfully defended [under the NAFTA].”

“The US government takes responsibility for defense of legitimate

sub-federal standards... and include[s] states as full participants in any panel proceeding that would involve their laws.” (National Wildlife Federation, 1993)

9/28/93 *Senate Testimony*
EDF

The NAFTA requires that domestic environmental laws have “a legitimate purpose”. It does not impose an “unnecessary restriction to trade” test or a “no more restrictive than necessary” test. (Hearing before the Senate Finance Committee, 1993)

9/93 *Fact Sheet*
WWF

“NAFTA will not lead to the repeal of any US environmental standards.”

“The NAFTA package will not lead to the degradation of natural resources. NAFTA permits the US, Canada and Mexico to adopt measures to protect and conserve natural resources.”

“State and local government procurement laws that encourage recycling, waste reduction and energy conservation are not at risk under NAFTA. The procurement provisions in NAFTA do not apply on the state and local level.” (World Wildlife Fund, 1993)

11/93 *US Government Report*
Clinton Administration

“NAFTA’s provisions ensure that the ability of the United States to establish and enforce its food safety and pesticide standards will be maintained and that the integrity of US regulatory processes will be fully respected.” (Government of the US, 1993:ES-6)

Institutional Responses

Article 906(2), as well as the CEC, prevent the weakening of environmental laws as a result of the NAFTA.

“Prohibitions on the illegal trade in wildlife and endangered species are explicitly protected under NAFTA Article 104.” (National Wildlife Federation, 1993)

The burden of proof that an environmental law or regulation is a non-tariff barrier shifted to the challenging party, opposite to the position of the GATT (NAFTA, Chapter 20). To augment this, a defending party can move their venue to a NAFTA panel from a GATT/WTO panel, where the burden goes the other way. (NAFTA, Article 2005).

Domestic sanitary and phytosanitary standards may be set at any level under the NAFTA so long as they meet a “scientific basis” test. The NAFTA explicitly permits adoption of standards that exceed federal or international standards.

Articles 904, 905 and 906 of the NAFTA text ensure that each Party, or its political subdivisions, can enact its own health, safety and environmental protection standards; and that, while harmonization is encouraged, higher standards may be set by particular units. Further, only *upward* harmonization is permitted by the Agreement. Subchapter B of Chapter 7 addresses these issues with specific reference to sanitary and phytosanitary measures.

b. Downward Pressure on Environmental Statutes in all Three Countries to attract Investment

Claims

11/27/90 *Position Paper*
NWF

10/16/91 *House Testimony*
NWF

11/27/91 *Position Paper*
NWF

Under the NAFTA, the Mexican government will relax its rules on foreign investment, reducing the likelihood that foreign companies will be required to meet strict environmental requirements in order to invest in Mexico. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b; National Wildlife Federation, 1991c)

8/12/91 *Position Paper*
CNI

“Industry threats to move south will put downward pressure on US environmental standards.” (Christensen and Leonard, 1991:8)

12/14/92 *Ad: The Washington Post*
SC, GU, FOE, HS, NCL, PAA, EII, RAN, CTC, FTC, FET, CWA, PC, IATP, NTC, CIEL, PAN, AWI, CA, SAPA, MMF

The competition to attract investment will result in a lowest common denominator result for environmental statutes. The country with the least restrictive statutes will become the floor, and the others will harmonize downward to that floor. (SABOTAGE, 1992:A20)

9/24/92 *Wall Street Journal*
not attributed

The US will have to revise its environmental protections downward to

keep its health and environmental regulations from causing undue economic harm to Mexican exporters, or compensate the Mexicans for the lost opportunities for sales. (Gutfeld, 1992:R9)

10/14/92 *Plaintiffs' Brief, PC vs. USTR*
PC, SCLDF and FOE

“NAFTA may have pollution haven effects, whereby businesses move their operations to Mexico to evade higher environmental standards elsewhere in North America, which will increase environmental problems on the continent, and create pressure to lower US standards.” (Public Citizen, 1992:17)

“Plaintiffs’ affidavits identify numerous health and environmental measures... such as subsidies that promote land conservation, renewable energy and other environmentally beneficial conduct; food safety standards; and technical regulations; which may be rendered ineffective, in whole or in part, by the NAFTA.” Examples are: pesticide residue standards; mandatory nutritional labelling; infant formula testing requirements; Circle of Poison Prevention bill; food irradiation and biotechnology restrictions; bans on imports of shrimp caught through technology that harms endangered sea turtles; bans on fish imports from countries using large-scale driftnets; inspection requirements; Proposition 65; moratorium on the use of hormones in milk production; ban on ivory imports from countries without adequate elephant conservation programs; pollution controls and workplace health standards; pesticide bans; recycling taxes; chemical bans; processes for approving drugs, medical devices, pesticides, or chemicals; renewable energy and conservation subsidies; and subsidies for land conservation and

-
- alternatives to pesticides. (Public Citizen, 1992:21)
- 7/8/93 *Wall Street Journal*
SC
- The NAFTA will create obligations to move American pollution laws toward international standards, which generally lag behind. This would push the US toward weakening its laws and would expose states to pressures to weaken their laws. (McCloskey, 1993:A13)
- 9/13/93 *Letter to USTR*
CTC
- “Pressure will occur on local and state regulators within the US to reduce standards and enforcement here. Companies will hold out the threat of moving offshore to avoid their environmental responsibilities in the US.” (Citizens Trade Campaign, 1993)
- 9/28/93 *Senate Testimony*
PC, SC, HS, PIRG, CWA
- “The standards provision may be interpreted as generally encouraging ‘harmonization’ of standards towards generally lower international standards.” Detailed procedures under the NAFTA for “conformity assessment” and other harmonization mechanisms may facilitate this process. (Hearing before the Senate Finance Committee, 1993:277)
- 10/6/93 *Position Paper*
SC
- “Article 1114.2 is meaningless from a legal standpoint. Use of the term ‘should’ rather than the term ‘shall’ indicates that its obligations are non-enforceable.” (Sierra Club, 1993:9)

Fall 1993 *Academic Journal*
Stewart

Environmentalists were concerned that NAFTA would lead to “a weakening of US federal and state food, plant, and product standards.” (Annual Symposium, 1993:752)

Counter-claims

1/21/93 *Press Release*
INE

“Within NAFTA the three countries are prohibited from making their environmental standards less strict in order to attract more investment. Other international agreements signed by the three countries meant to provide even stricter environmental protection will take priority over bilateral agreements.” (Reyes, 1993)

Institutional Responses

The North American Commission for Environmental Cooperation was created to promote environmental cooperation among the three NAFTA parties.

Chapter 11 of the NAFTA text (Article 1114) specifically recognizes “that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures.”

Failure to enforce domestic environmental law in an effort to attract investment can lead to penalties and trade sanctions under the NAFTA.

