



## NAFTA: The Misnamed Treaty

Describing the start of negotiations leading to the North American Free Trade Agreement (NAFTA), M. Delal Baer of the Center for Strategic and International Studies wrote, “A new continentalism took hold on February 5, 1991.” His comments appeared in the Fall 1991 issue of *Foreign Affairs*, the flagship publication of the global-minded Council on Foreign Relations. With great enthusiasm, Baer, who himself is a member of the CFR, continued, “NAFTA, if and when completed, will reshape corporate strategies, redraw the mental map of citizens in each country and gradually create a North American economic identity based upon global competition.”

NAFTA follows the internationalist strategy mapped out by Richard N. Gardner (CFR) in his 1974 *Foreign Affairs* article “The Hard Road to World Order.” Gardner wrote, “The hope for the foreseeable future lies, not in building up a few ambitious central institutions of universal membership and general jurisdiction as was envisaged at the end of the last war, but rather in the much more decentralized, disorderly and pragmatic process of inventing or adapting institutions of limited jurisdiction and selected membership to deal with specific problems on a case-by-case basis.”

As is tellingly obvious from the title chosen for his article, Gardner has always supported the acquisition of world power by a supranational body. Now UN advisor to President-elect Clinton, Gardner listed ten specific areas in his 1974 piece where internationalists could either work to strengthen existing international institutions or create new ones having limited objectives. The second item on Gardner’s list called for efforts to “rewrite the ground rules for the conduct of *international trade*” (emphasis in original). NAFTA does exactly that for North America.

### Political Merger

Although NAFTA is being promoted as a “free trade” agreement among the nations of Canada, Mexico, and the United States, it has much more to do with economic integration and eventual political merger than it does with what is termed genuine free trade. Consider: The mammoth NAFTA document is 1,700 pages of government intervention. The treaty itself is “only” 741 pages, but there are an additional 348 pages of annexes and 619 pages of footnotes and amplifications. Free trade and 1,700 pages of bureaucratese amount to a contradiction.

The major rub of the NAFTA treaty is chapter 20, which mandates the creation of a North American “Free Trade Commission” and a vast new bureaucracy under this commission called the “Secretariat.” The Free Trade Commission would be made up of cabinet-level officials appointed by each of the three participating nations and would supervise implementation of the treaty, “oversee its further elaboration,” resolve any disputes among the U.S., Canada, and Mexico, and — perhaps most ominously — “consider any other matter that may effect the operation of this agreement.”

This last phrase has the potential for even broader abuse than the oft-misinterpreted “general welfare” clause of the U.S. Constitution, which has been used to justify the initiation of many unconstitutional federal programs. But since the treaty delineates guidelines on virtually every national trade, industrial, agricultural, environmental, and labor policy, there isn’t much in the economic sphere that the commission would not be authorized to consider. Although the treaty lacks an enforcement mechanism in its present form, enforcement amendments could always be added at a later date.

NAFTA’s Secretariat would include at least eight permanent committees, six “working groups,” and five subcommittees and subgroups. The largest committee, the Committee on Standards-Related Measures,



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would be given the power to create new subcommittees at will. This guarantees that there would be plenty of internationalist busybodies on the payroll, many of whom would no doubt be available both to issue reports and spend time promoting this budding continental government.

Were the NAFTA agreement to create what purist free traders want for North America, there would be no need for a vast new bureaucracy nor would there be a need for the more than 1,000 pages of exceptions and clarifications included in the other sections of the treaty. The vast new bureaucracy created by this agreement is exactly the opposite of what any free trader would want.

### **Some Specifics**

The NAFTA agreement is loaded with exceptions to the “free trade” the treaty is purported to bring about. Many of the tariffs which are eliminated, such as the tariff on sugar, continue to exist throughout a 15-year “transition period.”

The textile industry is on the ropes in the United States largely because of slave labor-produced imports from Red China and elsewhere. Under NAFTA, the U.S. government can suspend the reduced tariffs on textiles called for in the agreement if Mexican competition produces “serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good.” In dire circumstances, chapter 3B, section five even allows for the reimposition of import quotas on textiles from North American countries.

In his July 31, 1992 article in the *Wall Street Journal*, noted free trader James Bovard lamented NAFTA’s chapter four labelled “Rules of Origin.” Under these rules, Bovard notes, “NAFTA requires not only that clothing be sewed in North America from fabric made in America, but that the yarn the fabric is made from also be from North America — a so-called triple rule of origin, also known as the ‘yard forward’ rule.” Bovard terms this section of the treaty “superprotectionist.”

