NAFTA at 20

One Million U.S. Jobs Lost, Mass Displacement and Instability in Mexico, Record Income Inequality, Scores of Corporate Attacks on Environmental and Health Laws

www.tradewatch.org

January 2014

Public Citizen's Global Trade Watch

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Acknowledgments: This report was written by Ben Beachy. Thanks to Lori Wallach for comments. Thanks to Rob Scott, Tim Wise, Ilana Solomon and Patrick Woodall for their assistance. Thanks to Todd Tucker and Travis McArthur for work on earlier versions of this analysis. Thanks to Dolores Byrnes, Melanie Foley and Joe Williams for their assistance. Errors and omissions are the responsibility of the author.

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NAFTA at 20

One Million U.S. Jobs Lost, Mass Displacement and Instability in Mexico, Record Income Inequality, Scores of Corporate Attacks on Environmental and Health Laws

January 1, 2014 marks the 20th anniversary of the implementation of the North American Free Trade Agreement (NAFTA). The promises made by NAFTA proponents and warnings issued by its opponents during the fierce 1993 debate over congressional approval of the pact can now be measured against two decades of actual outcomes.

NAFTA was an experiment, establishing a radically new "trade" agreement model. Despite the documented damage caused by 20 years of NAFTA, the Obama administration is now seeking to deepen the NAFTA model and expand it to additional countries through the Trans-Pacific Partnership (TPP), a massive agreement with 11 Asian and Latin American countries. The Clinton administration's efforts to do the same – through a Free Trade Area of the Americas and an Asia-Pacific Economic Cooperation (APEC) Free Trade Agreement (FTA) – were rejected by negotiating partners as the damaging results of NAFTA became apparent.

NAFTA was fundamentally different than past trade agreements in that it was only partially about trade. Indeed, it shattered the boundaries of past U.S. trade pacts, which had focused narrowly on cutting tariffs and easing quotas. In contrast, NAFTA created new privileges and protections for foreign investors that incentivized the offshoring of investment and jobs by eliminating many of the risks normally associated with moving production to low-wage countries. NAFTA allowed foreign investors to directly challenge before foreign tribunals domestic policies and actions, demanding government compensation for policies that they claimed undermined their expected future profits. NAFTA also contained chapters that required the three countries to limit regulation of services, such as trucking and banking; extend medicine patent monopolies; limit food and product safety standards and border inspection; and waive domestic procurement preferences, such as Buy American.

In 1993, NAFTA was sold to the U.S. public with grand promises. NAFTA would create hundreds of thousands of good jobs here – 170,000 per year according the Peterson Institute for International Economics.[1] U.S. farmers would export their way to wealth. NAFTA would bring Mexico to a first-world level of economic prosperity and stability, providing new economic opportunities there that would reduce immigration to the United States. Environmental standards would improve.

Twenty years later, the grand promises made by NAFTA's proponents remain unfulfilled. Many outcomes are exactly the opposite of what was promised, as detailed in this report. In sum:

- **Rather than creating the promised 170,000 jobs per year, NAFTA has contributed to an enormous new U.S. trade deficit with Mexico and Canada, which had already equated to an estimated net loss of one million U.S. jobs by 2004.** This figure, calculated by the Economic Policy Institute, includes the net balance between jobs created and jobs lost.[2] Much of the job erosion stems from the decisions of U.S. firms to embrace NAFTA's new foreign investor privileges and relocate production to Mexico to take advantage of its lower wages and weaker environmental standards. The NAFTA-spurred job loss has not abated during NAFTA's second decade, as the burgeoning post-NAFTA U.S. trade deficit with Canada and Mexico has not declined.[3]

- **More than 845,000 specific U.S. workers have been certified for Trade Adjustment Assistance (TAA) as having lost their jobs due to imports from Canada and Mexico or the relocation of factories to those countries.[4]** The TAA program is quite narrow, only covering a subset of the jobs lost at manufacturing facilities, and is difficult to qualify for. Thus, the NAFTA TAA numbers significantly undercount NAFTA job loss.

- **NAFTA has contributed to downward pressure on U.S. wages and growing income inequality. According to the U.S. Bureau of Labor Statistics, two out of every three displaced manufacturing workers who were rehired in 2012 experienced a wage reduction, most of them taking a pay cut of greater than 20 percent.[5]** As increasing numbers of workers displaced from manufacturing jobs have joined the glut of workers competing for non-offshorable, low-skill jobs in sectors such as hospitality and food service, real wages have also fallen in these sectors under NAFTA.[6] The resulting downward pressure on middle-class wages has fueled recent growth in income inequality.

- **Despite a 188 percent rise in food imports from Canada and Mexico under NAFTA,[7] the average nominal price of food in the United States has jumped 65 percent since the deal went into effect.[8]** This is the opposite of the outcome promised when NAFTA passage was debated. Then, some NAFTA proponents acknowledged that the deal would cause the loss of some U.S. jobs, but argued that U.S. workers would win overall by being able to purchase cheaper imported goods.

- **The reductions in consumer goods prices that *have* materialized have not been sufficient to offset the losses to wages under NAFTA. U.S. workers without college degrees (63 percent of the workforce) have likely lost an amount equal to 12.2 percent of their wages under NAFTA-style trade even after accounting for the benefits of cheaper goods**. This net loss, calculated by the Center for Economic and Policy Research, means a loss of more than $3,300 per year for a worker earning the median annual wage of $27,500.[9]

- **Soon after NAFTA's passage, the small pre-NAFTA U.S. trade surplus with Mexico turned into a massive new trade deficit and the pre-NAFTA U.S. trade deficit with Canada expanded greatly. The inflation-adjusted U.S. trade surplus with Mexico of $2.5 billion and the $29.1 billion deficit with Canada in the year before NAFTA have morphed into a combined NAFTA trade deficit of $181 billion.[10]** The rosy job-creation promises made at the time of the NAFTA votes were predicated on NAFTA improving the U.S. balance of trade. The reality has been the opposite.

- **During the NAFTA debate, scores of U.S. corporations promised to create specific numbers of jobs if NAFTA passed. Public Citizen catalogued these pledges, the failure to meet them and even the record of the same firms' relocation of jobs to Mexico and Canada in a comprehensive report.[11]**

- **Scores of NAFTA countries' environmental and health laws have been challenged in foreign tribunals through the controversial investor-state system. More than $360 million in compensation to investors has been extracted from NAFTA governments via "investor-state" tribunal challenges against toxics bans, land-use rules, water and forestry policies and more. More than $12.4 billion are currently pending in such claims.** These claims include foreign investor challenges of medicine patent policies, a fracking moratorium and a renewable energy program.[12]

- **The average annual U.S. agricultural trade deficit with Mexico and Canada under NAFTA stands at $800 million, more than twice the pre-NAFTA level.[13]** U.S. food processors moved to Mexico to take advantage of low wages and food imports soared. U.S. beef imports from Mexico and Canada, for example, have risen 130 percent since NAFTA took effect, and today U.S. consumption of "NAFTA" beef tops $1.3 billion annually.[14]

- **Overall imports of food into the United States have risen more steadily and to a greater degree than U.S. food exports under NAFTA.** While the total volume of U.S. food exports in 2012 stood only 34 percent higher than the average level in the five years before NAFTA took effect, the volume of U.S. food imports was 137 percent higher.[15] This stands in stark contrast to the promises made to U.S. farmers and ranchers that NAFTA would allow them to export their way to newfound wealth and farm income stability.

- **The export of subsidized U.S. corn did increase under NAFTA, destroying the livelihoods of more than one million Mexican *campesino* farmers and about 1.4 million additional Mexican workers whose livelihoods depended on agriculture.[16]**

- **The desperate migration of those displaced from Mexico's rural economy pushed down wages in Mexico's border maquiladora factory zone and contributed to a doubling of Mexican immigration to the United States following NAFTA's implementation.[17]**

- **Though the price paid to Mexican farmers for corn plummeted after NAFTA, the deregulated retail price of tortillas – Mexico's staple food – shot up 279 percent in the pact's first 10 years.[18]**

- **Real wages in Mexico have fallen significantly below pre-NAFTA levels as price increases for basic consumer goods have exceeded wage increases. A minimum wage earner in Mexico today can buy 38 percent fewer consumer goods as on the day that NAFTA took effect.** Despite promises that NAFTA would benefit Mexican consumers by granting access to cheaper imported products, the cost of basic consumer goods in Mexico has risen to seven times the pre-NAFTA level, while the minimum wage stands at only four times the pre-NAFTA level.[19]

- **Facing displacement, rising prices and stagnant wages, over half of the Mexican population, and over 60 percent of the rural population, still fall below the poverty line, despite the promises made by NAFTA's proponents.[20]**

U.S. Public Opinion Polling Shows Overwhelming Opposition to NAFTA

The U.S. public's view of NAFTA has shifted from a divide during the time of the NAFTA debate to broad opposition and now to overwhelming opposition to NAFTA-style trade deals. According to a 2012 Angus Reid Public Opinion poll, 53 percent of Americans believe the United States should "do whatever is necessary" to "renegotiate" or "leave" NAFTA, while only 15 percent believe the United States should "continue to be a member of NAFTA." Rejection of the trade deal is the predominant stance of Democrats, Republicans and independents alike.[21] NAFTA has drawn the ire of Americans across stunningly diverse demographics. A 2011 *National Journal* poll showed strong rejection of the status quo trade model from both lower-educated and higher-educated respondents,[22] and a 2010 NBC News – *Wall Street Journal* survey revealed that a majority of upper-income respondents have now joined lower-income respondents in opposing NAFTA-style pacts.[23]

Given NAFTA's record of diverse damage, it is not surprising that opposition to the TPP – a supersized NAFTA that would be open for any Pacific Rim country to later join – is growing among the U.S. public and in Congress.