3. BORDER ISSUES

Institutional Responses

Through the BECC and the NADBank, the NAFTA agreement provides massive new funding for border clean up and improvements in existing infrastructure. These measures are intended to deal with both existing problems and the likely effects of NAFTA-induced growth along the border.

a. Increased Air Pollution

Claims

11/27/90 *Position Paper*
NWF

Under the NAFTA, the *maquiladora* industry will expand, causing greater health and environmental problems within the border region. (National Wildlife Federation, 1990)

12/9/91 *House Testimony*
SC

“Increased trade with NAFTA will increase the amount of vehicular traffic along the border, as well as border crossing. This increase will bring with it growth in congestion, emissions, and noise.” (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:129)

Fall 1992 *Academic Journal*
Zagaris

“As industrialization in the border region continues, additional stress will be placed on the border’s air quality.” (Zagaris, 1992:73)

“... increased economic liberalization and NAFTA in particular will result in increased industrialization, along with increased commercial, residential, and vehicular activity.” (Zagaris, 1992:74)

A major source of air pollution is motor vehicle emissions. (Zagaris, 1992:73)

10/14/92 *Plaintiffs’ Brief, PC vs. USTR*
PC, SCLDF and FOE

The NAFTA has the potential to exacerbate serious air quality problems in the border area. (Public Citizen, 1992:22)

9/22/93 *House Testimony*
FOE

“A dramatic expansion of truck traffic along the US-Mexico border seems inevitable... The resulting pollution would be significant... The NAFTA completely lacks... compensatory measures.” (Hearings before the Subcommittee on Energy and Power, 1993:136-7)

Counter-claims

Winter 1993 *Academic Journal*
Reilly

“The land transportation provisions of the NAFTA will decrease border congestion and attendant air pollution by allowing trucks to transport cargoes directly to their destinations in both countries, cutting idling time, and ending the need to switch trailers at the border and return them home empty. This will reduce air pollution and also reduce the risk of hazardous waste spillage in the environmentally stressed border area.” (Reilly, 1993:186)

11/93 *US Government Report
Clinton Administration*

“NAFTA contains offsetting provisions that address [problems of congestion, noise and emissions], such as opening up cross-border trucking to avoid delays, and eliminating the need for inefficient ‘empty’ return trips...” (Government of the US, 1993:ES-6)

“The NAFTA provides specific customs administration procedures to streamline import and export procedures and to ease congestion at the customs border points. This will alleviate air pollution...”

“Within eight to ten years of implementation of the NAFTA, it is even possible that border area air emissions in Mexico could be reduced below current levels if the most favourable projections of cooperative efforts and dispersal of growth are realized.” (Government of the US, 1993:ES-6,7)

Institutional Responses

On February 25, 1992, Presidents Bush and Salinas released the first stage of the Integrated Border Environmental Plan (covering 1992 to 1994) to address air and water pollution, hazardous waste, chemical spills, pesticides and enforcement.

The US-Mexico Border Environment Cooperation Agreement establishes the Border Environment Cooperation Commission and the North American Development Bank to address the infrastructure needs of the border.

b. Increased Water Pollution

Claims

11/27/90 *Position Paper*
NWF

10/16/91 *House Testimony*
NWF

Under the NAFTA, further significant growth in the border regions of both countries could completely overwhelm efforts to protect border water resources. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b)

12/9/91 *House Testimony*
SC

Water quality along the border in pre-NAFTA days was critical. “More industry [due to NAFTA] can only aggravate a situation which is far from being remedied.” (Hearings before the Subcommittees on International Economic Policy and Trade and on Western Hemisphere Affairs, 1991:130)

Fall 1992 *Academic Journal*
Zagaris

Increased activity on the border will result in increased water contamination from industrial dumping and human waste. (Zagaris, 1992:74-5)

10/14/92 *Plaintiffs’ Brief, PC vs. USTR*
PC, SCLDF and FOE

The NAFTA has the potential to exacerbate serious water quality problems in the border area. (Public Citizen, 1992:22)

02/93 *Press Release*
MEM

Movimiento Ecologista Mexicano calls for a binational referendum on the NAFTA and its side agreements so as to gather support for reforms to environmental

provisions. The group says that border citizens were not consulted during negotiations and that the agreements do little to solve serious water pollution problems in the Rio Grande caused by both *maquiladoras* and illegal imports of hazardous waste into Mexico. (MEM, 1993)

Counter-claims

11/93 *US Government Report
Clinton Administration*

“Implementation of the NAFTA will provide added impetus to cooperative projects already underway between the US and Mexico, pursuant to the Integrated Border Environmental Plan (IBEP), to promote water quality and preserve the border environment. Moreover, the Border Environment Cooperation Agreement will provide additional financing for infrastructure projects to treat waste water.”
(Government of the US, 1993:ES-7)

Institutional Responses

On February 25, 1992, Presidents Bush and Salinas released the first stage of the Integrated Border Environmental Plan (covering 1992 to 1994) to address air and water pollution, hazardous waste, chemical spills, pesticides and enforcement.

The US-Mexico Border Environment Cooperation Agreement establishes the Border Environment Cooperation Commission and the North American Development Bank to address the infrastructure needs of the border.

c. Increased Demand on Scarce Water Resources

Claims

11/27/90 *Position Paper
NWF*

10/16/91 *House Testimony
NWF*

11/27/91 *Position Paper
NWF*

Under the NAFTA, further significant growth in the border regions of both countries could completely overwhelm efforts to properly develop border water resources. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b; National Wildlife Federation, 1991c)

12/9/91 *House Testimony
SC*

“An increase in industry and plant sitings will increase the draw on aquifers for water in the border region. Overdrafts are already severe in many areas.” (Hearings before the Subcommittees on International Economic Policy and Trade and on Western Hemisphere Affairs, 1991:130)

Fall 1992 *Academic Journal
Zagaris*

Increased activity will increase the demand for water. Increased use also lowers quality due to increased levels of minerals in ground water as it is drawn off. (Zagaris, 1992:74-5)

Counter-claims

11/93 US Government Report
Clinton Administration

“The Border Environment Cooperation Agreement will provide additional financing for infrastructure projects to... provide clean drinking water supplies.”
(Government of the US, 1993:ES-7)

Institutional Responses

On February 25, 1992, Presidents Bush and Salinas released the first stage of the Integrated Border Environmental Plan (covering 1992 to 1994) to address air and water pollution, hazardous waste, chemical spills, pesticides and enforcement.

The US-Mexico Border Environment Cooperation Agreement establishes the Border Environment Cooperation Commission and the North American Development Bank to address the infrastructure needs of the border.

d. Increased Solid Waste Disposal Problems

Claims

Fall 1992 Academic Journal
Zagaris

The NAFTA will result in continued rapid population growth in the border region in areas without solid waste disposal infrastructure or areas without the capacity to keep up with growth. Hazardous wastes are often dumped in the solid waste disposal sites rather than being properly disposed of. Dumps are often burned, which further reduces air quality. In addition, dumps also allow seepage into water supplies causing contamination. (Zagaris, 1992:81-2)

Institutional Responses

On February 25, 1992, Presidents Bush and Salinas released the first stage of the Integrated Border Environmental Plan (covering 1992 to 1994) to address air and water pollution, hazardous waste, chemical spills, pesticides and enforcement.

The US-Mexico Border Environment Cooperation Agreement establishes the Border Environment Cooperation Commission and the North American Development Bank to address the infrastructure needs of the border.

e. Increased Illegal Dumping of Toxic Chemicals and Hazardous Wastes in Mexico due to Industrial Growth and the Absence of Satisfactory Disposal Methods

Claims

11/27/91 Position Paper
NWF

Illegal dumping of hazardous wastes in Mexico prior to the NAFTA was particularly acute in the border region and Mexico City. Expansion of trade will likely exacerbate the problem as foreign investment and economic growth lead to increased generation of hazardous wastes for which Mexico has almost no treatment or disposal capacity. (National Wildlife Federation, 1991c)

11/91 Academic Journal
NBER

Trade liberalization will lead to a 10.5 million pound increase of toxic releases from manufacturing enterprises in Mexico. (Grossman and Krueger, 1992)

12/9/91 *House Testimony*
SC

Hazardous waste disposal problems in Mexico will expand due to economic growth. Improved tracking, storage and disposal capacity is required to cope with this growth. (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:128)

Fall 1992 *Academic Journal*
Zagaris

Increasing production of toxic chemicals and hazardous waste along the border may overwhelm the capacity of American facilities to handle the control of those industrial by-products. (Zagaris, 1992:77-9)

10/14/92 *Plaintiffs' Brief, PC vs. USTR*
PC, SCLDF, and FOE

The NAFTA has the potential to exacerbate seriously inadequate hazardous waste disposal problems in the border area. (Public Citizen, 1992:22)

Spring 1993 *Academic Journal*
NRDC (Comment attributed to Homero Aridjis, President of Grupo de los Cien)

Increased industrial activity will lead to ever increasing amounts of toxic pollution. (Ward and Fischer, 1993)

7/12/93 *El Financiero*
FOE

Illegal and clandestine hazardous waste dumps along the US-Mexico border, in addition to the certain failure of authorities to control environmental pollution caused by the explosive growth of industry in the border region, should prevent the three countries from signing a free trade agreement, according to Gabriel Sánchez of Friends of the Earth. (Vigueras, 1993)

Counter-claims

11/93 *US Government Report*
Clinton Administration

“With the NAFTA, resources will be made available to manage [hazardous] waste properly and encourage enforcement of hazardous waste laws.” (Government of the US, 1993:ES-8)

Institutional Responses

Mexico has instituted a model of the US Toxic Release Inventory as a result of the side agreement's requirement for such reporting. (NAAEC, Article 5(1)(d)).

