Sustainable Development, Fast Track Legislation and American Foreign Trade Negotiations:

- The Case of Nafta and Its Implications for African and Central American Countries

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Introduction

The end of the cold war in the 1980s marked a new era in relations among nations. As more nations become more interdependent, the thin line between domestic and foreign policy becomes even much less defined. The urge to blur the line further is driven by the desire of more nations to discover new markets for their products. The formation of regional blocs has become the trend in the present; and has accounted for the constitution of economic groupings in Africa, North America, Latin America and Asia. Among the trade blocs are: Latin American Trade Association (1960); European Free Trade Association (1960); Canada-U.S. Free Trade Agreement (1989); European Community (EC/ 1968), and the North American Free Trade Agreement (NAFTA)/ 1992). The purpose of establishing an economic bloc is to attain a sense of community and the institutions necessary to guarantee economic and political exchanges for a peaceful and dependent change and coexistence among cooperating states. In other words, NAFTA was geared toward achieving sustainable development – economic growth, alongside social progress, economic integration and relative protection of the environment. It is the striking of the right balance between nature and economic development. In the case of economic blocs, economic integration constitutes and promotes increased rate of movement of goods and people. NAFTA is a trade agreement established among the United States, Canada and Mexico. NAFTA treaty was signed in 1992. Although NAFTA was a trilateral treaty, its debates and analysis have taken on a Mexico-American paradigm. One of the reasons is that there is a very wide gap between Mexico and the United States in terms of population, standard of living, language and the maturity level of its political institutions. These disparate characteristics appear to be somewhat similar between Canada and the United States.

As trade tendencies between Mexico and the United States grow, so is the debate for congressional assertiveness in the shaping of American trade policy. In 1974, the Trade Act was passed. it provided a procedure called "fast track" for implementing trade agreements. Fast track authority was an

understanding of reciprocal relationship between the President and Congress. It requires the President to consult with Congress before entering into any trade agreements with foreign nations. In return, Congress would relinquish its authority to alter elements of the trade agreements by way of amendments or other legislative devices. The aim of this authority is to give the President full congressional backing before he initiates foreign trade negotiations. As such, potential trading partners would be expected to negotiate in good faith, thinking that any trade agreements negotiated with the executive Branch would withstand Congressional scrutiny in the United States.

The fast track legislation has been with every American President since President Gerald Ford, and has been instrumental in the negotiation of several trade agreements, including NAFTA. Although the authority expired in 1994, the Clinton Administration fought relentlessly for its renewal, against mounting strong Congressional opposition. Those who oppose fast track legislation argued that it would lead to the flight of American jobs to Mexico and the inadequate inspection of goods coming into the United States. Also, they argue that it delegates too much power to the President, and that Congress, by giving a blank check to the President with respect to the fast track legislation has abrogated its constitutional responsibility and authority over international commerce.

On the contrary, proponents of NAFTA and the fast track authorization argue that it would enable the United States to negotiate new trade agreements would sustain her to remain the global economic leader; and to pursue trade liberalization in Latin America.

In September 1997, President Clinton sent to Congress a fast track proposal that would give his administration increased flexibility to negotiate a wide range of trade issues. The proposal would further allow labor and environmental issues to be included in agreements negotiated under fast track as long as those issues were trade related. if not, they would have to be pursued as side agreements, subject to normal congressional procedure, and open to amendments.

One of the biggest headaches facing NAFTA is the issue of " rule of origin" to prevent transshipment, in which a nonmember country with limited trade protection exports commodities to a member country for the purpose of re-exporting it to another member nation.

In the end, NAFTA Treaty was signed in 1992. In 1994 NAFTA went into force and is expected be yielding full dividend by the year 2005. So far Mexico has suffered many setbacks as a result of its trade agreements with NAFTA. These problems include but not limited to unequal competition and development, decline of labor laws and standards, loss of national sovereignty to multilateral entities like

NAFTA and World Trade organization (WTO), and loss of trade protection for its domestic industries. These are issues African states cannot afford to neglect as they fashion the expansion of New Partnership for Africa's Development (NEPAD) to include G8 member nations. In the same vein, the Central American states should look at the Mexican experience in NAFTA for guidance as they embark on crafting, reforming and implementing the Central American Free Trade Agreement (CAFTA).

Trends in U.S.-Mexico Relations

U.S.-Mexico relation dates back to the war between the United States and Mexico (1846-1848 that led to the annexation of Mexican territory by the United States. Since then, an atmosphere of suspicion has existed in their relations until President Porfirio Diaz (1876-1911). His thirty five year dictatorship achieved significant development in Mexico, with respect to energy, communication and transportation through concessions to foreign business and interests; forced recruitment of labor and repression of strikes. The consequence was the expansion of the Mexican middle class.