Although NAFTA provides for a 15-year transition period during which tariffs are to be phased out, this does not necessarily mean an end to tariffs or the beginning of free trade. Chapter 22 notes that the three nations can make any amendments they want to the treaty, which will no doubt be popular under liberal Democratic administrations seeking the enactment of new environmental and health-care legislation. Under the provisions of Article 2202, amendments are in effect equivalent to the treaty itself when approved by national legislatures.

In addition, under provisions listed in chapter eight, tariffs can remain in place after the transition period, “with the consent of the [nation] against whose good the action is taken.” “Consent” is not defined in the treaty, but one must presume that it consists of approval by the appointed representatives on the North American Free Trade Commission. While it may seem unlikely that representatives of the ruling Mexican government would approve of an American tariff on Mexican-made products, one should not underestimate the lobbying powers of American multinational corporations, nor the prospect of American alliances with Mexican multinationals to negotiate tariff trade-offs.

### **Continuing Subsidies**

Chapter 19 acknowledges that government subsidies will continue, and lays the groundwork for procedures in initiating future retaliatory tariffs or quotas under “anti-dumping” and “countervailing duty” laws. The treaty stipulates that no anti-dumping law currently enacted in any of the three nations is to be overturned.



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If this sounds like a continuation of the “fair trade” policies advocated by the AFL-CIO, that’s because it is. The treaty even uses the phrase “unfair trade practices” and boasts that “the object of this Agreement and this Chapter ... is to establish fair and predictable conditions for the progressive liberalization of trade.” To the labor bosses, NAFTA is not about “free” trade but about what they term “fair” trade.

Chapter seven, which focuses on agriculture, does nothing to prohibit government “export subsidies,” but merely attacks these subsidies as having “serious prejudicial effects” which “may cause disruption in the market.” The continuation of such subsidies under NAFTA constitutes a strange definition of “free trade.”

The treaty even allows all three countries to pass stronger “antidumping” laws, as long as they are consistent with the provisions of another supranational authority, the General Agreement on Tariffs and Trade (GATT). If a nation passes an anti-dumping law that goes beyond the provisions of GATT, chapter 19 of NAFTA requires that nation to notify the other nations of the law prior to enactment. It also requires that any complaints by foreign governments against the new law be submitted in the form of letters of protest, to be followed by negotiation under bi-national mediation panels, scientific inquiry panels, and, if warranted, appellate procedures. In other words, the only recourse to stopping higher protectionist tariffs is to proceed through an international bureaucracy which could take nearly a year to reach a final decision. By that time, the intended purpose of the retaliatory tariff could already have been served.

As if to anticipate events to come, chapter 11 delineates detailed procedures for the socialization of entire industries, should national governments choose to do so. The treaty outlines a procedure for the compensation of privately owned foreign-based companies whose businesses have been stolen through nationalization. Chapter 15 goes even further, bluntly stating, “Nothing in this agreement shall prevent a [nation] from designating a monopoly.”

### **Environmental Laws**

On April 19, 1991, EPA Administrator William K. Reilly wrote in the *Wall Street Journal*, “Some want to use Mexico’s and the U.S.’s interest in free trade to ratchet up Mexican commitment to environmental protection. That is a reasonable lactic.” According to Reilly, NAFTA is “the most environmentally sensitive, the greenest free trade agreement ever negotiated anywhere.”

He makes that claim for good reason. The treaty explicitly states in chapter nine, “Without reducing the level of safety or of protection of human, animal or plant life or health, the environment or consumers ... the Parties shall, to the greatest extent practicable, make compatible their respective standards-related measures....” Translated from bureaucratese, this provision means that the nation with the most absurd environmental, labor, health, and safety regulations will probably be the one whose laws become prevalent on the continent.

Although there is no enforcement mechanism for this provision of the treaty, which would essentially “ratchet up” Mexico’s regulatory climate, chapter nine does provide for “risk assessment” studies, “conformity assessments,” and “technical cooperation” to cajole the Mexicans into bringing their regulations up to snuff with those of the U.S. and Canada. The treaty stipulates that the nations “shall, in accordance with this Chapter, work jointly to *enhance* the level of safety and of protection of human, animal, and plant life and health, the environment and consumers” (emphasis added).