On February 25, 1992, Presidents Bush and Salinas released the first stage of the Integrated Border Environmental Plan (covering 1992 to 1994) to address air and water pollution, hazardous waste, chemical spills, pesticides and enforcement.

The US-Mexico Border Environment Cooperation Agreement establishes the Border Environment Cooperation Commission and the North American Development Bank to address the infrastructure needs of the border.

f. Increased Potential for Chemical Emergencies

Claims

12/9/91 *House Testimony*
SC

Because Mexico lacks a “community right-to-know” law, the increase in industrial activities predicted under the NAFTA may increase the likelihood of chemical emergencies in the border region. (Hearings before the Subcommittees on International Economic Policy and Trade and on Western Hemisphere Affairs, 1991:128)

Fall 1992 *Academic Journal*
Zagaris

“Increased trade between the US and Mexico is likely to result in an increase in industrial growth along the US-Mexico border, thereby raising the possibility of a chemical emergency.” (Zagaris, 1992:82)

10/14/92 *Plaintiffs’ Brief, PC vs. USTR*
PC, SCLDF and FOE

The NAFTA has the potential to exacerbate the serious inability to deal safely with chemical emergencies in the border area. (Public Citizen, 1992:22)

Counter-claims

11/93 *US Government Report*
Clinton Administration

“The US and Mexico are engaged in cooperative efforts to improve emergency preparedness coordination between the two countries.” (US Government, 1993:ES-9)

“NAFTA contains offsetting provisions that address [problems], such as... risky transfers of hazardous cargoes at the border.” (Government of the US, 1993:ES-6)

Institutional Responses

Cooperative activities to improve emergency preparedness coordination between the two countries is specifically included in the work program for the CEC. (Government of the US, 1993:ES-9)

g. Greater Pressures on Wildlife and Endangered Species

Claims

11/27/91 *Position Paper*
NWF

Development pressures created by NAFTA will contribute to the destruction of vital wildlife habitat in the border region. Cattle grazing in the fragile desert environment of the border is of particular concern. (National Wildlife Federation, 1991c)

12/9/91 *House Testimony*
SC

“The general proliferation of plant sites and associated settlements means that more wildlife habitat will be lost, as well as more use of water so that less will be left for wildlife in a dry climate.” Accelerated clearance of brush along the Rio Grande River may also result from the NAFTA “if many new bridges are built across the Rio Grande in connection with increased trade.” The river bottom “provides critical habitat for such species as the ocelot and the jaguarundi.” (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:131)

Fall 1992 *Academic Journal*
Zagaris

There are 50 endangered or threatened species and 100 ESA candidate species in the border area. The habitats of these species are particularly rare and fragile. Increasing population on both sides of the border will further damage the habitats. (Zagaris, 1992:82-3)

Trade in protected wildlife may increase as a result of liberalization of trade between the US and Mexico. (Zagaris, 1992:83)

10/14/92 *Plaintiffs' Brief, PC vs. USTR
PC, SCLDF and FOE*

The NAFTA has the potential to exacerbate serious harm to endangered species in the border area. (Public Citizen, 1992:22)

Counter-claims

11/93 *US Government Report
Clinton Administration*

“Although NAFTA could contribute to short-term slight to moderate increases in adverse effects,... in the long term, increased opportunities for cooperation between the US and Mexico will help to address the stresses of development.”
“New environmental funding and increased personnel [due to the Environmental Agreement] could result in improved environmental conditions and reduced environmental effects in the border regions of both countries.”
(Government of the US, 1993:ES-9)

Counter-claims

12/9/91 *House Testimony
SC*

“Plants manufacturing for the US market have little reason to re-locate into the interior. They will be further from their US market and face higher transportation costs. Furthermore, roads, communication facilities and infrastructure to support industry are limited and inadequate... For some time, *maquiladoras* have been able to locate into the interior, but few have chosen to do it.” (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:133)

h. Dispersion of Industrial Development away from the Border

11/93 *US Government Report
Clinton Administration*

Impact on the border areas will decrease as *maquiladora* development is dispersed away from the border region. (Government of the US, 1993:ES-9)

“The economic changes that come with the NAFTA... will... disperse industrial development away from the already stressed border area.”

“NAFTA will remove the current artificial incentives which have intensified investment along the border through the *maquiladora* program.
(Government of the US, 1993:ES-4-5)

4. PUBLIC HEALTH ISSUES

a. Accelerated Industrialization at the Border will Intensify Existing Public Health Problems in the Region

Claims

Fall 1992 *Academic Journal*

Zagaris

“Public health threats result from increased migration to the border in the form of the spread of infectious disease. *Maquiladoras* have attracted a lot of migration to the US-Mexico border. The growth has outstripped capacity to provide roads, sanitation and housing for the flux of people, resulting in the development of *colonias*. The high-population industrialized areas are characterized by severe poverty, poor housing, crowded living conditions, environmental contamination, and an absence of clean water and sanitation systems. The conditions are fertile ground for a high incidence of infectious diseases, especially hepatitis, tuberculosis, measles and diarrheal diseases.” (Zagaris, 1992:84)

Spring 1993 *Academic Journal*

NRDC

Public health and environmental quality in the US-Mexico border region are threatened by dramatic growth in recent years, attributable largely to unplanned human settlement and industrial development. Unchecked pollution from these sources threatens health and economic vitality. (Ward and Fischer, 1993)

Fall 1992 *Academic Journal*

Zagaris

Increasingly polluted water and decreasing quantities of safe drinking water will severely affect health along the border. (Zagaris, 1992:74-5)

b. Introduction of Tainted Food Stuffs to the US and Canada due to Lower Sanitary and Phytosanitary Standards in Mexico

3/13/91 *National Journal*

“Environmentalists”

Citing experiences in the wake of the US-Canada Free Trade Agreement (FTA), environmental groups fear that free trade with Mexico will lead to harmonization of food safety standards at levels lower than those currently in place in the US. (Stokes, 1991:865)

8/12/91 *Position Paper*

CNI

The NAFTA “could undercut the safety of the American food supply”. Three possible mechanisms are cited: downward harmonization of food safety regulations, increased imports of fruits and vegetables from Mexico under the NAFTA subject to (existing) lax inspection protocols for pesticide residues, and potentially reduced inspection of imported agricultural products due to “streamlined inspection policies.” (Christensen and Leonard, 1991:17-20)

12/9/91 *House Testimony*

SC

As imports of Mexican fruits and vegetables increase under the NAFTA, inspections for pesticide residues may become less rigorous. (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:131)

Fall 1992 *Academic Journal*

Zagaris

“The importation of products regulated in the US by the Food and Drug Administration (FDA), particularly