NAFTA at 20: U.S. Job Loss, Not Gain

Projections on Trade Balance, Jobs Prove Wrong

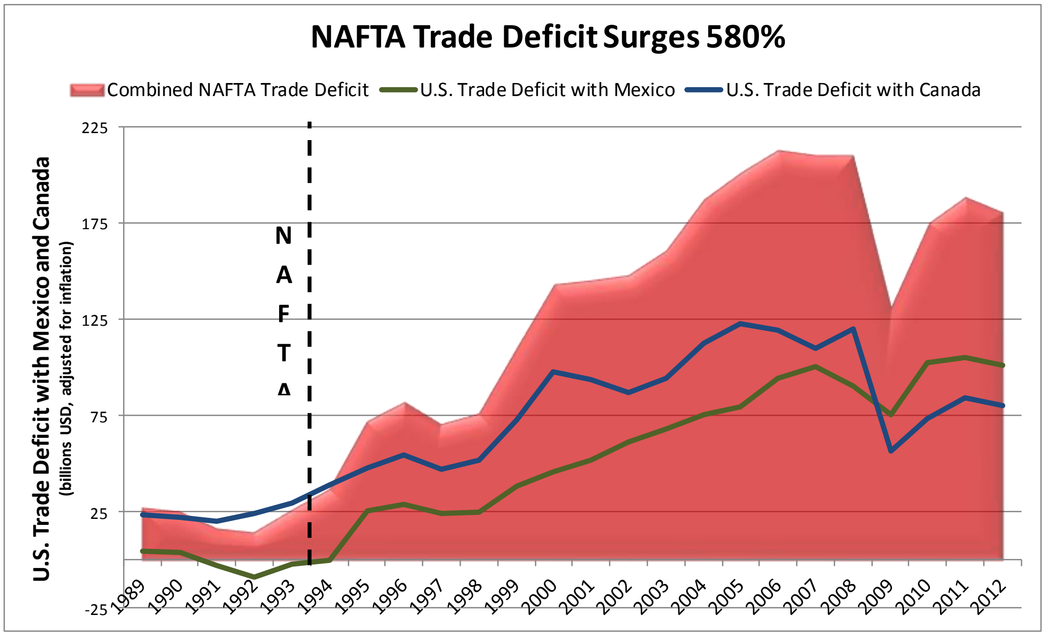
In 1993, Gary Hufbauer and Jeffrey Schott of the Peterson Institute for International Economics (PIIE) projected that NAFTA would lead to a rising U.S. trade surplus with Mexico, which would create 170,000 net new jobs per year in the United States.[24] This figure was trumpeted by the Clinton administration and other NAFTA proponents.

Hufbauer and Schott based their projection on the observation that when export growth outpaces the growth of imports, more jobs are created by trade than are destroyed by trade.[25] Instead of an improved trade balance with Canada and Mexico, however, NAFTA resulted in an explosion of imports from Mexico and Canada that led to huge U.S. trade deficits.

According to Hufbauer and Schott's own methodology, these deficits meant major job loss. Less than two years after NAFTA's implementation, even before the depth of the NAFTA deficit became evident, Hufbauer recognized that his jobs prediction was incongruent with the facts, telling the *Wall Street Journal*, "The best figure for the jobs effect of NAFTA is approximately zero…the lesson for me is to stay away from job forecasting."[26] Despite this, PIIE is at it again, forecasting future export increases and income gains from the Trans-Pacific Partnership (TPP).[27]

Huge New NAFTA Trade Deficit Emerges

The U.S. trade deficit with Canada of $29.1 billion and the $2.5 billion surplus with Mexico in 1993 (the year before NAFTA took effect) turned into a combined NAFTA trade deficit of $181 billion by 2012, as indicated in the graph below.[28] This represents an increase in the "NAFTA deficit" of 580 percent. These are inflation-adjusted numbers, meaning the difference is not due to inflation, but an increase in the deficit in real terms.



Source: U.S. International Trade Commission, "Interactive Tariff and Trade Dataweb," 2013.

The U.S. trade deficit with NAFTA partners Mexico and Canada has worsened considerably more than the U.S. trade deficit with countries with which we have not signed NAFTA-style deals. Since NAFTA, the average annual growth of the U.S. trade deficit has been 45 percent higher with Mexico and Canada than with countries that are not party to a NAFTA-style trade pact.[29]

Defenders of NAFTA argue that the NAFTA deficit is really only oil imports. Although oil accounts for a substantial portion of the trade deficit with Canada and Mexico, the oil share of the trade deficit with Canada and Mexico actually declined from 77 percent in 1993 to 55 percent in 2012.[30]

Another common claim of NAFTA defenders is simply that U.S. *trade* with Mexico and Canada has increased under NAFTA.[31] But the promise of NAFTA was that it would increase jobs and incomes, not merely the flow of goods across borders. At issue is *what kind of trade* NAFTA has spurred, and what impacts it has had on employment, real wages, social mobility and other tangible realities. Indeed, nearly two-thirds (63 percent) of the increase in U.S. trade with Canada and Mexico under NAFTA is due to import growth and only about one third (37 percent) owes to export growth.[32] Such imbalance spurred the massive U.S. trade deficit described above, and contributed to a deterioration in U.S. job quality and an increase in U.S. income inequality. The impacts of trade cannot be obscured by spotlighting the raw quantity of trade.

Services and Manufacturing Export Growth Slows under NAFTA

A key claim of supporters of NAFTA-style trade pacts is that they create jobs by promoting faster U.S. export growth. In contrast, growth of U.S. exports to countries that *are not* FTA partners has exceeded U.S. export growth to countries that *are* FTA partners by 38 percent over the last decade.[33]

U.S. manufacturing and services exports in particular grew slower *after* NAFTA took effect. Since NAFTA's enactment, U.S. manufacturing exports to Canada and Mexico have grown at less than half the rate seen in the years before NAFTA.[34] Even growth in services exports, which were supposed to do especially well under the trade pact given a presumed U.S. comparative advantage in services, dropped precipitously after NAFTA's implementation. During NAFTA's first decade, the average growth rate in U.S. services exports fell by 58 percent compared to the decade before NAFTA, and has remained well below the pre-NAFTA rate through the present.[35]

One Million U.S. Jobs Lost to NAFTA

The Economic Policy Institute (EPI) estimates that the rising U.S. trade deficit with Mexico and Canada since NAFTA went into effect had already eliminated about one million net jobs in the United States by 2004.[36] The NAFTA-spurred job loss has likely not abated since 2004, as the burgeoning post-NAFTA U.S. trade deficit with Canada and Mexico has not improved.[37] EPI estimates that about one third of the jobs lost due to the rising trade deficit under NAFTA are in non-manufacturing sectors of the economy, including service sector jobs, which have suffered as closed factories no longer demand services.[38] EPI further calculates that the ballooning trade deficit with Mexico alone destroyed about seven hundred thousand net U.S. jobs between NAFTA's implementation and 2010.[39] Much of the job erosion stems from the decisions of U.S. firms to embrace NAFTA's new foreign investor privileges and relocate production to Mexico to take advantage of its lower wages and weaker environmental standards.

Moreover, data from the U.S. Bureau of Labor Statistics reveals that nearly five million U.S. manufacturing jobs have been lost overall since NAFTA took effect.[40] Obviously, not all of these lost U.S. manufacturing jobs – one out of every four of our manufacturing jobs – are due to NAFTA. The United States entered the World Trade Organization (WTO) in 1995, China joined the WTO in 2000 and the U.S. trade deficit with China soared thereafter, contributing to the manufacturing job loss.[41] To see a state-by-state breakdown of manufacturing job losses since enactment of NAFTA and the WTO, visit Public Citizen's job loss map at http://www.citizen.org/job-loss-map.

Trade Adjustment Assistance Data Tracks U.S. Job Loss from NAFTA

While EPI's estimates of the job losses resulting from NAFTA summarize the overall effect of the trade deficit, the government itself tracks some of the layoffs known to have specifically occurred due to imports or offshoring, through a government program called Trade Adjustment Assistance (TAA). The TAA program is quite narrow, only covering a subset of the jobs lost at manufacturing facilities, while excluding a portion of the jobs that have directly relocated to Mexico or Canada. The program is also difficult to qualify for, which has led some unions to direct workers to other assistance programs. Thus, the NAFTA TAA numbers significantly undercount NAFTA job loss. Still, under TAA, more than 845,000 workers have been certified as having lost their jobs due to imports from Canada and Mexico or the relocation of factories to those countries.[42] To see the full set of TAA-certified job losses – searchable by company, product, congressional district and city – visit Public Citizen's TAA database at http://www.citizen.org/taadatabase.

A report produced by PIIE estimates that fewer than 10 percent of workers who lose their jobs in industries facing heavy import competition receive assistance under TAA.[43] Thus, even the pro-NAFTA PIIE believes that TAA vastly underestimates the number of jobs lost due to trade-related displacement.