Most of the investment that President Diaz attracted came from the United States. As American economic investment grew in Mexico, Washington began to gain significant political power in Mexico. Thereafter, two major historical events threatened the rapprochement that developed between Mexico and the United States during the revolution as a result of their involvement in the industrialization program under President Diaz. One was American attempts to seize Veracruz in an attempt to isolate Huerta. Huerta had sided with the British oil interests. This event occurred between 1914 and 1915. Another was a failed attempt by General John J. Pershing and his 6000-man invasion force of Northern Mexico to capture and defeat the armies of Pancho Villa from 1916 to 1917. **(1)**

The appointment of U.S. Ambassador to Mexico, Dwight Morrow helped to mend fences between the two countries in the 1920s under President Plutarco Calles of Mexico**. (2)**

The U.S.-Mexican relations turned a new page towards better improvement when President Franklin Roosevelt enunciated his new policy of " Good Neighbor " in which American foreign policy in Latin America was guided by the principle of nonintervention and respect for the territorial integrity and sovereignty of nations in the Western hemisphere. The Roosevelt new policy of course was a repudiation of his earlier policy called "Roosevelt Corollary" of 1904 that justified American intervention in Latin America to guard against European hegemonic ambitions that threatened the sovereignty of nations in the Americas. The new "Good Neighbor" policy of 1933 sought a better relation between the United States and Latin American States through the policies of political and economic cooperation devoid of intervention in their internal affairs. **(3)**

In the 1930s, the effects of the depression were felt as labor strikes and social unrest increased. Dissatisfied with low wages and poor working conditions, the Mexican oil workers went on strike in 1936. Thus, in 1938, Mexican President Lazaro Cardenas nationalized the oil industry. The United States, pursuant to its policy of "good neighbor" tolerated Mexico's sovereignty with respect to this decision, but negotiated the favorable terms of compensations for American Multinationals. To remain independent of foreign powers, Mexico pursued an industrialization policy of import substitution. The policy attempted to protect its domestic industrial sector by restricting foreign investment and controlling inflation. This policy flourished from the 1930s until the 1980s. **(4)**

Faced with growing economic conditions, President De La Madrid Administration (1982 -1988) pursued policies designed to open up and modernize the Mexican economy. Hence, he initiated import substitution policies with those to attract foreign investment, stimulate exports in non-oil industry and lower trade barriers. In 1987, Mexico and the United States entered into a bilateral framework agreement on trade and investment. **(5)**

In 1989, under the Administration of President Carlos Salinas de Gortari, a second trade and investment understanding between the United States and Mexico was reached. The purpose of the understanding was to establish a negotiating process aimed at expanding trade and investment opportunities to both nations. **(6)**

According to the Congressional Digest, significant themes of the Salinas administration have included adopting market oriented economic policies, reducing foreign **debt**, lowering inflation, pursuing NAFTA, reducing corruption and human rights abuses, liberalizing the political system, combating narcotics trafficking and bolstering environmental protection. **(7)**

All these policies have culminated in Mexico becoming the second largest trading partner to the United States after Canada between 1990 and 1996. By 1996, American exports to Mexico which stood at $ 28.3 billion in 1990 had risen to $ 56.8 billion. **(8)**

In February 1991, President Carlos Salinas de Gortari of Mexico , Canadian Prime Minister Mulroney and President George Bush of the United States announced their intensions to begin negotiations on a North American Free Trade Agreement (NAFTA). It was estimated that the successful negotiation of this economic community would make it the world's largest free trade zone, with more than 360 million people and an annual output of $6 trillion. In the same year, President Bush requested Congressional

support for this endeavor. In response, Congress voted to grant him "fast track" authority in negotiating trade agreements within a specific time frame. This authority was a reciprocal agreement between Congress and the President; and required the President to consult or notify the Congress prior to entering into any trade agreement. In return, Congress must concede its prerogative to alter any implementing legislation through amendments. It is understood that in this way, the President could negotiate with foreign governments with the full backing of Congress. **(9)**

Basic Foundations of Nafta

I. Timetable

A great leap was made in U.S.-Mexican trade relations when Mexico proposed for a free trade agreement that culminated in a joint statement being issued in June 1990 between Presidents George Bush and Salinas in support of the endeavor. The joint statement which called for a gradual and comprehensive elimination of trade barriers with special focus on the following factors: **(10)**

(a) Full phased elimination of tariffs;
(b) Elimination of fullest possible reduction of non-tariff trade barriers, such as import quotas, licenses and technical barriers to trade;
(c) Protection for intellectual property rights;
(d) Fair and expeditious dispute settlement procedures and
(e) Improvement and expansion of the flow of goods, services, and investment between the United States and Mexico.