-
- fruits, vegetables and seafood will continue to pose an important area of public health concern.” (Zagaris, 1992:84)
- 11/92 *Position Paper*
NRDC
- Fuller assurances are needed to be incorporated into NAFTA so that it “will not jeopardize US food safety measures, including ‘zero tolerance’ provisions governing pesticide residues.” (NRDC, 1992:3)
- Fall 1993 *Academic Journal*
Stewart
- “Environmentalists were also concerned that a free trade agreement would lead to an influx from Mexico of fruits, vegetables, and other farm products with high pesticide residues.” (Annual Symposium, 1993:752)

- 9/22/93 *House Subcommittee Hearing*
Rep. Bill Bilirakis
- Mexican standards are not effectively enforced, raising doubts about the hazards of increasing imports of their produce. (Hearing before the Subcommittee on Energy and Power, 1993:40)

Counter-claims

- 9/14/93 *Position Paper*
NWF
- The NAFTA allows any party to set “the highest possible level of protection for consumer and food safety it deems appropriate.” (National Wildlife Federation, 1993)

5. SECTORAL ISSUES

a. Energy

i) Reduction in air pollution in Mexico due to greater use of natural gas

Claims

- 1993 *Academic Paper*
Yandle
- Pre-NAFTA trade restrictions limit the export of natural gas from the US to Mexico, leading Mexican industry to rely on higher-polluting petroleum products. (Yandle, 1993b)
- 9/22/93 *House Testimony*
White
- “With... greater emphasis on the environment, natural gas will be the fuel of choice in the fast-growing Mexican economy [under NAFTA].” (White, 1993)

- 9/22/93 *House Testimony*
INGAA
- “NAFTA will create a positive environmental impact on both sides of the border as natural gas becomes the ‘fuel of choice’ among end-users and power generators in Mexico.” (Lay, 1993:2)
- 11/93 *US Government Report*
Clinton Administration
- “By removing barriers and disincentives to the use of natural gas in Mexico, NAFTA opens up prospects for cleaner power generation.” (Government of the US, 1993:ES-5)
-

Counter-claims

12/9/91 *House Testimony*
SC

Increased exports of electrical power, natural gas and other clean fuels to Mexico may increase exploration and extraction in the United States. Growth in some energy-related fields in the US as a result of the NAFTA's energy provisions may have serious environmental impacts on the American side. (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:130)

Spring 1993 *Academic Journal*
NRDC

Projected increases in development, particularly in small- and mid-sized Mexican cities slated for industrial expansion will require significant new coal-burning electrical energy production. (Ward and Fischer, 1993)

ii) Increased damage to natural resources in Mexico due to expansion of the petrochemical sector

11/27/90 *Position Paper*
NWF

10/16/91 *House Testimony*
NWF

11/27/91 *Position Paper*
NWF

Under the NAFTA, increased foreign investment in the Mexican oil and gas industries could lead to increased degradation of the environment in Mexico, while increasing the risk of environmental calamities such as oil spills. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b; National Wildlife Federation, 1991c)

4/22/93 *Proposed letter to Congress*
GU

"NAFTA Article 608 encourages all three governments to subsidize oil and gas exploration and development, by sheltering these subsidies from countervailing duties." (Greenpeace, 1993)

9/22/93 *House Testimony*
GU

"NAFTA will lock Mexico's economy into further dependence on an industry which has been highly destructive to Mexico's natural resources." (Hearings before the Subcommittee on Energy and Power, 1993:88)

"NAFTA contains no provision for assessing the environmental impact of energy exploration, development, production and transportation. It discourages national governments from intervening in energy trade with regulatory measures which would account for such impacts." (Hearings before the Subcommittee on Energy and Power, 1993:80)

9/22/93 *House Testimony*
FOE

"The poor environmental record of PEMEX argues that the Mexican government will do little to regulate the oil and gas industry. NAFTA, in essence, relies on the goodwill of the foreign investors to bring about efficiency improvements and pollution reductions... The US oil and gas industry... has an extremely spotty record here." (Blackwelder, 1993)

Counter-claims

11/93 US Government Report
Clinton Administration

“Greater scope for private investment in Mexico’s power generation sector should help mitigate environmental effects of increased demands for electricity created by economic growth.” (Government of the US, 1993:ES-5)

iii) Lower incentives for energy conservation in the US due to more secure access to Mexican oil reserves and Canadian hydroelectric power

Claims

11/27/90 Position Paper
NWF

10/16/91 House Testimony
NWF

Secure access to foreign oil would reduce incentives for the US to lower its fossil fuel consumption. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b)

9/3/91 Statement to the USTR
NRDC

“It is possible that a NAFTA would, both directly and indirectly, encourage greater energy development and resource extraction.” (NRDC, 1991:6)

10/14/92 Plaintiffs’ Brief, PC vs. USTR
PC, SCLDF, and FOE

“NAFTA’s energy chapter expressly permits incentives for oil and gas exploration, but not for renewable energy or energy efficiency, which will create incentives for development of nonrenewable energy sources.” (Public Citizen, 1992:17)

3/4/93 Letter to USTR
DOW, CIEL, FOE, SC, PC, HS, HSI, IATP, CRA, NFFC, EII, MMF, API, RAN, WDCCS, PAWS, FFA, EIA, ESI, IPPL, NYPIRG, CNI, NTC, WRI

Chapter 6 of NAFTA undermines efforts towards the stabilization of greenhouse gas emissions and the reduction of CO₂ emissions. The NAFTA also does not protect “least-cost energy programs, like subsidies to encourage conservation and renewables, from trade challenges.” (Defenders of Wildlife *et al.*, 1993:6)

4/22/93 Proposed Letter to Congress
GU

Government support for efficiency and conservation programs is given no protection under NAFTA (as is oil and gas exploration and development) and such programs could be vulnerable to countervailing duties or other trade sanctions (Greenpeace, 1993)

9/13/93 Letter to USTR
CTC

Local and state energy policies that reduce environmental impacts by promoting renewable energy sources or energy conservation will be undercut by the energy provisions of the NAFTA that protect subsidies for oil and gas. (Citizens Trade Campaign, 1993)

9/22/93 House Testimony
GU

“NAFTA encourages continued direct subsidies of all NAFTA parties to their respective oil and gas industries for the purpose of exploration and development, while making no provision for incentives to promote national energy efficiency programs or the development of non-hydro-renewable energy programs... NAFTA

also contains no provision for the adoption of an integrated resources planning framework which would require consideration of demand side energy measures on a par with the development of new energy supply projects.” (Hearings before the Subcommittee on Energy and Power, 1993:79-80)

9/22/93 *House Testimony*
FOE

“The effect of the exemption for oil and gas incentives [in Article 608(2) of the NAFTA] may pave the way for future challenges to incentives for either efficiency or renewable energy that government at various levels may be offering now or in the future.” (Hearings before the Subcommittee on Energy and Power, 1993:134)

iv) Damage to natural resources from accelerated development of hydroelectric power

Claims

10/26/91 *Position Paper*
NWF, PGE, SC, CNI, BEP and ACN

The existing US-Canada FTA demonstrates that exploitation of natural resources such as oil accelerates under more open trade regimes. James Bay has been devastated to provide hydroelectric power exports to the US under the FTA. (National Wildlife Federation, *et al.*, 1991b)

9/22/93 *House Testimony*
GU

“NAFTA promotes... construction of environmentally destructive power projects for export, such as the James Bay hydroelectric dams in northern Quebec.” (Hearings before the Subcommittee on Power and Energy, 1993:79)

Spring 1993 *Academic Journal*
NRDC

Mexico’s energy future may include development of large-scale hydroelectric projects in sensitive ecosystems, e.g., Balsas River and Usumacinta River. (Ward and Fischer, 1993)

b. Agriculture: Reduced Subsidies Will Lower Environmental Impact

Claims

1993 *Academic Paper*
Patterson

“Reduced agricultural subsidies brought on by free trade agreements will reduce the incentive to cultivate marginal lands and thereby increase wildlife habitat.” (Patterson, 1993:62)