Furthermore, in a reference to the “imminent” (but still-unfinished) work of the Earth Summit, the



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treaty decrees that regulations are to be based upon “international standards [already in effect] or international standards whose completion is imminent.” EPA Administrator Reilly boasted in April 1991 that “the U.S. Environmental Protection Agency now has the first-ever environmental attache posted at the U.S. Embassy in Mexico City.” As Llewellyn Rockwell of the free market-oriented Ludwig von Mises Institute argues, “Why should our regulations, written at the behest of Keynesians, labor unions, and environmentalists, be foisted upon that poor country? It trespasses on Mexican national sovereignty, and violates our own Constitution, which contains no warrant for such intervention.”

There is another possibility to consider. Although American laws are almost always more “progressive” (read: repressive) in this area than Mexican or Canadian laws, it is not unthinkable that the United States would be pressured through the NAFTA agreement to enact Canadian socialized health-care laws or Mexican government regulations soon after approval of the treaty.

### **NAFTA Has Many Opponents**

Thus, it is for good reason that many staunch free traders have expressed deep concern about the NAFTA agreement. Llewellyn Rockwell has stated, “No one who knows Washington will be surprised to discover that free trade has little to do with the Mexican free-trade agreement. As usual when D.C. is calling (and aiming) the shots, arcane regulations will redistribute billions of dollars to well-connected corporations, and even more power to the managerial state.” And James Bovard observed in August 1992, “Free trade is not complex — it is protectionism that requires endless administrative gimmicks to camouflage its true nature. NAFTA amounts to a proliferation of new definitions of fair trade.”

It’s not hard at all to find individuals who label themselves “free traders” criticizing NAFTA. But an ardent “protectionist” such as William Gill finds the agreement not only flawed but dangerous. The president of the American Coalition for Competitive Trade and the author of *Trade Wars Against America*, Gill states: “NAFTA and the global GATT free-trade treaty coming up behind it will together irrevocably lock the United States into the new world order which eventually will reduce all Western civilization to the economic and spiritual bankruptcy of the Third World.”

So there are strong opponents of NAFTA on both sides of the trade issue. And for good reason! NAFTA has not nearly as much to do with free trade or protectionism as it has to do with destroying national sovereignty.

### **NAFTA’s Supporters**

Many of the arguments made by so-called “free traders” in favor of adoption of NAFTA sound remarkably similar to the “fair trade” arguments put forth by House Democratic Majority Leader Richard Gephardt (CFR). Gephardt and his colleagues argue that the United States should retaliate with tariffs and quotas against Japan and European nations when those governments close their markets or when they subsidize their industries “unfairly.” Similarly, much of the pro-NAFTA crowd is saying that we can use the new North American “free trade area” to retaliate against European and Asian nations for the same reasons.

Irwin M. Stelzer of the American Enterprise Institute advocated regional protectionism in a March 6, 1992 article in *National Review*:

[W]e must find a way to strengthen our position vis-à-vis Europe as well as Japan. Enter the North American Free Trade Agreement. By creating a common market with our Mexican and Canadian neighbors we gain two advantages: the efficiencies of freer trade with them, and a larger bloc with which to confront the Europeans and the Japanese. Neither would like being excluded from U.S.



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markets; they would fear even more the combined retaliatory power of Canada, Mexico, the United States, and, eventually, Latin America. A third trade bloc, to joust with Japan and Europe? Alas, yes.

William F. Buckley (CFR), billed by the Establishment he supposedly opposes as “America’s leading conservative,” appears to agree with this position, stating in his September 4, 1992 syndicated column that NAFTA “gives us an important leverage in the looming trade wars in Eastern Europe. It will prove less tempting to discriminate against American goods when to do so would be to provoke at least the northern half of the western hemisphere.”

These so-called “free traders” pushing NAFTA are not opposed to retaliatory tariffs. In fact, their words reveal that they support retaliatory tariffs as long as such tariffs are imposed by an unelected North American Free Trade Commission, not by the freely elected United States Congress. The United States Congress was given power by the U.S. Constitution to “regulate commerce with foreign nations, and among the several states.” But internationalists backing NAFTA — including those who identify themselves as “conservatives” or “free traders” — prefer that the Congress abdicate this power to an international tribunal. Their arguments focus on which governmental entity should have that power.