In August 1990, President Salinas formally proposed negotiations which resulted in an announcement in February 1991 among the three leaders: President Bush of the United States, Salinas of Mexico and Prime Minister Mulroney of Canada agreeing to a trilateral trade agreement. June 12, 1991 saw the trade ministers of the three countries meeting in Toronto, Canada on a preparatory meeting to negotiate the North American Free Trade Agreement (NAFTA). Initially, the negotiations focused on six broad topical areas: **(11)**

(i) Market Access (tariffs/ non-tariff barriers; rules of origin; government procurement; agriculture; automobiles; other industrial sectors)

(ii) Trade Rules (safeguards, subsidies/trade remedies; sanitary, health/environment and industry standards)

(iii) Services (principles, financial; insurance; land transportation; telecommunication; other services)

(iv) Investment (principles and restrictions)

(v) Intellectual Property rights

(vi) Dispute settlement

Having prepared the foundation for the NAFTA negotiations, the trade ministers of the United States, Canada and Mexico met for the second time on August 20, 1991 in Seattle Washington to examine reports by the working groups. In order to sell the policy and obtain necessary feedback for shaping NAFTA, the Trade Policy Staff Committee, an interagency board headed by the U.S. Trade Representative held a series of public hearings to debate the issue. The hearings were held in six American cities: San Diego, California, Boston, Massachussettes, Houston, Texas, Cleveland, Ohio and Atlanta, Georgia between late August and September 1991.
This was followed by a third Trade Ministerial meeting in Zacatecas, Mexico October 26 - 27, 1991.

The October negotiations in Zacatecas, Mexico ran into some problems even though they operated under no deadline. One of the problems was that Mexico had strict restrictions on foreign participation in its energy sector, perhaps due to its energy indigenization or nationalization policy. This of course, worked to the disfavor of the United States which argued in favor of increased American participation.

Another difficulty arose with respect to settlement mechanisms in the area of health, market access for vegetables and fruits; safety and environmental standards. The next problem was Mexico's reluctance to agree to American suggestion on "rules of origin" that ensure that the benefits of the agreement accrue to the signatory countries.

According to Jorge G. Castaneda, President Carlos Salinas de Gortari's Administration in Mexico was determined to pursue NAFTA as part of a dual strategy. One strategy was that it would help infuse into Mexican ailing economy huge foreign capital it needs to sustain steady growth. Another tactic for Mexican pursuit of NAFTA was political; in which its linkage with the United States would help lay the foundation for a controlled transition to democratic rule. However, Castaneda concludes that although the Salina's strategies for NAFTA under regulation could help achieve those intended results under some circumstances, it would not by itself bring about modernization to Mexico, but, rather, stands to

exacerbate the economic disparity among its population. **(12)**

Nevertheless, other considerations account for Mexico's relentless pursuit of this policy. One is that economic changes in Europe might make capital investment in either Mexico or Latin America scarce. This thinking is not surprising given the fact that the European Union (EU) has become a major regional trading bloc.

Furthermore, many American multinationals might be lured into locating and investing in Mexico given Mexico's improved trade and investment opportunities - cheap labor/ low domestic wages.
This reason, of course, is one of the reasons why organized labor groups in the United States like the Association of Manufacturers and the AFLCIO have opposed NAFTA. They argue that low wages in Mexico would severely lower wages in the United States, and thus reduce standard of living and cause mass unemployment. They also argue that disparate labor standards and environmental regulation and safety would give unfair advantage to Mexican producers.

Moreover, President Salinas believed that Mexico might benefit extensively from America's exploration and development of its oil resource. Thus, the entanglement would one day make Mexico a permanent oil supplier to the United States outside the region of the Middle East which has been very unstable and far distant.

Nevertheless, NAFTA raised a number of issues for the United States and for Mexico especially. One was whether NAFTA would in practice adhere to the obligations established under the General Agreement on Trade and Tariff (GATT). It should be recalled that GATT abides by two basic principle conditions. one of the conditions is that duties and other restrictions to all trade between members of the union must be removed. The other is that the duties and restrictions placed against non-bloc countries must not be in general, more restrictive than before the bloc was formed. Another concern was whether NAFTA would make access to American markets easier for new states that invest in Mexico, and especially Japan. Records showed that Japanese total investment in Mexico is far less that the American investment. Also, Mexico ponders over the prospect of products manufactured in developing nations could have free access to U.S. markets via Mexico. Negotiations on the "rules of origin " were to address the issue. only goods adhering to this qualification are allowed access across North American borders duty free. In other words, in order to qualify for duty free treatment, they must be produced in North America. Another tilt to this principle is that goods produced in North America with materials imported from elsewhere qualify if the end product is substantially different from the imported material. For example, according to David J. Sousa, timber imported by Mexico from Brazil could not then be

shipped into the United States or Canada duty free, bur paper made in Mexico from Brazilian wood pulp would qualify. NAFTA also requires that some products have substantial North American content to enjoy duty free treatment: for example, consumer products like chemicals, footwear and automobiles in order to qualify must contain at least 50 percent North American components. **(13)**

According to the International Trade Commission, about 3 percent of the Maquiladoras have Japanese investment. The Maquidoras are U.S. Mexican production structures and instruments or manufacturing plants located close to both nation's borders. These plants import duty-free parts, semi-finished goods and other products from the United States. These items are then finished or assembled with cheap labor in Mexico and freely exported for sale in American markets. It is this threat to American wage rates and jobs that worry American labor Unions.