11/93 *US Government Report*
Clinton Administration

“Mexico’s corn market liberalization, and reduction in water and chemical input subsidies, could result in reduced cultivation of marginal lands, reducing potential for erosion, deforestation and loss of biodiversity.” (Government of the US, 1993:ES-5)

1995 *Paper*
Quadri

“The gradual liberalization of corn imports promises to reduce situations that lead to deforestation, erosion, and desertification [because of less pressure in rural areas to grow corn in marginal agricultural zones]. (Quadri, 1995)

Counter-claims

12/91 *Position Paper*
NRDC, GC and INAINE

The draft NAFTA text “recognizes that reduced trade restrictions ‘may result in increased tillage, irrigation, and

	pesticide application in some crops in Mexico)". (NRDC and GC, 1991:13)		
Spring 1993	<p><i>Academic Journal</i> NRDC</p> <p>Free trade will increase linkages between the American and Mexican agricultural sectors, which will increase habitat destruction, soil erosion, water pollution and human health risks from farming and ranching practices. (Ward and Fischer, 1993)</p> <p>Subsidized American competition will dislocate traditional Mexican farmers, resulting in increased migration of rural residents to over-crowded urban areas and increased pollution problems. (Ward and Fischer, 1993)</p>	c. Environmental Technologies: Increased Exports to Mexico	
		Claims	
		10/91	<p><i>Review of Environmental Issues</i> USTR</p> <p>Liability standards compel many multinational firms to base their foreign environmental standards on US rules. (Office of the USTR, 1991)</p>
		10/92	<p><i>Official Report</i> Government of Canada</p> <p>"The NAFTA will require that all tariffs on imports of pollution abatement and monitoring equipment [into Mexico] be removed within 10 years." Canada's environmental technologies industries will attempt to win a portion of this expanding market. (Government of Canada, 1992:6)</p>
4/22/93	<p><i>Proposed Letter to Congress</i> GU</p> <p>As a result of the NAFTA, agricultural trade policies will "make the increased use of pesticides inevitable; accelerate the loss and erosion of farmlands; displace agricultural communities; devastate rural economies; and increase the energy intensity of agricultural production". (Greenpeace, 1993)</p>	1993	<p><i>Academic Paper</i> Yandle</p> <p>Newer plants tend to use the latest technology and equipment, reducing inefficiencies and pollution. Even if dirty plants relocate to Mexico, they are likely to use newer, cleaner technology. (Yandle, 1993a)</p>
1993	<p><i>Policy Essay</i> Berry</p> <p>Free trade in agriculture will place farmers under "increasing pressure to make up in volume for drastically reduced unit prices... Such conservation practices as are now in use... will, of necessity, be abandoned; land rape and the use of toxic chemicals will increase." (Berry, 1993:159)</p>	11/93	<p><i>US Government Report</i> Clinton Administration</p> <p>"Increased integration of the North American economy will make the latest, most environmentally sound technology available to Mexican industries, allowing them to bypass dirtier methods."</p> <p>"With the passage of NAFTA, Mexican demand for environmental technologies will increase significantly, presenting substantial commercial opportunities for the US environmental technologies</p>

industry... NAFTA and the associated Environmental Agreement is expected to increase considerably environmental spending in Mexico — from \$2 billion in 1993, to well over \$3 billion by 1997.” (Government of the US, 1993:ES-6)

3/1/94 *Position Paper*
CCC

As regulation in Mexico tightens due to the NAFTA, potential market opportunities for a variety of environmental services and technologies in Mexico will grow. Both American and Canadian firms will benefit from these opportunities. Closer economic ties fostered by the NAFTA will also stimulate greater collaboration among the North American business community in tackling environmental problems. (Canadian Chamber of Commerce, 1994)

6. NATURAL RESOURCE ISSUES

Claims

4/22/93 *Proposed Letter to Congress*
GU

“We are particularly concerned that there has yet to emerge from the Administration any recognition of the impacts of that [sic] NAFTA will have on resource conservation initiatives in our countries.”

“Because NAFTA reduces the authority of federal and state governments to control foreign investment in the resource sector, or to limit the export of vital natural resources, it will entrench and even accelerate the unsustainable patterns of resource exploitation that have already led to serious crises in several resource sectors.”

The NAFTA will make it “virtually impossible for Mexico, Canada or the US to regulate exports of vital natural resources.” (Greenpeace, 1993)

9/28/93 *Senate Testimony*
PC, SC, HS, PIRG, CWA

“NAFTA countries must provide the others with the same access to its natural resources that it allows its own citizens and domestic industry... regardless of domestic shortages... By narrowly defining ‘environment’ to exclude natural resource management, the side deals prevent the Commission from ever considering poor or destructive resources policies no matter how harmful they may be to the environment.” (Hearing before the Senate Finance Committee, 1993:279)

Institutional Responses

a. Acceleration of Fishery Exploitation in Mexico due to Competitive Pressures

Claims

11/27/90 *Position Paper*
NWF

10/16/91 *House Testimony*
NWF

Under the NAFTA, the rate of consumption of “tradeable” natural resources, including timber, fish, and minerals, could increase. Particularly in Mexico, management practices are not in place to assure such intensification would be handled in an environmentally sustainable way. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b)

4/22/93 *Proposed Letter to Congress*
GU

The NAFTA will prevent the three parties from using fishing restrictions thus resulting in over fishing. (Greenpeace, 1993)

b. Acceleration of Forest Exploitation in Mexico and Canada due to Increased Foreign Investment and Competitive Pressures

Conservation and protection of wild fauna and flora and their habitats are explicit elements of the mandate of the CEC. The CEC can develop recommendations for national and regional policies in these areas.

Claims

11/27/90 *Position Paper*
NWF

10/16/91 *House Testimony*
NWF

Under the NAFTA, the rate of consumption of “tradeable” natural resources, including timber, fish, and minerals, could increase. Particularly in Mexico, management practices are not in place to assure such intensification would be handled in an environmentally sustainable way. (National Wildlife Federation, 1990; National Wildlife Federation, 1991b)

3/13/91 *National Journal*
“*Environmentalists*”

With free trade, unsustainable logging is likely to accelerate. (Stokes, 1991:864)

10/16/91 *Position Paper*
NWF

Unsustainable timber harvesting in the Sierra Madre may accelerate under the NAFTA. (National Wildlife Federation, 1991b)

12/91 *Position Paper*
NRDC, GC and INAINE

The draft NAFTA text “makes repeated reference to ‘natural regeneration’ of temperate forests throughout the continent. However, there is no mention of the documented problems and public controversy surrounding timber cutting in excess of sustained yield, habitat destruction and loss of biological diversity, subsidized logging on marginal lands in the US and Canada, the dominance of clearcutting over alternative silvicultural methods, and other major forestry issues in all three countries.” (NRDC and GC, 1991:14)