The federal government also tried to identify specific jobs *created* by NAFTA rather than destroyed. The Department of Commerce established such a program, but after finding fewer than 1,500 specific jobs that could be attributed to NAFTA, the program was shut down because its findings were so bleak.[44]

Corporate Promises of Job Creation Are Broken

In addition to NAFTA supporters' unfulfilled promises of overall job creation, specific companies also lobbied for NAFTA by claiming that the deal would boost their own hiring and reduce the need to move jobs to Mexico and Canada. In reality, the vast majority of their promises of job creation failed to materialize, and many of these companies have actually moved operations to Mexico and Canada since NAFTA's passage.[45]

For example, Chrysler declared that if NAFTA passed, it would export 25,000 vehicles to Mexico and Canada by 1995, claiming that the sales would support 4,000 U.S. jobs. In reality, since NAFTA's passage Chrysler has eliminated at least the 7,743 U.S. jobs certified under TAA as displaced by rising imports from Canada and Mexico or decisions to offshore production to those countries. Siemens made claims similar to Chrysler's, and yet it has eliminated more than 1,400 U.S. jobs by offshoring production to Mexico.[46] Johnson and Johnson promised that it would hire hundreds of U.S. workers if NAFTA was approved, but it has ended up offshoring 950 U.S. jobs to Mexico and Canada since NAFTA went into effect.[47] The table below details a few examples of corporations' empty promises of NAFTA job growth.

Specific Corporate Promises of NAFTA Job Gains versus Actual Outcomes

Corporation	Promise	Reality
General Electric	"We are looking at another $7.5 billion in potential sales over the next 10 years. These sales could support 10,000 jobs for General Electric and its suppliers. We fervently believe that these jobs depend on the success of this agreement." Michael Gadbaw, General Electric, before the House Foreign Affairs Committee, October 21, 1993.	General Electric has eliminated **4,936 U.S. jobs** since NAFTA due to rising imports from Canada and Mexico or decisions to offshore production to those countries.
Chrysler	"With the passage of NAFTA, Chrysler is planning to export 25,000 vehicles to Mexico and Canada by 1995 and 80,000 by the year 2000. The sales will support 4,000 U.S. jobs by 1995, including Chrysler employees and U.S. suppliers." "NAFTA: We Need It: How U.S. Companies View Their Business Prospects Under NAFTA," National Association of Manufacturers, November 1993.	Chrysler has eliminated **7,743 U.S. jobs** since NAFTA due to rising imports from Canada and Mexico or decisions to offshore production to those countries.
Caterpillar	"The NAFTA would eliminate the incentive to move operations to Mexico...U.S. companies would be better able to serve the Mexican market by exporting, rather than by moving production...Caterpillar estimates NAFTA-mandated tariff reductions – coupled with increased economic growth – would increase demand in Mexico by 250-350 units annually." "The Impact of NAFTA on Illinois," prepared for USA*NAFTA by the Trade Partnership, Washington D.C., June 1993.	Caterpillar has eliminated **588 U.S. jobs** since NAFTA due to rising imports from Canada and Mexico or decisions to offshore production to those countries. Since 2008, Caterpillar has laid off 483 workers at its Mapleton, Illinois facility as it has shifted production to Mexico. The company has fired an additional 105 workers from its Pendergrass, Georgia facility due to rising imports from Mexico.

Source for corporate promises: Public Citizen, "NAFTA's Broken Promises: Failure to Create U.S. Jobs," January 1997, Available at: http://www.citizen.org/trade/article_redirect.cfm?ID=1767. Source for TAA-certified job losses: Public Citizen, Trade Adjustment Assistance Database, 2013. Available at: http://www.citizen.org/taadatabase.

Special Investor Privileges Promote Offshoring of U.S. Jobs

NAFTA's special new rights and privileges for foreign investors eliminated many of the risks and costs that had been associated with relocating production to a low-wage venue. The incentives these rules offered for offshoring included a guaranteed minimum standard of treatment that Mexico had to provide to relocating U.S. firms, which went above and beyond the treatment provided to domestic firms. This included the right for foreign investors to challenge the Mexican government directly in United Nations and World Bank tribunals, demanding compensation for environmental, zoning, health and other government regulatory actions of general application that investors claimed as undermining their expected profits.[48] (Some of these cases are described below.) The protections granted to corporations interested in offshoring contributed to the flow of foreign investment into Mexico, which quadrupled after the implementation of NAFTA.[49]

NAFTA at 20: Decreased Wages, Increased Inequality

Wages Decline Due to NAFTA

Trade affects the *composition* of jobs available in an economy. The aggregate *number* of jobs available can be better explained by fiscal and monetary policy, the impacts of recessions and other macroeconomic realities. The United States has lost millions of manufacturing jobs during the NAFTA era, but overall unemployment has been largely stable (excluding the fallout of the Great Recession) as new low-paying service sector jobs have been created. Proponents of NAFTA raise the *quantity* of jobs to claim that NAFTA has not hurt U.S. workers. But what they do not mention is that the *quality* of jobs available, and the wages most U.S. workers can earn, have been degraded.

According to the Brookings Institution, the average worker displaced from manufacturing went from earning an annual income of $40,154 to $32,123 when re-employed, a 20 percent drop in earnings.[50] According to the U.S. Bureau of Labor Statistics, two out of every five displaced manufacturing workers who were rehired in 2012 experienced a wage reduction of even greater than 20 percent.[51]

Such displacement not only spells wage reductions for former manufacturing workers, but also for existing service sector workers. As increasing numbers of workers displaced from manufacturing jobs have joined the glut of workers competing for non-offshorable, low-skill jobs in sectors such as hospitality and food service, real wages have also fallen in these sectors under NAFTA.[52]

The shift in employment from high-paying manufacturing jobs to low-paying service jobs has thus contributed to overall wage stagnation. The *average* U.S. wage has grown less than one percent annually in real terms since NAFTA was enacted even as worker productivity has risen at more than three times that pace.[53] Given rising inequality, the *median* U.S. wage has fared even worse and today remains at the same level seen in 1979.[54]

U.S. Economic Inequality Reaches New Extremes

The richest 10 percent of Americans are now taking more than half of the economic pie, while the top 1 percent is taking more than one fifth. Since NAFTA's implementation, the share of national income collected by the richest 10 percent has risen by 24 percent, while the top 1 percent's share has shot up by 58 percent.[55]

NAFTA-style trade helps explain the soaring inequality. NAFTA has placed downward pressure on wages for the middle and lower economic classes by forcing decently-paid U.S. manufacturing workers to compete with imports made by poorly-paid workers abroad. The resulting displacement of those decently-paid U.S. workers has further depressed middle class wages by adding to the surplus of workers seeking lower-paying service sector jobs.

NAFTA also contributes to rising inequality by enabling employers to threaten to move their companies overseas during wage bargaining with workers. For instance, a Cornell University study commissioned by the NAFTA Labor Commission found that after the passage of NAFTA, as many as 62 percent of U.S. union drives faced employer threats to relocate abroad, and the factory shut-down rate following successful union certifications tripled.[56]

NAFTA-style deals also dampen middle class wages by forbidding federal and state governments from requiring that U.S. workers perform the jobs created by the outsourcing of government work. "Anti-off-shoring" policies, Buy American procurement provisions and prevailing wage laws (designed to ensure goods wages for construction work) are subject to challenge in NAFTA tribunals for violating trade agreement rules.

Even proponents of NAFTA admit that such trade pressures have likely contributed to today's historic degree of inequality. The pro-NAFTA PIIE has estimated that as much as 39 percent of the observed growth in U.S. wage inequality is attributable to trade trends.[57]

Wage Losses Outweigh Cheaper Prices under NAFTA-style Trade Pacts

Many proponents of NAFTA-style trade pacts acknowledge that they will cause the loss of some U.S. jobs, but argue that U.S. workers still win overall by being able to purchase cheaper goods imported from abroad. First, this promise has failed to materialize for many critical consumer items, such as food. Despite a 188 percent rise in food imports from Canada and Mexico under NAFTA,[58] the average nominal price of food in the United States has jumped 63 percent since the deal went into effect.[59]

Second, even those reductions in consumer goods prices that *have* materialized have not been sufficient to offset the losses in wages under NAFTA. The Center for Economic and Policy Research has discovered that when comparing the lower prices of cheaper goods to the income lost from low-wage competition under current trade policy, the trade-related losses in wages outweigh the gains in cheaper goods for the vast majority of U.S. workers. U.S. workers without college degrees (63 percent of the workforce) have likely lost an amount equal to 12.2 percent of their wages under NAFTA-style trade even after accounting for the benefits of cheaper goods. That means a net loss of more than $3,300 per year for a worker earning the median annual wage of $27,500.[60]

Devastation of U.S. Manufacturing Erodes the Tax Base that Supports U.S. Schools, Hospitals and Essential Infrastructure

Since NAFTA's implementation, over 60,000 U.S. manufacturing facilities have closed.[61] While these closures have not stemmed exclusively from NAFTA, owing also to the impact of the 1995 launch of the WTO and other factors, NAFTA's incentives for offshoring have contributed to U.S. manufacturing's decline. The loss of these firms and erosion of manufacturing employment means there are fewer firms and well-paid workers to contribute to local tax bases. Research shows that a robust manufacturing base contributes to a wider local tax base and offering of social services.[62] With the loss of manufacturing, tax revenue that could have expanded social services or funded local infrastructure projects has declined,[63] while displaced workers turn to welfare programs that are ever-shrinking.[64] This has resulted in the virtual collapse of some local governments in areas hardest hit.[65] Building trade and construction workers have also been directly impacted both by shrinking government funds for infrastructure projects and declining demand for maintenance of manufacturing firms.