In February 1991, the International Trade Commission issued a report on the likely impact on the United States of the free trade agreement with Mexico. The study reached a number of interesting conclusions: **(14)**

(a) It found that the study favors the United States economy overall because it expands trade opportunities, lowers prices, increases competition and makes it possible for American corporations to take advantage of economies of scale:

(b) That the effect on the American economy would be minimal in the short run, but to significant increase over time.

(c) That disproportional impact on certain industries like horticulture would occur in Mexico due to production shifts.

(d) That there would be little or no effect on the levels of employment in the United States, even though the possibility of occupational changes exist.

Congressional Negotiation of the Fast Track Authority

The constitution of the United States grants the President power “to lay and collect duties and to regulate commerce with foreign nations. In 1934, pursuant to this mandate, Congress, by legislation authorized the President (Then Franklin D. Roosevelt), to " enter into foreign trade agreements with foreign governments and to proclaim such modifications of existing duties and other important restrictions as are required or appropriate to carry out any such trade agreement." Prior to this time, previous American Presidents had relied on Executive proclamation for trade negotiations.

I. Request for Fast Track Authority

President George Bush was first granted fast track authority in the NAFTA negotiations under the

Omnibus Trade and Competitiveness Act of 1988. The act allows the President to negotiate and abide by trade agreements designed to reduce or eliminate tariff and non-tariff barriers, and also to establish free trade zones. The act survived only one extension before its expiration on April 15, 1994. The law required the President to enter into a trade agreement by May 31, 1991, or request a two-year extension of fast track under two conditions. One was to request extension no later than March 1, 1991. next, neither House of Congress could adopt resolution of disapproval prior to June 1, 1991.

It was not until March 1, 1991 that President Bush submitted a request for a two-year extension of the fast track authority.

"Fast-Track" element" is essentially a reciprocal arrangement between the legislative and executive branches of government. It requires the President to notify and consult with Congress prior to entering into trade agreements. In return, Congress must concede its prerogative to alter any implementing legislation through amendments. in this way, the President can go to foreign nations with the assurance that his negotiating position has congressional endorsement, but that position must reflect the regional and other concerns of members of Congress." **(15)**

In response to the President's request for fast track extension, disapproval resolutions were introduced in both the House and Senate. House Resolution 101 proposed by Sen. Ernest F. Hollings (South Carolina Democrat) and Senate Resolution 78 authored by Rep Byron L. Dorgan (North Dakota Democrat), on the basis that tangible progress had not been made in NAFTA negotiations. The defeat of both resolutions (disapproving Resolutions of Disapproval)in the floor of Congress had the effect of granting the President automatic extension of the fast track authority. Beyond extending fast track negotiating authority to the President, other congressional safeguards which give it a continuing role in trade agreements exist.

During negotiations, the President is required to meet and consult with appropriate committees of congress. Otherwise Congress might withdraw his fast track authority by passage of “resolution of disapproval” by both Houses of Congress. On May 7, 1991, the Senate finance Committee and the House Ways and Means Committee Chairs asked the Administration to come up with a plan on how it would address environmental standards, worker rights, health and safety standards etc. by May 1, 1991. upon receiving the President's response, the House passed H. Res. 146, introduced by Rep. Richard A. Gephardt (Missouri-Democrat). This bill which linked fast track authority to the realizations of the goals and commitments specified in the President's response was passed on May 23, 1991.

In addition, the President is required to congress of his intent to enter into a trade agreement at least 90 days before he actually does it. Thereafter, the President must submit the agreement and implementing legislation to Congress. At the submission of the legislation, Congress, without amendment is required under fast track authority provisions and procedure to vote on the legislation up or down within 60 days.

Under President Clinton, the fast track authority was given added attention, especially in the (105th) Congress. The President dispatched to Congress a draft of his fast track proposal on September 16, 1997, entitled "the reciprocal Trade Agreement Authorities Act of 1997. The proposal was referred to the Senate Finance and the House Ways and Means Committees. In the proposal, the administration provided for tariff reduction authority and new fast track guidelines and procedures until October 1, 2001. The proposals stipulated that the President: **(16)**

1. Provide written notice and consult with relevant congressional committees at least 60 days prior to entering into trade negotiations
2. Before entering into a trade agreement, consult with the relevant committees concerning the nature of the agreement
3. Notify Congress at least 90 days before entering into an agreement of his intent to do so. Fast track would not apply if both Houses separately agreed to a procedural disapproval resolution within any 60-day period stating that the administration failed to consult with Congress.