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- 12/9/91 *House Testimony*
SC
- Under the NAFTA, "US companies may buy huge areas of forested land [in Mexico] to establish rapidly growing monospecies plantations that will reduce biological and genetic diversity, reduce soil fertility and disrupt local and regional hydrological cycles. It is also likely that such large-scale commercial production systems will shorten cutting cycles to unsustainable levels."
(Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:140)
- "As more and more inexpensive and high quality US wood products enter the Mexican market, the small and under capitalized *ejido* producers will have difficulty competing, due to their high production costs... In order to remain competitive, these producer groups will have to lower production costs, through lower wages to their members, and raise production, possibly to ecologically unsound or unsustainable levels." (Hearings before the Subcommittees on International Economic Policy and Trade, and on Western Hemisphere Affairs, 1991:140)
- 9/3/91 *Statement to the USTR*
NRDC
- May 1992 *Magazine Article*
NRDC
- La Selva Lacandona is threatened by colonization, illegal logging and poaching as a result of economic shifts in Mexico. (Ward and Prickett, 1992:2)
- 4/22/93 *Proposed Letter to Congress*
GU
- The NAFTA will prevent the three parties from using raw log export bans and thus "deny state and national governments a vital tool for achieving sustainable resource management goals."
(Greenpeace, 1993)
- 12/23/94 *Wall Street Journal*
Craig Merrilees CTC
- Free trade will endanger rainforests by spurring trade in natural resources and by outlawing environmental curbs as trade restraints. (Fighting "NAFTA", 1994:A1)
- Counter-claims**
- 2/92 *Review of Environmental Issues*
USTR
- "The increased economic growth [from NAFTA] will give the Mexican government more resources to deal with the tenure and other institutional arrangements that foster deforestation."
(Office of the USTR, 1992:221)
- 11/93 *US Government Report*
Clinton Administration
- "It is anticipated that NAFTA could slow the rate of deforestation somewhat, due to a general increase in wage rates and an increase in alternative sources of productive employment. NAFTA may increase demand for services from public lands, but otherwise its impact on them will be negligible." (Government of the US, 1993:ES-10)
- c. Acceleration of Mining Development in Mexico due to Increased Foreign Investment**
- Claims**
- 3/13/91 *National Journal*
"Environmentalists"
- Mining activities are likely to expand with free trade, adding to existing environmental damage. (Stokes, 1991:864)
-

Conclusions

This survey indicates that it is critical to monitor macroeconomic issues related to trade liberalization on an ongoing basis, in order to identify trade-induced environmental effects. The macroeconomic issues identified in this report represent the key points of intersection between the desired economic benefits of trade liberalization and the feared environmental consequences of that trade. The report highlights three claims in particular that might merit special notice. The first, which attracted a great deal of attention during the NAFTA debates, is the concern over industrial migration to Mexico due to perceived lower environmental regulation. The second issue that attracted considerable attention is the claim that economic growth would result in greater resources for enforcement of environmental laws and regulations in Mexico. A great deal of attention also focussed on a third issue: the claim that greater environmental problems would result in the interior of Mexico as a result of economic growth beyond the border area, due to the NAFTA-inspired trade liberalization.

Legal/Compliance issues were also the subject of a number of claims about prospective challenges to federal and sub-federal environmental standards, such as as non-tariff barriers to trade. Another major concern was the claim that trade liberalization might result in downward pressure on environmental laws as a means of attracting investment.

Border issues, particularly increased pollution and demands on scarce water supplies, are clearly in the forefront of public concern in North America, especially as they are affected by increased traffic between the US and

Mexico. This survey suggests that air and water pollution, as well as the disposal of solid and hazardous waste, are issues of great concern to North Americans. Among the institutional responses to these claims was the creation of the NADBank and the BECC, along with the CEC itself.

Claims regarding public health issues focussed on the border region and the concern that accelerated industrialization on the Mexican-US border will intensify existing public health problems in the region. A second public health issue highlighted during the NAFTA negotiations is the difference in sanitary and phytosanitary standards between the US, Mexico and Canada.

The two sectors that appear to have attracted the most attention in the debate leading up to the NAFTA — and which deserve priority attention — are the energy and the agricultural sectors. Regarding energy, issues such as the environmental implications of the use of natural gas, the expansion of the petrochemical sector, and the development of hydroelectric power were perceived to have the greatest potential for environmental effects, both positive and negative. The issues that were raised most often in this survey surrounding the agricultural sector concerned the system of economic incentives and land use. The issue of the positive effects of increased access to environmental technologies was also raised as a potential NAFTA effect.

This report illustrates that the natural resource issues that raised the most concern were fisheries, forestry and mining. Preoccupation over natural resources revolved around their increased development and a resulting

overexploitation of resources in all three countries due to increased foreign investment and competitive pressures.

The findings of this survey will assist the CEC to identify those issues that were — or still are — of most concern to North Americans regarding economic integration and trade liberalization as they affect the environment.

Acronyms

ACN	Action Canada Network, Canada
AFL-CIO	American Federation of Labour, USA
API	Animal Protection Institute, USA
AS	Americas Society, USA
ATI	Arizona Toxics Information, USA
AWI	Animal Welfare Institute
BEP	Border Environmental Project, USA
CA	Citizen Action
CARC	Canadian Arctic Resources Committee, Canada
CCC	Canadian Chamber of Commerce
CEJ	Colectivo Ecologista Jalisco, Mexico
CELA	Canadian Environmental Law Association, Canada
CEO	Comunidad Ecologista de Occidente, Mexico
CIEL	Center for International Environmental Law, USA
CIM	Conservation International México
CNI	Community Nutrition Institute, USA
CONIECO	Consejo Nacional de Industriales Ecologistas (National Council of Industrial Environmentalists)
CRA	Center for Rural Affairs, USA
CTC	Citizen Trade Campaign, USA
CWA	Clean Water Action, USA
DDF	Departamento del Distrito Federal
DOW	Defenders of Wildlife
EDF	Environmental Defense Fund, USA
EE	Enlace Ecologico, Mexico
EIA	Environmental Investigation Agency, USA
EII	Earth Island Institute, USA
ESI	Environmental Solutions International, USA

FET	Foundation on Economic Trends
FFA	The Fund for Animals, USA
FOE	Friends of the Earth
FTC	Fair Trade Campaign, USA
GC	Grupo de los Cien, Mexico
GEM	Grupo Ecologista de Mayab, Mexico
GI	Greenpeace International
GM	Greenpeace México
GU	Greenpeace USA, USA
HS	The Humane Society of the US, USA
HSI	Humane Society International
IATP	The Institute for Agriculture and Trade Policy, USA
IBEP	Integrated Border Environmental Plan, USA/Mexico
IIE	Institute for International Economics, USA
INAINÉ	Instituto Nacional de Investigaciones Ecologistas, Mexico
INE	Instituto Nacional de Ecología (National Ecology Institute)
INGAA	Interstate Natural Gas Association of America, USA
IPPL	International Primate Protection League, USA
MEI	Manitoba Environmentalists, Inc., Canada
MEM	Movimiento Ecologista Mexicano, Mexico
MMF	Marine Mammal Fund
NBER	National Bureau of Economic Research, USA
NCL	National Consumer League, USA
NFFC	National Family Farm Coalition, USA
NRDC	Natural Resources Defense Council, USA
NTC	National Toxics Campaign, USA
NWF	National Wildlife Federation, USA
NYPIRG	New York Public Interest Research Group, USA

PAA	Pesticide Action Alert, USA
PAN	Pesticide Action Network, USA
PAWS	Performing Animal Welfare Society, USA
PC	Public Citizen, USA
PEM	Partido Ecologista Mexicano, Mexico
PFEA	Proyecto Fronerizo de Educación
PGE	Pacto de Grupos Ecologistas, Mexico
PIRG	Public Interest Research Group
PP	Pollution Probe, Canada
Profepa	Procuraduría Federal de Protección al Ambiente (Attorney General's Office for Environmental Protection)
RAAS	Rawson Academy of Aquatic Science, Canada
RAN	Rainforest Action Network, USA
RFSA	Red Fronteriza de Salud y Ambiente (Border Health and Environment Network)
RMALC	Red Mexicana de Acción Frente al Libre Comercio (Mexican Action Network Against Free Trade)
SAPA	Society for Animal Protection Action
SC	Sierra Club, USA
SCC	Sierra Club of Canada, Canada
SCLDF	Sierra Club Legal Defense Fund, USA and Canada
TCPS	Texas Center for Policy Studies, USA
UMC	United Methodist Church, USA
UQCN	Union québécoise pour la conservation de la nature, Canada
USTR	United States Trade Representative, USA
WCELA	West Coast Environmental Law Association, Canada
WDCCS	Whale and Dolphin Conservation Society, USA
WRI	World Resources Institute, USA
WWF	World Wildlife Fund, USA

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ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