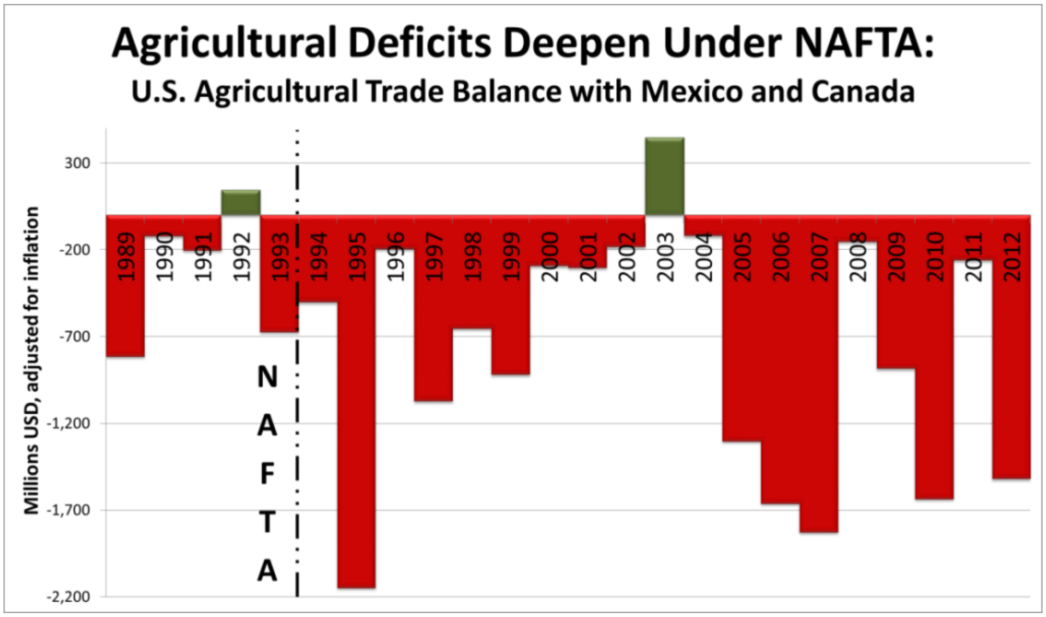
NAFTA at 20: Empty Promises for U.S. Farmers

NAFTA Fails to Deliver on Promises to Farmers

U.S. agriculture was supposed to be the sector with the most to gain from NAFTA.[66] NAFTA supporters sold the deal to U.S. farmers and ranchers as the new path to economic success – hyping the agreement's prospects for increasing exports.[67]

U.S. agricultural exports have increased under NAFTA, but agricultural imports have increased significantly more. As a result, the average annual trade deficit in agricultural goods with Canada and Mexico in the five years before NAFTA nearly tripled (a 174 percent increase) in the five years after the deal took effect (see graph below). The average annual U.S. agricultural deficit with Mexico and Canada since NAFTA stands at $800 million, more than twice the pre-NAFTA level.[68]

Overall U.S. food trade has shown a similar trend since NAFTA took effect. In 2012, the total volume of U.S. food exports stood only 34 percent higher than the average level in the five years before NAFTA took effect. In contrast, imports of food into the United States in 2012 were 137 percent higher than the average level in the five years before the dawn of NAFTA.[69]

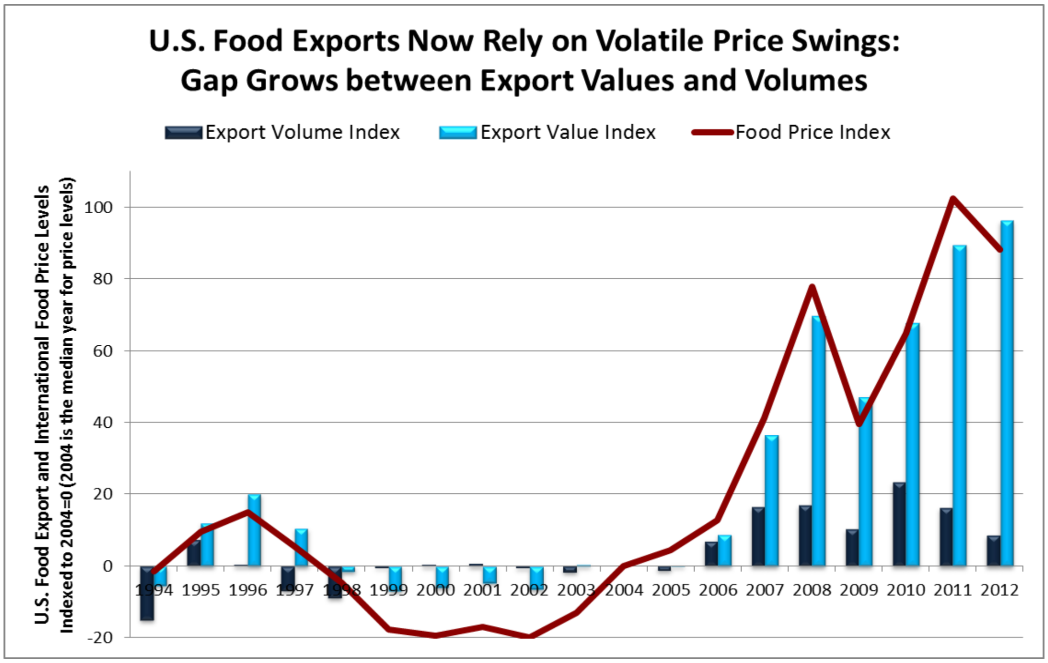


Source: U.S. International Trade Commission, "Interactive Tariff and Trade Dataweb," 2013.

Meanwhile, several widely publicized but short-lived "surges in U.S. food exports" since NAFTA's implementation represented spikes in international prices. That is to say that such export "surges" reflected increased world market prices, not major increases in the volume of U.S. exports. The *value* of U.S. food exports has closely tracked international food prices, which became highly volatile after the 1995 implementation of the WTO. Though the historically high food prices since 2007 have inflated export *values*, export *volumes* have remained relatively subdued, as indicated in the graph below.

In 2012, for example, the international food price index of the Food and Agriculture Organization towered 88 percent above the median price level seen in 2004.[70] While this anomalously high price pushed the *value* of U.S. food exports 96 percent above the 2004 level, the *volume* of U.S. food exports remained a mere 9 percent above the 2004 level, as shown in the graph below.[71]

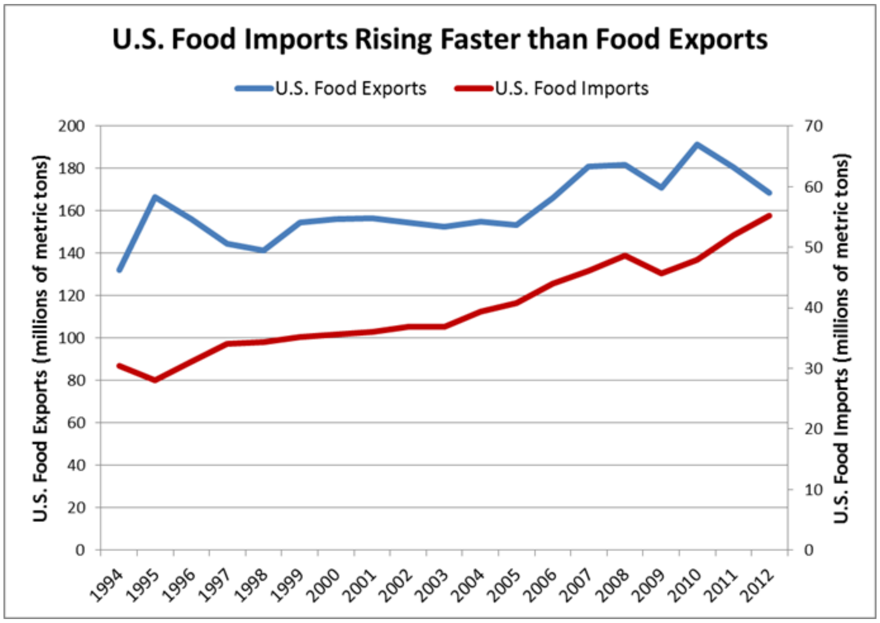
Gauging the track record of U.S. food trade without the distortion of short-term price spikes requires an analysis of the volume, not just the value, of U.S. exports *and* imports. Measured by volume, imports of food into the United States have risen more steadily and to a greater degree than U.S. food exports under NAFTA, as shown in the graph below.[72]



Source for U.S. food exports: Foreign Agricultural Service, "Global Agricultural Trade System," U.S. Department of Agriculture, 2013. Source for food prices: Food and Agriculture Organization of the United Nations, "FAO Food Price Index," 2013.

The much greater rise in imports over exports is even more notable given the historically high international food prices since 2007, which would be expected to dampen the volume of U.S. food imports. Without this price effect, the volume of U.S. food imports would likely be even higher today.

High imports and lackluster exports under NAFTA have particularly wracked family farmers in some sectors. Since NAFTA took effect, about 170,000 smaller-scale family farms have gone under – a 21 percent decrease in the total number.[73] Small farmers were especially hard-pressed to survive the increasing year-to-year volatility in prices paid for commodities.