The President's proposals, would permit new statutory provisions or other changes in American law necessary to carry out a trade agreement subject to inclusion in the fast track implementing legislation only when the changes satisfy these two basic requirements. First, if it is necessary or appropriate to enforce the agreement. Secondly, it must be related to trade. The consequence of this requirement is that ambiguous and broad issues like environmental protection and worker rights issues could only be part of fast track trade agreements if they have direct relationship with trade. Moreover, it prevents fast track bills from being used to pass into law, non-trade provisions. The general agreement is that side agreements on issues that are not directly linked to trade blocs should be addressed through other global agencies or channels like the International Labor Organization (ILO), World Trade Organization (WTO) or General Agreement on Trade and Tariff (GATT). On October 8, 1997, a vote of the Presidents fast track bill (House Resolution 2621) cleared the House Ways and Means Committee by a vote of 24 to 14. The senate version, S. 1269 was approved by a voice vote on October 1, 1997. Voice vote is merely a parliamentary instrument or device used to determine the relative strength or support a bill registers as votes for or against are counted or tallied.

The Case to Extend Fast Track Authority to the President

The fast track authority which grants the President a "blanket" or "blank check" authority to negotiate trade agreements with foreign nations on the assumption of winning automatic backing from American Congress generated a lot of controversy. While many see it as a cultivation of an "imperial presidency," others see it as the “teeth” or "big stick" which the president needs for effective foreign policy performance. The rationales proposed by many members of Congress during floor debates to give credibility to the President's ability to negotiate American trade agreements are hereby reviewed. It was a Senate debate of Resolution 78 which would disapprove the Presidents request for extension of fast track procedures under the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974.

Senator Lloyd Benson, (Texas-Democrat) On the floor of the Senate floor on May 24, 1991 argued in support of the fast track legislation by virtue of the fact that its defeat would set an undesirable precedent with respect to the fate of all other trade agreement negotiations in progress. That means that other nations would not be willing to negotiate with the United States if the fast track authority is missing. For example, he cited the Uruguay round of GATT, which got underway in 1986 in Punta del Este, Uruguay, not to mention NAFTA. it is worth noting that the eight GATT round in Uruguay was completed on December 15, 1993. Hence, he declared that "it is clear to me that a vote to deny fast track authority is in fact a vote to stop these negotiations dead in their tracks. He maintained that it would facilitate the ability of the United States to raise the standard of living in Mexico and in the United States. Then, he predicted, Mexico would be in a better position to purchase American-made goods. **(17)**

Senator Max Baucus (Democrat-Montana) agreed. He believed that the fast track authorization helps to promote the broad interest of the United States which in his opinion would be missing if the congress were given decisive role to negotiate on behalf of the United States. This is, because, members of Congress always pursue narrow/ parochial special interests of either the lobbies or their constituents. He however, acknowledged that Mexico is rapidly emerging as the biggest market for American exports, ranging from corn and wheat to computers and automobiles. **(18)**

Senator Bill Bradley, (Democrat- New Jersey) also argued in favor of extending the fast track negotiating authority. He stated that the proposed NAFTA pact would provide the United States with the best opportunity to create new manufacturing jobs domestically. He further indicated that the failure to support the President's ability to negotiate NAFTA would increase the social and political distancing or isolation between the United States and Mexico. If we miss the opportunity to make Mexico a partner in the economic and political benefit that NAFTA would bring, the United States runs a social and political risk that intolerable conditions in Mexico would unleash. Perhaps, he was referring to mass immigration into

the United States and social upheaval to be caused by unemployment and misery, and hopelessness. **(19)**

Sen. Dennis DeConcini (Democrat-Arizona) even painted a more promising picture when he observed that NAFTA would eventually yield similar economic results in Mexico just like other integration measure or economic groupings have had in Eastern Europe. He praised NAFTA as providing an unprecedented opportunity to integrate two of the world's most divergent economies and thus would immensely assist in providing the opportunity to address other pertinent issues like border environmental problems between the United States and Mexico. **(20)**

Peter V. Domenici, New Mexico (Senate-Republican) in support of the Fast track negotiation authorization concluded that the United States, as a result of this diplomatic device, would be able to attain a tough and effective international enforcement mechanism included in the trade agreement. He also said that the new rapprochement between the United States and Mexico, which NAFTA would effect would eventually dispel America's old social and foreign policy assumptions about our neighbor. Also, he observed, Mexico would provide the United States with millions of skilled manpower, which at present is scarce; and that the future national and foreign policy interests of the United States would be determined by the nature and patterns of its relation with Mexico. **(21)**