1. Macroeconomic Issues

1. a Industrial Migration to Mexico due to Lower Environmental Regulation

Claims Date	Context	Source
3/13/91	National Journal	"Environmentalists"
6/12/91	Press Release	Pollution Probe
8/12/91	Position Paper	CNI
10/16/91	House Testimony	FOE
9/24/92	Wall Street Journal	PC
9/24/92	Wall Street Journal	not attributed
10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE
10/14/92	Audley Affidavit, PC vs. USTR	PC, SCLDF and FOE
3/16/93	Senate Hearing	Sen. Max Baucus
3/18/93	Letter to Hon. Micheal Wilson	CELA
9/22/93	House Testimony	GU
9/28/93	Senate Testimony	PC, SC, HS, PIRG, CWA
Fall 1993	Academic Journal	Stewart
12/23/94	Wall Street Journal	CTC

Counter-claims		Institutional Response
Date	Context	Source
4/18/91	New York Times	DDF
10/91	Review of Environmental Issues	USTR
1/92	Independent Study	Provincial Gov't of British Columbia, Canada
2/92	Academic Paper	NIBER
9/24/92	Wall Street Journal	IIE and US "trade officials"
10/92	Official Report	Government of Canada
11/93	US Government Report	Clinton Administration

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

1. b Greater Resources for Enforcement in Mexico due to Economic Growth

Claims Date	Context	Source
2/92	Academic Paper	NBER
3/16/92	Houston Chronicle	Ampudia
10/92	Official Report	Government of Canada
3/3/93	The Washington Post	Sen. John Chafee (R-R.I.)
5/3/93	The Washington Post	AS
5/3/93	Senate Testimony	EDF
11/3/93	El Financiero	Profepa
11/93	US Government Report	Clinton Administration
3/1/94	Position Paper	CCC
12/23/94	Wall Street Journal	"Mexican officials"
12/23/94	Wall Street Journal	Santiago Oñate Laborde

Counter-claims Date	Context	Source
12/91	Position Paper	NRDC, GC and INAINE
9/16/92	Senate Testimony	NRDC
3/30/93	Position Paper	WCELA
Fall 1993	Academic Journal	Stewart
12/23/94	Wall Street Journal	CTC

Institutional Response
NAAEAC Article 6 and 7

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

1. c Unfair Competitive Advantage to Mexico-based Industry due to Lower Environmental Standards

Claims	Date	Context	Source	Counter-claims	Institutional Response
	9/16/92	Senate Testimony	NRDC	Date	NAAEC, Part V
	9/28/93	Senate Testimony	PC, SC, HS, PIRG, CWA	Context	
				Source	

1. d Avoidance of Environmental Laws by Private Firms due to Competitive Pressures

Claims	Date	Context	Source	Counter-claims	Institutional Response
	7/7/91	Los Angeles Times	Mexican Government Report	Date	NAAEC, Part V
	8/12/91	Position Paper	CNI	Context	
	11/24/92	House of Commons Testimony	Pollution Probe	Source	
	7/12/93	La Jornada	RFSA		

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

1. e Greater Environmental Problems in the Interior of Mexico due to Economic Growth from NAFTA

Claims Date	Context	Source
11/27/90	Position Paper	NWF
10/16/91	House Testimony	NWF
11/27/91	Position Paper	NWF
8/12/91	Position Paper	CNI
10/16/91	House Testimony	FOE
2/92	Academic Paper	NBER
9/8/92	Conference	Cárdenas
9/24/92	Wall Street Journal	PC
11/93	US Government Report	Clinton Administration
12/23/94	Wall Street Journal	CTC
9/95	Paper	Quadri

Counter-claims			Institutional Response
Date	Context	Source	
9/93	Fact Sheet	WWF	Increased Mexican enforcement activities

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

2. Legal/Compliance Issues

2. a Potential for Challenges to Federal and Sub-federal Environmental Standards under NAFTA Provisions

Claims	Date	Context	Source	Counter-claims	Date	Context	Source	Institutional Response
	10/16/91	House Testimony	FOE		10/92	Official Report	Government of Canada	NAFTA, Articles 104 and 906(2)
	4/24/92	Congressional Testimony	NRDC		Fall 1993	Academic Journal	Stewart	NAFTA, Chapter 20 and NAFTA, Article 2005
	9/24/92	Wall Street Journal	not attributed		9/14/93	Position Paper	NWF	NAFTA, Articles 904, 905 and 906; and Subchapter B of chapter 7
	10/14/92	Plaintiffs' Brief,	PC, SCLDF and FOE PC vs. USTR		9/28/93	Senate Testimony	EDF	Creation of the CEC
	11/24/92	House of Commons	Pollution Probe Testimony		9/93	Fact Sheet	WWF	
	12/14/92	Ad: The Washington Post	SC, GU, FOE, HS, NCL, PAA, EII, RAN, CTC, FTC, FET, CWA, PC, LATP, NTC, CIEL, PAN, AWI, CA, SAPA, MMF		11/93	US Government Report	Clinton Administration	
	1/15/93	La Jornada	CONIECO					
	3/4/93	Letter to USTR	DOW, CIEL, FOE, SC, PC, NFFC, EII, MMF, API, RAN, WDGS, PAWS, FFA, EIA, ESI, IPPL, NYPIRG, CNI, NTC, WRI					
	3/16/93	Senate Hearing	Sen. Max Baucus					

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

2. Legal/Compliance Issues

2. a Potential for Challenges to Federal and Sub-federal Environmental Standards under NAFTA Provisions (continued)

Claims			Counter-claims			Institutional Response
Date	Context	Source	Date	Context	Source	
3/18/93	Letter to Hon. Michael Wilson	CELA				
4/20/93	Position Paper	CIELP				
6/9/93	Letter to USTR	NRDC				
6/30/93	Opinion, PC vs. USTR	Judge Richey				
7/8/93	Wall Street Journal	SC				
9/13/93	Letter to USTR	CTC				
9/22/93	House Testimony	GU				
9/28/93	Senate Testimony	PC, SC, HS, PIRG, CWA				
10/6/93	Position Paper	SC				
Fall 1993	Academic Journal	Stewart				
12/23/94	Wall Street Journal	Colgan				

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

2. b Downward Pressure on Environmental Statutes in all Three Countries to Attract Investment

Claims			Counter-claims			Institutional Response
Date	Context	Source	Date	Context	Source	
11/27/90	Position Paper	NWF	1/21/93	Press Release	INE	Creation of the CEC
10/16/91	House Testimony	NWF				NAFTA, Chapter 11 and NAFTA, Article 1114
11/27/91	Position Paper	NWF				
8/12/91	Position Paper	CNI				
9/24/92	Wall Street Journal	not attributed				
10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE				
12/14/92	Ad: The Washington Post	SC, GU, FOE, HS, NCL, PAA, EII, RAN, CTC, FTC, FET, CWA, PC, LATP, NTC, CIEL, PAN, AWI, CA, SAPA, MMF				
7/8/93	Wall Street Journal	SC				
9/13/93	Letter to USTR	CTC				
9/28/93	Senate Testimony	PC, SC, HS, PIRG, CWA				
10/6/93	Position Paper	SC				
Fall 1993	Academic Journal	Stewart				

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

3. Border Issues

3. a Increased Air Pollution

Claims Date	Context	Source
11/27/90	Position Paper	NWF
12/9/91	House Testimony	SC
Fall 1992	Academic Journal	Zagaris
10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE
9/22/93	House Testimony	FOE

Counter-claims		
Date	Context	Source
Winter 1993	Academic Journal	Reilly
11/93	US Government Report	Clinton Administration

Institutional Response	
Integrated Border Environment Plan	Creation of the BECC and NADBank

3. b Increased Water Pollution

Claims Date	Context	Source
11/27/90	Position Paper	NWF
10/16/91	House Testimony	NWF
12/9/91	House Testimony	SC
Fall 1992	Academic Journal	Zagaris
10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE
02/93	Press Release	MEM