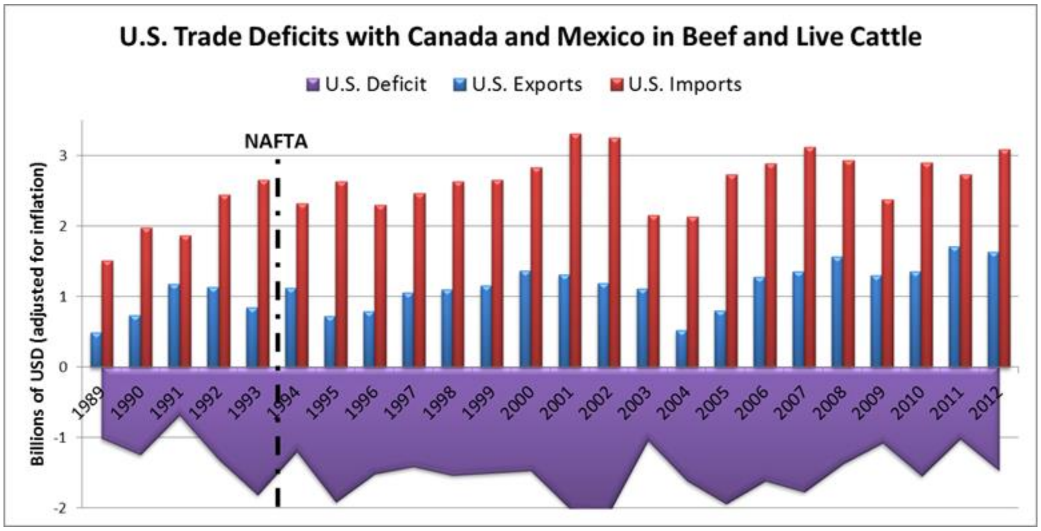


Source: Foreign Agricultural Service, "Global Agricultural Trade System," U.S. Department of Agriculture, 2013.

NAFTA has been particularly damaging for certain farm sectors. For example, while total U.S. vegetable imports from Canada and Mexico have more than tripled (a 237 percent increase) under NAFTA, U.S. vegetable exports to NAFTA partners have remained relatively flat (a 67 percent increase). The U.S. vegetable deficit with Canada and Mexico has soared to $3.6 billion, more than eight times the pre-NAFTA level.[74]

Pork and Beef Suffer under NAFTA

Proponents of NAFTA claimed that pork and beef would do particularly well under NAFTA.[75] However, U.S. exports of beef and pork to Mexico in the first three years of NAFTA were 13 percent and 20 percent lower, respectively, than beef and pork exports in the three years before NAFTA.[76] And as the graph below shows, U.S. beef and live cattle exports to Canada and Mexico have been swamped by high imports throughout the NAFTA era.[77]



Source: U.S. International Trade Commission, "Interactive Tariff and Trade Dataweb," 2013.

The 50 percent devaluation of the Mexican peso against the U.S. dollar after NAFTA went into effect staunched the flow of these goods into Mexico.[78] Although policymakers should have learned the lesson and inserted provisions against currency manipulation in subsequent trade agreements (NAFTA did not have any), the Korea Free Trade Agreement (FTA) passed in 2011 also did not discipline currency manipulation, even though Korea is one of only three nations to have ever have been officially certified by the U.S. Treasury Department as a currency manipulator.[79] In the first year of the Korea FTA, U.S. beef exports to Korea declined by 8 percent in comparison to the year before the deal took effect, while U.S. pork exports to Korea fell by 24 percent – a combined loss of $150 million in U.S. exports.[80]

Now the Obama administration has refused to raise currency disciplines in the TPP, despite demands from 60 U.S. senators[81] and 230 representatives[82] that provisions be included in that pact to counter currency devaluations that would effectively undo the new market access U.S. producers might obtain through tariffs cuts.

NAFTA at 20: Flood of Unsafe Imports

NAFTA Undermines Safety Standards for Imported Food

Since NAFTA was enacted, imports of food from Canada and Mexico have surged 188 percent.[83] NAFTA required the United States to replace its long-standing requirement that only meat and poultry meeting U.S. safety standards could be imported.[84] Under this standard, only meat from plants specifically approved by U.S. Department of Agriculture (USDA) inspectors could gain access. Before NAFTA, USDA also evaluated foreign food regulatory systems under provisions in U.S. inspection laws that required programs to be "at least equal to" the U.S. system. The eligibility of countries to export meat or poultry to the United States was initially evaluated through analysis of applications followed by on-site audits of specific plants that sought certification.[85]

NAFTA required the United States to accept meat and poultry from all facilities in Mexico and Canada if those countries' domestic systems were found to be "equivalent," even if core aspects of U.S. food safety requirements, such as continuous inspection or the use of government (not company-paid) inspectors, were not met. "Equivalence" was not defined in NAFTA. The resulting equivalence determinations have allowed meat imports from Canada and Mexico even after infrequent USDA spot checks of a sample of Canadian and Mexican processing plants have found major health threats.[86] For instance, in violation of U.S. requirements for government meat inspection, Mexico was allowed to have company-paid meat inspectors year after year.[87]

Other violations found in an audit of Mexico's meat inspection system and spot checks of plants exporting meat to the United States, obtained by Public Citizen under a Freedom of Information Act request, included: serious sanitation deficiencies, such as ingesta, fecal and hair contamination (many deficiencies having been previously noted, but not corrected, by the establishment or inspectors); continuous inspection not being provided in plants that operated two shifts, due to staffing shortages; *E. coli* sampling not being conducted randomly; *Salmonella* testing that did not meet U.S. requirements; and more.[88]

The post-NAFTA safety problems with meat imported from Canada under the equivalence program led to a series of congressional hearings, but no termination of the equivalence determination. Veteran USDA border meat inspector William Lehman, who testified to Congress as a whistleblower after having been fired for raising concerns about meat safety, highlighted ingesta, fecal and hair contamination, dirty carcasses, and boxes of meat that also contained oily engine parts as among the safety threats posed by imported Canadian meat. Lehman's main complaint was the overall deterioration of meat safety under the new procedures, which forbade him from thoroughly inspecting meat products entering the United States even as his spot check identified serious threats that called into question the underlying safety standards for the imported meat.[89]

Despite the clear threats to public health, under NAFTA U.S. consumers are eating increasing quantities of meat imported from Mexico and Canada. For instance, combined U.S. beef imports from both countries have risen 130 percent since NAFTA took effect – Americans now consume about $1.3 billion worth of imported NAFTA beef each year.[90]

Surging Food Imports Overwhelm Food Inspections

A dangerous side effect of the flood of imports has been the inability of U.S. inspectors to ensure the safety of the food supply. The U.S. Food and Drug Administration (FDA) only physically inspects 1.8 percent of the food imports that it regulates (vegetables, fruit, seafood, grains, dairy, and animal feed) at the border.[91] Only 8.5 percent of beef, pork, and chicken is physically inspected at the border by the USDA.[92]

Among the most notorious NAFTA-related food borne illness outbreaks in the early years of NAFTA was the hepatitis-A infection of Michigan schoolchildren and teachers in 1997.[93] The severe hepatitis-A outbreak, related to strawberries imported from Mexico, resulted in 163 children and teachers becoming ill, several seriously.[94] After Sue Doneth, whose daughter Lindsay was among the most severely injured in the outbreak, testified to Congress and spoke at events around the country, the outbreak became a rallying cry for Congress' rejection of President Bill Clinton's request in 1998 for Fast Track trade authority to expand NAFTA, but the trade pact's threats to food safety remained in place.[95]

NAFTA at 20: Corporate Investor-State Attacks on Public Interest Laws

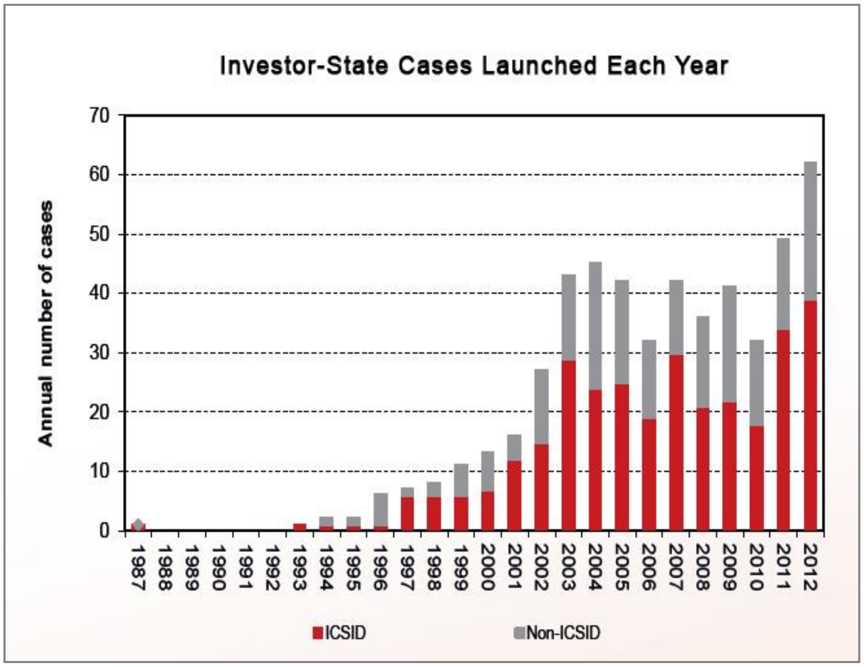
NAFTA Grants Multinational Corporations New Privileges and an Extreme Enforcement Process

NAFTA included an array of new investment privileges and protections that at the time were unprecedented in scope and power among U.S. "trade" pacts. NAFTA elevates foreign investors to the level of sovereign signatory governments, uniquely empowering individual corporations to skirt domestic laws and courts and privately enforce the terms of the public treaty by directly challenging governments' public interest policies before World Bank and U.N. tribunals. The tribunals are typically comprised of three private sector attorneys, unaccountable to any electorate, who often rotate between serving as "judges" and bringing cases for corporations against governments.[96] The tribunals are empowered to order payment of unlimited sums of taxpayer funds to compensate the investors.