With respect to the hearings on Fast Track Trade negotiating Authority held on September 30, 1997 by the Subcommittee on Trade of the House Ways and Means Committee, an additional number of voices spoke in favor of the fast track trade negotiating authority for the President. Charlene Barshefsky, U.S. Trade representative argued that the fast track negotiation authority deserves American support because the United States should be a leader rather than a follower. For the United States to improve and maintain a strong economy, it must establish external markets like Mexico for its goods and services. She argued that many American companies doing business overseas have been disadvantaged because of preferential agreement negotiated by others that it has to obey. Thus, she maintained, the fast track is essential for the United States to be able to negotiate more comprehensive access agreements with select countries. **(22)**

President and Chief Executive Officer of the U.S. Chamber of Commerce asked congress to support the authority measure. He argued that real progress could be made in the crafting of our national trade agenda if congress works closely with the President; and that this level of cooperation is needed since the United States has no choice but to engage the global economy and thus pursue a variety of legitimate national objectives critical to its security. He appealed to Congress not to hinder the fast track

authority on the basis of any pretext, including those requirements to advance labor, environment and other social agenda or objectives.

Finally, Edith R. Wilson, Trade Project director of the Democratic Leadership Council cautioned that the fast track authority should be extended because it is logically contradictory for the United States to pursue economic growth policies without engaging in trade with other countries. He warned that congressional refusal to support the fast track authority would send a message around the world that the United States has abdicated its international economic leadership. Therefore, she suggested that the United States congress should do away with its unnecessary demands that impede meaningful trade agreements: setting standard for other nations' wages and laws. **(23)**

Arguments against Fast Track Negotiating Authority

The Senate debate of May 24, 1991 on Resolution 78 that would disapprove the President's request for extension of fast track procedure under the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974 revealed the level of sentiment against the fast track authority.

Sen. Ernest F. Hollings (Democrat- South Carolina) argued that the Trade Agreement with Mexico would make matters worse in the United States, in terms of meeting the trade agreements' expectations of creating high paying jobs, increasing economic growth and productivity and increasing exports necessary to maintain an adequate standard of living in the United States. He warned that already the United States lost about 2 million jobs in the manufacturing sector since the 1980s; and that the average family real income had remained stagnant since 1973. He argued that more time was needed in order to critically examine the merits and deficiencies of any trade agreement. **(24)**

Senator Jesse A. Helms (Republican - North Carolina) concurred by making a constitutional argument that support for fast track legislation was tantamount to congress abdicating its constitutional responsibility to regulate international trade. He argued that the Mexico Free trade Agreement negotiations would run into big problem since the United States does not have a lot of thing in common with Mexico in terms of politics, culture, language and other social characteristics. He further argued that this trade negotiation would have effects far beyond trade. As a foreign policy issue, their impacts and implications were too complex for the trade representatives or the executive branch to handle; and thus should fall under the strict scrutiny of Congress. **(25)**

In the opinion of Sen. Paul S. Sarbanes (Democrat- Maryland), the problem with the fast track negotiating authority is that the Administration is trying to apply the procedure very broadly as opposed

to narrowly tailoring it to special circumstance for which it was devised.

Also, Sen. Howard M. Metzenbaum (Democrat - Ohio) argued that the task facing the fast track negotiation was too complex because required changes to the Mexican economy would be as challenging and expensive as the integration of Eastern Europe. Since the proposed NAFTA would pose an unprecedented attempt to integrate two of the most widely divergent economies in the world, he warned that the trade agreement as it was written was inadequate. Thus, he recommended that before the fast track authorization passed, the United States must institute an effective international enforcement mechanism as part of the trade agreement. **(26)**

Sen. Daniel Patrick Moynihan (Democrat-New York) acknowledged the enormity of the task confronting the United States with respect to NAFTA negotiations, by virtue of the fact that the United States and Mexican political and economic systems are incompatible. thus, he cautioned that the united States should not be deceived by the false hope and promises painted by President Salinas because the Mexican system is authoritarian. He warned that the NAFTA negotiations would pose a much bigger problem and challenges to the United States; and that such in no way could compare with American obligations to maintain an adequate unemployment compensation program. This principle was agreed to under the G-7 negotiations. **(27)**

During the hearing on Fast Track Trade Negotiating Authority before the Subcommittee on Trade of the House Ways and Means Committee, September 30, 1997, Rep. Richard A. Gephardt argued against the fast track authorization measure on the ground that the constitution vested authority over international commerce in the legislative branch, and thus congress should not relinquish that authority to the executive branch. He also maintained that no signs exist that the middle class citizens or workers have significantly benefited from the benefits of more open trade; and thus the United States should pursue a trade policy that enforces workers' rights. If care was not taken, he predicted, the United States would compromise or lose its attractive standard of living to Mexico. **(28)**

Also, Leland Swenson, President of National Farmers Union said that Congress should be a full partner in any trade agreement because you cannot trust the executive branch; and that it was necessary because the enormous influx of agricultural products into the United States at times has adversely affected American farmers. Another concern, he recalled is that food and other raw commodities now enter into the United States from across the Mexican borders unchecked. He accused American trade negotiators of pursuing very narrow parochial interest instead of broad national interests and policies. **(29)**

Moreover, Steven J. Shimberg, Vice President for Federal and International Affairs, National wildlife Federation testified that reliance on side agreements to pursue and achieve environmental protection was inappropriate. He argued that it was dangerous because every trade rule has the potential to affect environmental policies. Furthermore, he observed that patterns of international trade have both intended and unintended consequences.