### **Economic Union First Step**

Internationalists intend to use NAFTA to foster economic interdependence between the United States and other nations, and then to use economic integration as a means to achieve political integration. This is precisely how Western Europe was politically united, as Establishment historian Professor Carroll Quigley noted in his 1966 book *Tragedy and Hope*. After a number of unsuccessful attempts at direct European political union, Quigley said the Europeans

decided that the next step toward Western European integration must be economic rather than political. From this flowed the Rome Treaty of March 1957, which established the European Economic Community, better known as the Common Market .... The EEC Treaty, with 572 articles and over almost 400 pages, like the treaties establishing ECSC and Euratom, looked forward to eventual political union in Europe, and sought economic integration as an essential step on the way.

The EEC Treaty was fraudulently sold to Europeans as a free trade treaty. According to Quigley, “Tariffs and other restrictions on trade between them were to be abolished by stages and replaced by a common tariff against the outside world. At the same time, investment was to be directed so as to integrate their joint economy as a whole.”

The NAFTA agreement does not go as far as the EEC treaty did; it does not make provisions for a common outside tariff. But such powers could be added later, according to M. Delal Baer in *Foreign Affairs*. “The creation of trilateral dispute-resolution mechanisms and rule-making bodies on border and environmental issues may also be embryonic forms of more comprehensive structures,” Baer approvingly wrote. “After all, international organizations and agreements like GATT and NAFTA by definition minimize assertions of sovereignty in favor of a joint rule-making authority.”

Baer even used an analogy with the EEC Treaty, suggesting:

It may be useful to revisit the spirit of the Monnet Commission, which provided a blueprint for Europe at a moment of extraordinary opportunity. The three nations of North America, in more modest fashion, have also arrived at a defining moment. They may want to create a wiseman’s North American commission to operate in the post-ratification period .... The commission might





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also adopt a forward-looking agenda on themes such as North American competitiveness, links between scientific institutions, borderland integration, the continental ecological system and educational and cultural exchanges.

The idea that economic unity could be used as a precursor to political unity is not new. Nor is the dream of a single government on the North American continent. Colonel Edward Mandell House, the founder of the Council on Foreign Relations, talked about both concepts in his 1912 political fantasy novel *Philip Dru: Administrator*. In the novel, House envisioned the “United States lifting practically all custom barriers,” which allowed Canada to be politically absorbed by the United States. “Canada was willing that this situation should be brought about,” House dreamed, “for her trade conditions had become interwoven with those of the United States, and the people of the two countries freely intermingled.” One of the later chapters of *Philip Dru* describes the culmination of House’s dream in a new continental government “from the Arctic sea to the Canal at Panama.”

The not-so-hidden agenda behind NAFTA’s continent-wide managed-trade policies is to foster economic interdependency between the nations, thereby softening them for an eventual political merger. The selective tariffs and subsidies in NAFTA are designed to make the United States economically dependent upon Mexico and Canada for certain products, and vice versa. Baer explained in *Foreign Affairs*:

Trinational clarity of investment rules will provide a stable environment for long-term production strategies. Most attractive is the production-sharing option within North America. Production sharing is a strategy that Asia and Europe have used to great advantage in penetrating U.S. markets. Japan, for example, has deliberately shifted labor-intensive productions to less-developed neighbors in Asia. A North American production-sharing alliance will help U.S. industries gain competitiveness in a world where multipolar geo-economic rivalry is supplanting bipolar geostrategic conflict.

The North American political merger could be accomplished through a gradual increase of governmental powers on the part of the misnamed “Free Trade Commission.” Baer predicts that “NAFTA will enhance U.S. competitiveness vis-à-vis Europe and Asia through the economies of scale and specialization in production to be achieved with continental rationalization.”

### **Regional Trade Wars**

Just as Europe is unifying and North America is on the verge of creating a “common market,” Asia is also being pushed to form a regional trade bloc. Mikhail Gorbachev suggested in April 1991, “How about the Soviet Union and Japan becoming the initiators of the creation of another ‘common market’ — a market among countries on the Japan Sea?” In January 1992, the *Wall Street Journal* reported that Singapore Prime Minister Goh Chok Tong urged before a convention of the Association of Southeast Asian Nations (ASEAN) that East Asia needed to form a trade bloc under the banner of free trade or else “ASEAN will risk missing the boat. We will be stranded as we watch others sail by.”