This process is called "investor-state" enforcement. Only commercial interests have standing to challenge government policy, not unions or consumer groups. Despite being embedded in a "trade" agreement, NAFTA's sweeping investor privileges have nothing to do with the flow of goods across borders. Ostensibly, this investor-state regime was initially intended to provide foreign investors a venue to obtain compensation when their factory or land was expropriated by a government that did not have a reliable domestic court system. However, the actual NAFTA provisions expand far beyond that original purpose, providing foreign investors extreme privileges not available to domestic firms, and creating incentives to offshore investments to gain the new privileges. For example, the new protections include a guaranteed "minimum standard of treatment" that host governments must provide, which investor-state tribunals have increasingly interpreted as a foreign investor's "right" to a regulatory framework that conforms to their expectations.[97]

Corporate Demands for Taxpayer Compensation Surge

Foreign corporations have launched investor-state attacks on a wide array of consumer health and safety policies, environmental and land-use laws, government procurement decisions, regulatory permits, financial regulations, and other public interest policies that they allege as undermining "expected future profits." The number of investor-state cases has soared over the last decade – in 2012 the number of new investor-state cases launched was twice the number launched one decade earlier, as indicated in the adjacent graph. From 2000 to 2012, there was a tenfold increase in the cumulative number of investor-state cases, even though treaties with investor-state provisions have existed since the 1950s.[98]



Source: United Nations Conference on Trade and Development, "IIA Issues Note: Recent Developments in Investor-State Dispute Settlement," May 2013.

When the foreign investor wins a case, the government must hand the corporation an amount of taxpayer money decided by the tribunal as compensation for the offending policy. There is no limit to the amount of money tribunals can order governments to pay corporations, and there are very limited appeal rights.

Foreign firms have won more than $360 million taxpayer dollars thus far in investor-state cases brought under NAFTA. Of the 11 claims currently pending under NAFTA, demanding a total of more than $12.4 billion, all relate to environmental, energy, land use, financial, public health and transportation policies – not traditional trade issues.[99] To see a table of all NAFTA investor-state cases filed and their statuses, visit Public Citizen's investor-state chart at http://www.citizen.org/documents/investor-state-chart.pdf.

NAFTA Cases Target Health and Environmental Policies, Behavior of Government Officials

The U.S. Ethyl Corporation used NAFTA's investor-state system in the late 1990s to reverse a Canadian environmental ban of the carcinogenic gasoline additive MMT, also banned by numerous U.S. states, while also obtaining $13 million in compensation from the Canadian government.[100]

In another infamous NAFTA case, a Mexican municipality's refusal to grant the U.S. firm Metalclad a construction permit, which it had also denied to the contaminated facility's previous Mexican owner (until and unless the site was cleaned up), resulted in $15.6 million in compensation being paid by Mexico.[101]

The alleged rude conduct of an official in the province of British Columbia was the target of another NAFTA investor-state challenge launched by the U.S. Pope & Talbot firm. The corporation sought over half a million dollars in compensation for the official's behavior, which a tribunal deemed a violation of NAFTA's guaranteed minimum standard of treatment.[102]

In 2012 a NAFTA tribunal ruled in favor of U.S. oil corporations Mobil (of ExxonMobil) and Murphy Oil, deeming a requirement to use oil revenue to fund research and development in Newfoundland and Labrador – Canada's poorest provinces – to be a NAFTA-barred performance requirement.[103]

In one recently-filed NAFTA claim, a Canada-headquartered natural gas corporation set up an office in the United States and launched a $241 million NAFTA demand against a Canadian province's moratorium on natural gas fracking.[104]

In another ongoing case, a U.S. pharmaceutical corporation is demanding $481 million for Canada's revocation of its medicine drug patents. The corporation has asked a NAFTA tribunal to second-guess Canada's domestic court rulings that the corporation failed to present sufficient evidence that the drugs would deliver promised benefits when it requested monopoly patent rights.[105]

The table below further describes several NAFTA investor-state challenges of domestic environmental safeguards.

Selected NAFTA Investor-State Attacks on Environmental Policies

The Investor Wins Taxpayer Compensation via Tribunal Order

- *Mobil / Murphy Oil v. Canada*: In 2012 a NAFTA tribunal ruled in favor of U.S. oil corporations Mobil (of ExxonMobil) and Murphy Oil, deeming a requirement to use oil revenue to fund research and development in Newfoundland and Labrador – Canada's poorest provinces – to be a NAFTA-barred performance requirement.

- *Metalclad v. Mexico*: A Mexican municipality's refusal to grant the U.S. firm Metalclad a construction permit, which it had also denied to the contaminated facility's previous Mexican owner (until and unless the site was cleaned up), resulted in $15.6 million in compensation being paid by Mexico.

- *S.D. Myers v. Canada*: A NAFTA tribunal ordered Canadian taxpayers to pay $5.6 million for a temporary Canadian ban on the export of a hazardous waste called polychlorinated biphenyls (PCB). Though the ban complied with a multilateral environmental treaty encouraging domestic treatment of toxic waste, the tribunal deemed it to be discriminatory and a violation of the corporation's NAFTA right to a "minimum standard of treatment."

The Investor Extracts Payment through a Settlement

- *Ethyl v. Canada*: The U.S. Ethyl Corporation used NAFTA's investor-state system in the late 1990s to reverse a Canadian environmental ban of the carcinogenic gasoline additive MMT, also banned by numerous U.S. states, while also obtaining $13 million in compensation from the Canadian government.

- *AbitibiBowater v. Canada*: AbitibiBowater, a paper corporation, challenged the decision of Newfoundland and Labrador, a Canadian province, to confiscate various timber and water rights and equipment held by AbitibiBowater after the corporation closed a paper mill in Newfoundland, putting 800 employees out of work. Though the government argued that the rights were contingent on the company's continued operation of the paper mill, AbitibiBowater used the investor-state case to extract a $122 million settlement.

Source: Public Citizen, "Table of Foreign Investor-State Cases and Claims under NAFTA and Other U.S. 'Trade' Deals," August 2013. Available at: http://www.citizen.org/documents/investor-state-chart.pdf.

NAFTA Threatens Green Jobs Programs

As governments have come to recognize the necessity of supporting renewable energy generation and creating green jobs, corporations have started using NAFTA's backdoor investor-state system to try to undermine these policies. In July 2011, U.S.-based Mesa Power Group, owned by Texas oil magnate T. Boone Pickens, announced that it would challenge a successful Ontario renewable energy program under NAFTA.[106] The program incentivizes clean energy production by paying preferential rates to solar and wind power generators that source their equipment locally. In its first two years, the program created 20,000 jobs, attracted $27 billion in private investment, and contracted 4,600 megawatts of renewable energy.[107] Michael Eckhart, President of the American Council on Renewable Energy, called the program part of "the most comprehensive renewable energy policy entered anywhere around the world."[108] Despite wide praise for this leading effort to combat climate change and support green jobs, Mesa Power is now using NAFTA to undermine the program and demand $746 million in taxpayer compensation.[109]

Investor-State Attacks Force Costly Defense of U.S. Policies

Although the U.S. government has had to expend tens of millions of dollars in legal expenses to defend against NAFTA investor-state cases, thanks in part to a series of technical errors by the lawyers representing the foreign corporations in several cases, the U.S. government has thus far dodged the bullet of having to pay compensation. For example, in the *Loewen vs. U.S.* case, a NAFTA tribunal concluded that a Mississippi jury's requirement that a Canadian funeral home conglomerate follow normal civil procedure rules, such as posting a bond to appeal a contract dispute it had lost against a U.S. firm, violated NAFTA investor protections.[110] Luckily for U.S. taxpayers, before the compensation phase could conclude, the Canadian firm's bankruptcy lawyers reincorporated the firm as a U.S. corporation under bankruptcy protection. This eliminated Loewen's status (and privileges) as a foreign investor.

When U.S. state laws are challenged under the investor-state system, state governments have no standing and must rely on the federal government to defend their laws. If states are invited by federal officials to participate, they must pay their own legal expenses. California has incurred millions of dollars in legal costs helping to defend two state environmental laws – a toxics ban and a mining reclamation policy – that were challenged under NAFTA.[111]

The U.S. government has also not had to face tribunal-mandated compensation under NAFTA and other FTAs due in large part to the fact that current U.S. FTA partners, except for Canada and Korea, are not major exporters of capital. In fact, nearly all current U.S. FTA partners receive significantly more foreign direct investment from abroad than they send to other countries.[112] Relatively few corporations in these FTA partner countries have subsidiaries in the United States that could launch an investor-state challenge against U.S. policies.

However, the United States would vastly increase its exposure to such attacks if the TPP and a proposed Trans-Atlantic Free Trade Agreement (TAFTA) would take effect. The TPP includes Japan, second only to the United States in outward foreign direct investment.[113] Overall, corporations in TPP countries have more than 14,000 subsidiaries in the United States, any one of which could provide the basis for an investor-state claim against U.S. domestic policies. And corporations in the European Union (EU) have more than 24,000 subsidiaries in the United States, which could expose the U.S. government to an unprecedented wave of investor-state attacks if TAFTA were to take effect.[114] To see maps of all the foreign-owned corporations in the United States that would be empowered to use the investor-state system against U.S. policies under the TPP or TAFTA, visit Public Citizen's TPP and TAFTA corporate empowerment maps at http://www.citizen.org/TPP-investment-map and http://www.citizen.org/TAFTA-investment-map.