Therefore, he strongly urged Congress to force the President (Executive Branch) to produce adequate trade agreements that would ensure that all trade institutions operate in a transparent/ open and democratic fashion. **(30)**

Elements (Provisions) of Nafta

In order for NAFTA to work, it established basic rules, guidelines and procedures for eliminating trade barriers and investment in North America. Specifically, it set forth schedules for reducing and eventually eliminating tariffs and non tariff trade barriers; rules for converting non-tariff barriers to tariff types; rules for determining the origin of traded goods; provisions for facilitating investment; and exceptions to the general terms and conditions outlined in the text of the agreement. it is also worth noting that under NAFTA, numerous barriers to trade and investment would be eliminated within five years, while some remained to be reduced incrementally over a period of 10 to 15 years of its going into effect.

I. Tariff Reduction on U.S. Imports from Mexico

NAFTA provided that all tariffs on American imports from Mexico be eliminated by 2008. Other schedules for reducing and eventually eliminating tariff barriers to trade include that tariffs would be phased out for individual products at varying rates according to one of six different timetables: elimination of certain products from the time the agreement is enforced to the time of its complete elimination over 15 years for some "import sensitive" goods. Tariffs were expected to be eliminated on about 60% of dutiable goods by January 1, 1994 and the reduction of tariff revenue to be reduced by about 65% in 1994, depending on the composition of imports from Mexico in 1991. Duties on about 70% of the goods that are subject to duty before 1998 would be equally eliminated, accounting for about 85% of tariffs expected under prevailing rules. NAFTA would also allow member states to expedite the elimination of tariffs for specific goods if they so choose.

NAFTA also provided provisions for safeguards designed to shield domestic industries from dumping practices or import flooding. under such circumstance, the safeguard devices permit the re-imposition of pre-NAFTA tariff rates or temporary suspension of the duty elimination for up to four years during the transition period should it be determined that reduction in tariff rates were responsible for the import surge.

II. Rules of Origin

Rules of origin qualifications are used to ensure that products originating outside the free trade area do not receive any preferential treatment under NAFTA. They establish “rules of origin” status if goods originated within the free trade area or not for the purpose of qualifying for preferential treatment. However, NAFTA contains certain specific rules of origin for goods in select categories of trade, including textiles, motor vehicles and auto parts. In general, four main criteria are used to establish origin: **(31)**

(a) Be wholly obtained or produced entirely in NAFTA region. (Some examples include agricultural products and minerals)

(b) Incorporated non-NAFTA materials that are sufficiently processed in North America to undergo a change in tariff classification

(c) Be produced entirely in North America exclusively from originating materials with the free trade zone.

(d) Satisfy a minimum value-content rule - the North American content of good must be either 60% of the transaction value or 50% of the net cost.

III. Provisions for Investment

NAFTA, by effect helped to facilitate the free movement and security for capital among member nations. The agreement established important rights and freedoms for investors from member states and also relaxed regulations for investing in Mexico. NAFTA guarantees the principle of "privileges and immunity" that in which the citizens (investor) of each NAFTA state is entitled equal treatment in other states with respect to their ability to do business or their investments." In other words, the agreement states that investors from one NAFTA country with an investment in another should be treated no less favorably by all of its governments than are investors or investments of the domestic country or those of other country. Included in this provision is that the investors of NAFTA member states should be allowed without restriction to repatriate or remit their profits and capital promptly and in the currency of their choice. Nonetheless, the agreement contains some exceptions to the broad liberalization of investment and capital flight. For example, the limitations apply to Mexico during a period of 5 to 10 years during the transition period.

IV. The Structure of the Agreement

The structure of NAFTA agreement revolved around six critical and fundamental issues: market access, services, investment, rules of trade, settlements of disputes and intellectual property.

Specifically, trade in goods issues addressed the question of "rules of origin" technical barriers to trade and government purchases and procurement. under the specific rules of origins, NAFTA agreements

visited also, the reservations and exceptions to the investment provisions, financial services and cross border service trade. In addition, the trade agreement also contained the objectives of NAFTA , select definitions of terms and tariff schedules as they apply to Canada, the United States and Mexico.