Trade wars are coming, according to Professor Timothy M. Devinney, who wrote in the *Wall Street Journal* on November 4, 1991:

The evolution of the EC in the 1980s and its 1992 “single market” program have generally been understood by Americans to be movements toward true free trade. In fact, the EC is not reducing trade barriers but negotiating away differences in the barriers erected by its members. The goal is to protect the European market against encroachment by more innovative and productive countries



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.... One of the major goals of the EC's 1992 program was to make credible the threat of a "Fortress Europe," thereby enhancing the bilateral and multilateral negotiating leverage of the EC countries.

Devinney summarized the future trade policy of the European Community in the following manner: "Where open markets favor these coalitions of European interests, markets will be opened; where they do not, markets will be restricted."

Like Oceania, Eurasia, and Eastasia — the three mythical regions that constantly warred in George Orwell's masterpiece *1984* — the three regional trade blocs of the world would be in a constant state of trade war. And from the gradual delegation of economic power to the regional trade blocs would come regional economic interdependency, to be followed by political union if the internationalist Insiders have their way. Then, to solve the trade war problem they created, the Insiders would turn to the United Nations.

### **Gephardt and "Protectionists"**

Many political observers were surprised when House Democratic Majority Leader Richard Gephardt (CFR), the second most powerful Democrat in the House of Representatives, agreed in 1991 to fast-track negotiating authority for NAFTA. Because Gephardt had publicly expressed serious reservations about how the Bush Administration would negotiate the treaty, many expected him to lead the fight against fast-track authority. That did not happen because of the age-old Insider practice of co-opting both sides of a political battle. By setting up Gephardt and company as the leaders of the "protectionist, anti-NAFTA" side, the Insiders can argue both sides of the ratification debate and increase the prospects of gaining approval. Should Gephardt eventually agree to the treaty, as we expect, most Americans will assume that his approval was based upon winning substantial protections for the American worker.

The real impact Gephardt has had on the agreement is to increase the power and reach of NAFTA's Free Trade Commission into areas which otherwise would never have been acceptable to most Americans. Had President Bush originally proposed an unelected international body which would decide policy matters such as trade, the environment, safety laws, and labor laws, his idea would have been rejected at the outset. But with Gephardt proposing all of these additional powers for NAFTA under the guise of protecting the American worker, the idea becomes more palatable — and even appealing — to many.

According to the Insider plan, "conservatives" — delighted at what they see as the prospect of increased trade within the North American trading bloc — are unlikely to reject "their own" treaty. They will tolerate these amendments publicly sold by Establishment "free-traders" such as William F. Buckley as "minor concessions." Many on the left are also likely to support the treaty once they realize how substantial the many regulatory additions are. And that would be enough to win ratification, which is scheduled to be voted on this spring.

There are other matters to worry about in the wake of adoption of the NAFTA agreement, according to James Bovard. Writing before the November elections, Bovard noted, "There is also danger in how much political ransom the Bush Administration may pay Congress to get NAFTA approved. Democrats have already demanded a large increase in spending for government job training programs to ameliorate the impact of NAFTA. However, as a recent Labor Department report showed, government job training is one of the worst things politicians can inflict on young workers. The Labor Department found that young male trainees in the Job Training Partnership Act, the nation's premier job-training program, have significantly lower earnings than similar youths who were never trained by the



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government.” Now that Mr. Bush has been defeated in the presidential election, the Democratic plan for new federal job training programs will receive an added boost, since President-elect Clinton’s platform includes numerous new job-training boondoggles.

### **A Question of Sovereignty**

The NAFTA agreement takes the power to enact tariffs — and many other trade-related powers — away from the elected United States Congress and gives those powers to an unelected international tribunal. Economists, politicians, and diplomats like to dwell on what they see as the treaty’s positive effects on trade, jobs, markets, etc. But they miss the real thrust of this measure if they confine themselves only to those considerations.

NAFTA will build an economic union among the United States, Canada, and Mexico — a union that promoters are already saying could be expanded to include other portions of the Western Hemisphere. The architects of the new world order champion economic unions such as NAFTA with lots of talk about jobs and markets, but they are really looking toward political union and eventual world government. They know that forcing several Insider-created economic/political unions into a world government will be far easier to accomplish than subverting the sovereignty of scores of truly independent nations.





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