NAFTA at 20: Displacement, Falling Wages and Rising Immigration for Mexico

NAFTA Devastates Mexico's Rural Sector, Increases Poverty

The agricultural provisions of NAFTA, which removed Mexican tariffs on corn imports and eliminated programs supporting small farmers but did not discipline U.S. subsidies, led to widespread dislocation in the Mexican countryside. Amidst a NAFTA-spurred influx of cheap U.S. corn, the price paid to Mexican farmers for the corn that they grew fell by 66 percent after NAFTA, forcing many to abandon farming.[115] Mexico's participation in NAFTA also helped propel a change to the Mexican Constitution's land reform, undoing provisions that guaranteed small plots – *"ejidos*" – to the millions of Mexicans living in rural villages.[116] As corn prices plummeted, indebted farmers lost their land, which newly could be acquired by foreign firms that consolidated prime acres into large plantations.

As an exposé in the *New Republic* put it,

> "as cheap American foodstuffs flooded Mexico's markets and as U.S. agribusiness moved in, 1.1 million small farmers – and 1.4 million other Mexicans dependent upon the farm sector – were driven out of work between 1993 and 2005. Wages dropped so precipitously that today the income of a farm laborer is one-third that of what it was before NAFTA. As jobs disappeared and wages sank, many of these rural Mexicans emigrated, swelling the ranks of the 12 million illegal immigrants living incognito and competing for low-wage jobs in the United States."[117]

Hunger in Mexico Increases as Food Prices Spike

Although the price paid to Mexican farmers for corn plummeted after NAFTA, the deregulated retail price of tortillas – Mexico's staple food – shot up 279 percent in the pact's first 10 years.[118] NAFTA included service sector and investment rules that facilitated consolidation of grain trading, milling, baking and retail so that in short order the relatively few remaining large firms dominating these activities were able to raise consumer prices and reap enormous profits as corn costs simultaneously declined.[119] This result stands in sharp contrast to promises by NAFTA's boosters that Mexican consumers would benefit from the pact.

Prior to NAFTA, 36 percent of Mexico's rural population earned less than the minimum income needed for food, a share that grew by nearly 50 percent in the agreement's first three years.[120] On the 10-year anniversary of NAFTA, the *Washington Post* reported, "19 million more Mexicans are living in poverty than 20 years ago, according to the Mexican government and international organizations. About 24 million – nearly one in every four Mexicans – are classified as extremely poor and unable to afford adequate food."[121] Today, over half of the Mexican population, and over 60 percent of the rural population, still fall below the poverty line, despite the promises made by NAFTA's proponents.[122]

Mexican Wages Shrink, Poorly Paid Temporary Employment Grows

Real wages in Mexico have fallen significantly below pre-NAFTA levels as price increases for basic consumer goods have exceeded wage increases. Despite promises that NAFTA would benefit Mexican consumers by granting access to cheaper imported products, the cost of basic consumer goods in Mexico has risen to seven times the pre-NAFTA level, while the minimum wage stands at only four times the pre-NAFTA level. As a result, a minimum wage earner in Mexico today can buy 38 percent fewer consumer goods as on the day that NAFTA took effect.[123]

A 2006 comprehensive study found that inflation-adjusted wages for virtually every category of Mexican worker decreased over NAFTA's first six years. The workers that experienced the highest losses of real earnings were employed women with basic education (-16.1 percent) and employed men with advanced education (-15.6 percent). The only exception to the downward earnings trend was earnings for mobile street vendors – the very poor people who hawk candy and trinkets on Mexican streets. Even in that category, earnings were still below their 1990 levels, and only slightly better than their 1994 levels.[124]

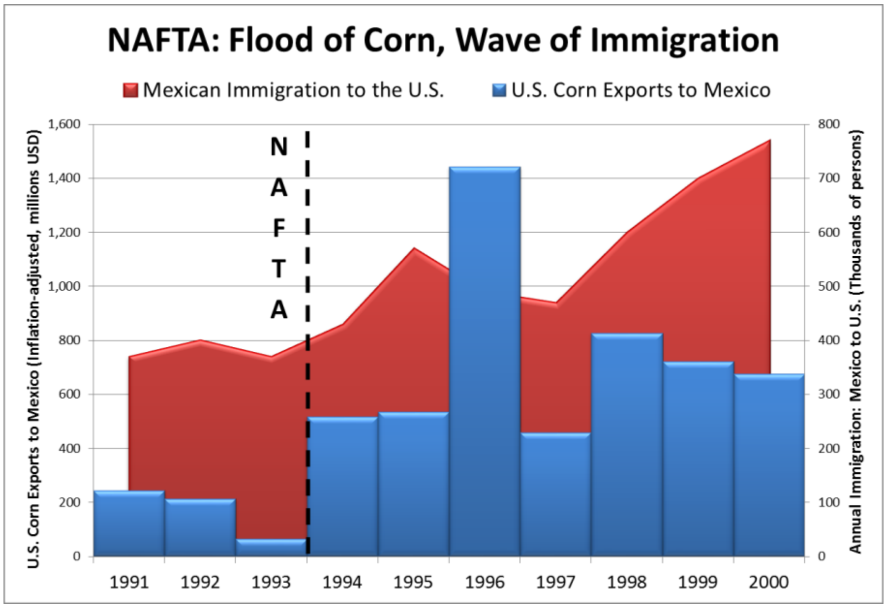
Overall, there has been a shift from formal, wage- and benefit-earning employment to informal, non-wage- and benefit-earning employment under NAFTA. Even formal employment has shifted to carrying fewer benefits than it did prior to the pact's passage. *Maquiladora* (sweatshop) employment, where wages are almost 40 percent lower than those paid in heavy non-*maquila* manufacturing, surged in NAFTA's first six years. But since 2001, hundreds of factories and hundreds of thousands of jobs in this sector have been displaced as China joined the WTO and Chinese sweatshop exports gained global market share.[125]

These failures of NAFTA have combined to severely weaken the social fabric in Mexico, contributing to the mass instability and violence that has plagued the country in recent years. A Pentagon report in 2008 warned that Mexico "bear[s] consideration for a rapid and sudden collapse."[126]

Immigration Surges, Driving Dangerous U.S.-Mexico Border Crossings

NAFTA's boosters claimed that the pact would limit immigration. Then-Mexican President Carlos Salinas de Gortari claimed NAFTA would reduce the flow of migrants from Mexico into the United States, saying: "Mexico prefers to export its products rather than its people."[127] Salinas infamously added that the U.S. decision over NAFTA was a choice between "accepting Mexican tomatoes or Mexican migrants that will harvest them in the United States."[128]

According to the Pew Hispanic Center, the number of people immigrating to the United States from Mexico remained steady in the three years preceding NAFTA's implementation. However, the number of annual immigrants from Mexico more than doubled from 370,000 in 1993 (the year before NAFTA went into effect) to 770,000 in 2000 – a 108 percent increase.[129] The immigration surge coincided with a NAFTA-enabled flood of subsidized U.S. corn into Mexico, as shown in the adjacent graph.[130] The number of undocumented immigrants in the United States (who are primarily Mexican) has increased 144 percent since NAFTA took effect, from about 4.8 million in 1993 to 11.7 million in 2012.[131]



Source for corn exports: U.S. International Trade Commission, "Interactive Tariff and Trade Dataweb," 2013. Source for immigration: Jeffrey Passel, D'Vera Cohn, and Ana Gonzalez-Barrera, "Net Migration from Mexico Falls to Zero – and Perhaps Less," Pew Research Center, April 23, 2012.

Mexican Businesses Disappear, Inequality Persists and Growth Slows

An estimated 28,000 small- and medium-sized Mexican businesses were destroyed in NAFTA's first four years, including many retail, food processing and light manufacturing firms that were displaced by NAFTA's new opening for U.S. big box retailers that sold goods imported from Asia.[132]

The richest 20 percent of Mexico's population collect over half of the nation's income while the poorest 20 percent earn less than 5 percent. Despite the promises of NAFTA's corporate proponents, the country's income inequality index remains among the highest in the world.[133]

NAFTA supporters promised strong growth rates for Mexico upon implementing the deal. Yet, since NAFTA took effect, Mexico's average annual per capita growth rate has been a paltry 1.1 percent. After two decades of NAFTA, Mexico has only grown a cumulative 24 percent. In sharp contrast, from 1960 through 1980, Mexico's per capita gross domestic product grew 102 percent, or 3.6 percent on average per year.[134] Mexico would be close to European living standards today if it had continued its previous growth rates.