Counter-claims		
Date	Context	Source
11/93	US Government Report	Clinton Administration

Institutional Response	
Integrated Border Environment Plan	Creation of the BECC and NADBank

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

3. c Increased Demand On Scarce Water Resources

Claims	Date	Context	Source
	11/27/90	Position Paper	NWF
	10/16/91	House Testimony	NWF
	11/27/91	Position Paper	NWF
	12/9/91	House Testimony	SC
	Fall 1992	Academic Journal	Zagaris

Counter-claims	Date	Context	Source
	11/93	US Government Report	Clinton Administration

Institutional Response
Integrated Border Environment Plan
Creation of the BECC and NAD/Bank

3. d Increased Solid Waste Disposal Problems

Claims	Date	Context	Source
	Fall 1992	Academic Journal	Zagaris

Counter-claims	Date	Context	Source

Institutional Response
Integrated Border Environment Plan

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

3. e Increased Illegal Dumping of Toxic Chemicals and Hazardous Wastes in Mexico due to Industrial Growth and the Absence of Satisfactory Disposal Methods

Claims			Counter-claims			Institutional Response		
Date	Context	Source	Date	Context	Source	Date	Context	Source
11/27/91	Position Paper	NWF	11/93	US Government Report	Clinton Administration			
11/91	Academic Journal	NBER						
12/9/91	House Testimony	SC						
Fall 1992	Academic Journal	Zagaris						
Fall 1992	Academic Journal	Zagaris						
10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE						
Spring 1993	Academic Journal	NRDC (Comment attributed to Homero Aridjis, President of Grupo de los Cien)						
7/12/93	El Financiero	FOE						

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

3. f Increased Potential for Chemical Emergencies

Claims	Date	Context	Source	Counter-claims	Date	Context	Source	Institutional Response
	12/9/91	House Testimony	SC		11/93	US Government Report	Clinton Administration	Emergency preparedness included in CEC work program
	Fall 1992	Academic Journal	Zagaris					
	10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE					

3. g Greater Pressures on Wildlife and Endangered Species

Claims	Date	Context	Source	Counter-claims	Date	Context	Source	Institutional Response
	11/27/91	Position Paper	NWF		11/93	US Government Report	Clinton Administration	
	12/9/91	House Testimony	SC					
	Fall 1992	Academic Journal	Zagaris					
	10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE					

3. h Dispersion of Industrial Development Away from the Border

Claims	Date	Context	Source	Counter-claims	Date	Context	Source	Institutional Response
	11/93	US Government Report	Clinton Administration		12/9/91	House Testimony	SC	

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

4. *Public Health Issues*

4. a Accelerated Industrialization at the Border will Intensify Existing Public Health Problems in the Region

Claims	Counter-claims	Institutional Response
Date	Date	
Fall 1992	Academic Journal	Zagaris
Spring 1993	Academic Journal	NRDC

4. b Introduction of Tainted Food Stuffs to the US and Canada due to Lower Sanitary and Phytosanitary Standards in Mexico

Claims	Counter-claims	Institutional Response
Date	Date	
3/13/91	National Journal	"Environmentalists"
8/12/91	Position Paper	CNI
12/9/91	House Testimony	SC
Fall 1992	Academic Journal	Zagaris
11/92	Position Paper	NRDC
Fall 1993	Academic Journal	Stewart
9/22/93	House Subcommittee Hearing	Rep. Bill Bilirakis

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

5. Sectoral Issues

5. a Energy

5. a. i) Reduction in Air Pollution in Mexico due to Greater Use of Natural Gas

Claims Date	Context	Source
1993	Academic Paper	Yandle
9/22/93	House Testimony	White
9/22/93	House Testimony	INGAA
11/93	US Government Report	Clinton Administration

Counter-claims Date	Context	Source
12/9/91	House Testimony	SC
Spring 1993		Academic Journal NRDC

Institutional Response

5. a. ii) Increased Damage to Natural Resources in Mexico due to Expansion of the Petrochemical Sector

Claims Date	Context	Source
11/27/90	Position Paper	NWF
10/16/91	House Testimony	NWF
11/27/91	Position Paper	NWF
4/22/93	Proposed Letter to Congress	GU
9/22/93	House Testimony	GU
9/22/93	House Testimony	FOE

Counter-claims Date	Context	Source
11/93	US Government Report	Clinton Administration

Institutional Response

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5. a. iii) Lower Incentives for Energy Conservation in the US due to More Secure Access to Mexican Oil Reserves and Canadian Hydroelectric Power

Claims			Counter-claims			Institutional Response
Date	Context	Source	Date	Context	Source	
11/27/90	Position Paper	NWF				
10/16/91	House Testimony	NWF				
9/3/91	Statement to the USTR	NRDC				
10/14/92	Plaintiffs' Brief, PC vs. USTR	PC, SCLDF and FOE				
3/4/93	Letter to USTR	DOW, CIEL, FOE, SC, PC, HS, HUI, IATP, CRA, NFFC, EII, MMF, API, RAN, WDCS, PAWS, FFA, EJA, ESI, IPPL, NYPIRG, CNI, NTC, WRI				
4/22/93	Proposed Letter to Congress	GU				
9/13/93	Letter to USTR	CTC				
9/22/93	House Testimony	GU				
9/22/93	House Testimony	FOE				

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

5. a. iv) Damage to Natural Resources from Accelerated Development of Hydroelectric Power

Claims	Date	Context	Source
	10/26/91	Position Paper	NWF, PGE, SC, CHI, BER, and ACN
	Spring 1993	Academic Journal	NRDC
	9/22/93	House Testimony	GU

Counter-claims		Date	Context	Source

Institutional Response

5. b. Agriculture: Reduced Subsidies will Lower Environmental Impact

Claims	Date	Context	Source
	1993	Academic Paper	Patterson
	11/93	US Government Report	Clinton Administration
	1995	Paper	Quadri

Counter-claims		Date	Context	Source
		12/91	Position Paper	NRDC, GC, and INAINE
		Spring 1993	Academic Journal	NRDC
		4/22/93	Proposed Letter to Congress	GU
		1993	Policy Essay	Berry

Institutional Response

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

5. c Environmental Technologies: Increased Exports to Mexico

Claims			Counter-claims			Institutional Response
Date	Context	Source	Date	Context	Source	
10/91	Review of Environmental Issues	USTR				
10/92	Official Report	Government of Canada				
1993	Academic Paper	Yandle				
11/93	US Government Report	Clinton Administration				
3/1/94	Position Paper	CCC				

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

6. *Natural Resource Issues*

6. a Acceleration of Fishery Exploitation in Mexico due to Competitive Pressures

Claims	Counter-claims		Institutional Response
Date	Context	Date	Source
11/27/90	Position Paper		
10/16/91	House Testimony		
4/22/93	Proposed letter to Congress		

6. b Acceleration of Forest Exploitation in Mexico and Canada due to Increased Foreign Investment and Competitive Pressures

Claims	Counter-claims		Institutional Response
Date	Context	Date	Source
11/27/90	Position Paper	2/92	Review of Environmental Issues
3/13/91	National Journal	11/93	US Government Report
10/16/91	House Testimony		Clinton Administration
10/16/91	Position Paper		
12/91	Position Paper		
12/9/91	House Testimony		
9/3/91	Statement to the USTR		
May 1992	Magazine article		
4/22/93	Proposed letter to Congress		
12/23/94	Wall Street Journal		

Craig Merrilees, CTC

ANNEX A — CHART OF CLAIMS ABOUT POTENTIAL ENVIRONMENTAL EFFECTS OF NAFTA

6. c Acceleration of Mining Development in Mexico due to Increased Foreign Investment

Claims	Date	Context	Source
	3/13/91	National Journal	"Environmentalists"

Counter-claims		
Date	Context	Source

Institutional Response