NAFTA at 20: The NAFTA Trucks Threat

NAFTA Requires Access to U.S. Roads for Trucks Not Meeting U.S. Safety or Environmental Standards

The NAFTA truck saga provides an example of how NAFTA reaches "behind the border" to undermine important domestic environmental and safety policies, and how Congress can lose control of such domestic policies if they are implicated by a trade pact. NAFTA's service sector chapter included a requirement that all three countries' highways be fully accessible to vehicles of trucking companies based in any NAFTA nation by 2000, an item pushed by large U.S. trucking firms seeking deregulation and lower wages.[135]

NAFTA also recommended, but did not require, that Mexican and U.S. truck safety, emissions and driver standards be harmonized (i.e. made uniform). That provision had no deadline, nor did it require that Mexican standards be brought up rather than U.S. standards brought down.[136] Post-NAFTA negotiations on the standards issues went nowhere.[137]

The U.S. Department of Transportation's (DOT) Inspector General (IG) conducted studies that repeatedly revealed severe safety and environmental problems with Mexico's truck fleet and drivers' licensing.[138] For instance, Mexico's commercial drivers' licenses permitted 18-year-old drivers and required no medical exam or drug testing. Nor did the government have a system for tracking driver violations, insurance or hours of service. The Clinton administration relied on the IG reports and did not implement the NAFTA trucking rules.[139]

Mexico Uses NAFTA Dispute to Supersede U.S. Standards

To enforce its NAFTA-granted rights, Mexico launched a formal NAFTA dispute resolution case. In 2001 a three-person NAFTA tribunal ruled that the United States was required to allow full access to U.S. roads for Mexico-domiciled trucks or face trade sanctions.[140] Shortly after entering office, President George W. Bush sought to implement the NAFTA tribunal order.[141]

Public Citizen, Sierra Club and a coalition of other consumer, labor and environmental groups successfully sued in U.S. federal court to block the order based on the administration's failure to conduct an environmental impact assessment as required by the National Environmental Policy Act. At issue was the prospect that Mexico-domiciled trucks driving throughout the United States would exacerbate air pollution, since the Mexican truck fleet is older and emits greater quantities of pollutants, including nitrogen oxide and particulate matter.[142] Some U.S. border states supported the suit, as the influx of these trucks was projected to put them out of compliance with the Clean Air Act.

This victory for safety and the environment was later overturned by a 2004 Supreme Court ruling.[143] In a chilling ruling with ramifications for a wide array of domestic policies implicated by NAFTA and other FTAs, the court concluded that the executive branch had significant discretion on this *domestic highway safety policy* because it implicated the president's foreign affairs authority relating to enforcement of an international agreement.[144]

"Pilot" Program Favors NAFTA Compliance over Safety and Environmental Concerns

During Bush's second term, his administration worked with the Mexican government to finalize a controversial pilot program for Mexico-domiciled trucks to be allowed access – despite ongoing safety concerns.[145] A bipartisan coalition in Congress intervened, setting specific safety and environmental conditions that had to be met before the program could go into effect. In response, a private Mexican association of truck drivers launched a case against the United States under the investor-state privileges of NAFTA, demanding $6 billion in damages from U.S. taxpayers for their congressional representatives' failure to implement the NAFTA "open-border" trucking policy.[146]

Meanwhile, environmental and consumer groups filed another lawsuit against the so-called pilot program for its failure to meet basic statutory requirements for a pilot program, such as providing safety data to determine if congressional requirements were met to transition the test period into a permanent policy. The Bush administration implemented its "pilot program" anyway, claiming congressional dictates only applied to a final open border policy, not a test program.

Obama Administration Caves to Mexico's $2.4 Billion NAFTA Trade Sanctions Threat, Allows NAFTA Trucks to Run over Safety and Health Concerns

In March 2009, after years of congressional pressure, President Obama signed into law a bill that ended Bush's 18-month "pilot" truck program. A few days later, Mexico announced that it would impose tariffs on U.S. trade worth $2.4 billion in retaliation.[147] The sanctions initially targeted exports from the states of House and Senate members that had voted in favor of the measure to forbid access until safety and environmental improvements were made.[148]

In April 2010, 78 members of Congress, including Rep. Peter DeFazio (D-Ore.), then-Chairman of the Highways and Transit Subcommittee of the House Transportation and Infrastructure Committee, sent a letter to Department of Transportation Secretary Ray LaHood and U.S. Trade Representative Ron Kirk, urging them to negotiate with Mexico to remove the cross-border trucking provisions from NAFTA. They asked the administration to swap improved access in another sector to "buy back" the policy space to maintain U.S. highway safety. Such negotiated compensation is allowed under NAFTA. The administration refused, instead allowing the sanctions to remain in place.

Then, in a shocking move, the Obama administration caved to NAFTA in 2011 by signing a deal to allow Mexico-domiciled trucks into the U.S. interior for three years despite the unresolved safety and environmental concerns, thereby imperiling highway safety and clean air for the sake of NAFTA's extraordinary provisions.[149] The first Mexico-domiciled truck crossed into the U.S. interior in October 2011, while Public Citizen, the International Brotherhood of Teamsters, and the Sierra Club filed a lawsuit to block the dangerous new "pilot" program. In May 2013, the U.S. Court of Appeals for the D.C. Circuit ruled that the pilot program was legal.[150]

More than two years after its launch, the pilot program has not served its stated purpose of evaluating the ability of Mexico-domiciled trucks to operate safely in the United States. The program does not have a statistically valid sample of participants even according to the agency's standards. The DOT had stated it would need 46 participating carriers to obtain a target of 4,100 inspections to provide a statistically valid analysis of the pilot program participants' safety performance.[151] Public Citizen and others strongly contested this methodology for determining the risk associated with allowing *all* Mexico-domiciled trucks to have access to U.S. roadways, given DOT's lack of an attempt to attain a representative sample of Mexican motor carriers for the program.[152] Worse still, only 14 Mexican motor carriers – a fraction of DOT's own minimum requirement – are currently participating in the pilot program that expires in less than a year, with literally only 49 trucks and 43 drivers involved.[153] Requiring a small, non-representative sample of trucks to show that the vehicles and drivers can meet U.S. standards – much less the even smaller sample that has actually materialized – can hardly produce conclusions about the safety and environmental implications of granting permanent access to all Mexico-domiciled trucks.

It remains to be seen whether Mexico will turn to NAFTA again to reinstate trade actions against the United States if U.S. officials do not provide wider access. For now, the tiny pilot program has limited the risk of granting complete U.S. roadway access to thousands of Mexico-domiciled trucks that may not meet safety or environmental standards and whose drivers may not be in compliance with skills-based-licensing and hours of service rules. At the same time, even a few of the small number of pilot program carriers have been granted access to U.S. roadways despite recorded safety violations, such as requiring or permitting drivers to continue driving the trucks more than 14 hours after reporting for work.[154]

NAFTA at 20: Surge in Trade Conflicts between NAFTA Countries

NAFTA Partners Lead the World in Trade Pact Attacks on the United States

Despite claims that NAFTA would help deepen alliances with Mexico and Canada, these two countries are among the top challengers of U.S. policies – not only in NAFTA – but also at the WTO, where Canada has brought three times more cases against the United States than the United States has brought against Canada.[155] (Mexico has brought nine cases against the United States, while the United States has filed six cases against Mexico.) Next to the EU, Canada has launched more WTO cases against the United States than any other country, while Mexico ranks as the fourth most frequent challenger of U.S. policy in the WTO.[156]

NAFTA Countries Challenge U.S. Consumer Protection Rules

Among the WTO cases brought against the United States by its NAFTA partners are Canada and Mexico's joint 2009 challenge of a popular U.S. meat country-of-origin labeling policy. The United States instituted the policy so consumers could make informed choices about their purchases of meat. In 2012 Canada and Mexico won the case in a WTO Appellate Body ruling against the meat labeling policy. The U.S. government responded by strengthening rather than weakening the label, a move that Mexico and Canada have both challenged at the WTO, threatening to impose trade sanctions against the United States if the WTO once again rules against the labeling policy.[157]

NAFTA Partners Attack Label to Protect Dolphins

Though NAFTA supporters claimed that NAFTA would promote better ties and help the United States avoid a repeat of Mexico's pre-NAFTA challenges of U.S. "dolphin safe" labeling for tuna, Mexico has persisted in its case under the WTO. In 2012 the WTO Appellate Body ruled in favor of Mexico and against the U.S. policy, which simply informs consumers when the tuna they purchase has been harvested with methods that reduce harm to dolphins. Despite the popular label's non-discriminatory application and oft-noted success in contributing to a vast reduction in dolphin deaths, the WTO concluded that the label violates WTO rules. In response, the U.S. government heeded consumer pressure by improving rather than gutting the label, a move that Mexico has challenged at the WTO, again threatening to impose trade sanctions against the United States if the WTO once again rules against "dolphin safe" labeling.[158]

Conclusion: NAFTA's Damage Fuels Opposition to the TPP

After two decades of NAFTA, the evidence is clear: the vaunted deal failed at its promises of job creation and better living standards while contributing to mass job losses, soaring income inequality, agricultural instability, corporate attacks on domestic health and environmental safeguards, and mass displacement and volatility in Mexico.

Now the Obama administration hopes to conclude and railroad through Congress the TPP, an expansion of the NAFTA model to Asian and Latin American countries. Incredibly, Obama promised to fix NAFTA as a candidate in 2008.[159] With no such fixes to date, the TPP represents a stunning flip-flop that threatens to replicate the very NAFTA-style damage that Obama criticized on the campaign trail.

But the administration and corporate proponents of the TPP will have difficulty getting the controversial deal through Congress. Twenty years of NAFTA's damage has contributed to a groundswell of TPP opposition among the U.S. public and policymakers. In November 2013, a bipartisan group of 178 members of the U.S. House of Representatives stated their early opposition to any attempt to Fast Track the TPP through Congress, while other members expressed similar concerns about the TPP and the Fast Track trade authority scheme.[160]

Congressional rejection of the TPP stands to intensify as the 20th anniversary of NAFTA provides a fresh reminder of the damage that such past pacts have wrought. It was the initial outcomes of NAFTA that sank previous attempts at massive NAFTA expansions, such as the Free Trade Areas of the Americas and the Asia-Pacific Economic Cooperation (APEC) FTA.

NAFTA's two-decade legacy of tumult and hardship for millions of people in North America could similarly hasten the downfall of the attempt to expand the NAFTA model via Fast Track and the TPP. If so, it would constitute a unique benefit of an otherwise damaging deal.

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