Related (Collateral) Issues

Although many issues central to the success of NAFTA were negotiated, a select few were skipped, but addressed under a separate guideline. The issues not traditionally negotiated, and referred to as side agreements that were not negotiated under the NAFTA proper include: Impact on the environment; enforcement of labor standards and immigration

(a) Environment

The NAFTA preamble states that the signatories of the agreement- the United States, Mexico and Canada committed themselves to the goal of "promoting sustainable development." NAFTA, in order not to compromise the national sovereignty of its members with respect to the environment provides that each country has the right to maintain, adopt and enforce any standards it deems appropriate as long as the standards are based on sound scientific method and apply equally to foreign and domestic products. it also encourages member states to standardize or harmonize their health, safety and environmental standards to the highest level with the flexibility that state and local governments could impose tougher standards.

As regards investment, states are permitted to relax their environment, health and safety regulation standards in order to attract investment. Moreover, states whose environmental regulation standards could be served by imposing stringent measures are allowed to do so. If environmental disputes arise among parties, a Committee on Sanitary Measures and a Committee on Standards-related measures which could be created under NAFTA could be an instrument to reestablish cooperation and equalization with the burden of proof resting with the party challenging the environmental measure in question. In addition, NAFTA establishes a subcommittee to harmonize regulations on emission and environmental pollution levels and spillover standards pursuant to adequate land transportation measures.

Concerns have been raised by proponents of NAFTA who charge that the free trade agreement with Mexico would worsen environmental conditions between its border with the United States; weaken American environmental health and safety standards at the border areas and provide on the Mexican side to American companies a pollution shield in order to circumvent and escape the enforcement of environmental standards of the United States.

Response to these charges ensures that its trade with the United States would adequately protect the environment without necessarily creating barriers to trade took a number of actions. Firstly, Mexico has consistently increased funding and staffing for its environmental protection agency since 1989 after passing its first comprehensive environmental law in 1988. A report by the U.S. government released in 1992 showed that Mexico's regulatory standards are at par with those of the United States in many aspects, and in select case supersede those of the United States in strictness. In 1992, a subsequent American report concluded that NAFTA would help achieve its environmental goals, by providing Mexico with substantive resources to address its current environmental needs.

Henceforth, the United States began to negotiate a parallel agreement on the environment with Mexico and Canada to supplement NAFTA in the areas of pollution prevention and abatement, regulatory enforcement, inspector training and resource commitment.

This agreement supplements the North American Commission on the Environment (NACE) which was constituted in 1992 by the heads of the environmental agencies of Canada, Mexico and the United States for the purpose of advising NAFTA members on environmental matters. In 1992, the United States and Mexico jointly released a border plan called the Integrated Environmental Plan for the U.S.-Mexico Border Area. The plan is a multiyear comprehensive program that serves as a parallel track to NAFTA for sustaining economic growth under adequate health and environmental standards along the border area. The border plan is a brainchild of a progress review under the 1983 La Paz agreement that provided for a bilateral cooperation in addressing environmental problems in the U.S.-Mexico border area.

Under the Clinton administration, the issues of Supplemental Agreements emerged. During President Clinton's campaign speech on October 4, 1992, he said that he supported NAFTA, and therefore saw no need to renegotiate the agreement. But, he insisted on asking Congress for the authority to deal with unexpected surges in imports that had the potential to endanger whole sectors of American economy. On March 17, 1993, after his election to President, negotiations on supplemental agreements to the North American Free Trade Agreement ensued. It came to its final conclusion on August 13, 1993 following an announcement by the trade ministers of NAFTA member nations that an agreement had been reached on the critical issues regarding labor, the environment and import surges.

The purpose of the environmental and labor agreements was to establish commissions with the power to perform the following functions: **(32)**

(i) Investigate charges that NAFTA parties were not enforcing their environmental and labor laws.
(ii) Provide avenues for information exchange and cooperation among the NAFTA parties.
(iii) Make sure that the import surge agreement sets up a working group that would be a forum for examination of NAFTA and multilateral safeguards (protection against import surges)

Despite the above problems that stifle congressional approval of NAFTA, other outstanding major issues crying for resolution include identifying ways to finance environmental projects in the U.S.-Mexico border areas and ensuring enforcement of domestic environmental laws. In order to resolve these problems, the side agreement created a commission on Environmental Cooperation to expand cooperative activities among the parties; enquire about public concerns about NAFTA and settle disputes involving non-enforcement of environmental laws with respect to the side agreements.

In the case of enforcement of domestic environmental laws, NAFTA countries agreed to dispute settlement process with sanctions as the measure of last resort. Dispute settlement would involve a multi-step process, beginning with consultation to recommendation of corrective actions for enforcement and to the imposition of "monetary enforcement assessment" when necessary. If a party fails to enforce the law or to pay the assessment, it would then be subject to enforcement actions. With regard to Mexico and the United States, the parties may suspend NAFTA benefits on the basis of the amount of assessment. For Canada, the parties are required to collect the assessment and then enforce an action plan in summary proceeding before a Canadian court.

With respect to funding U.S.-Mexico Border-Area Environmental Infrastructure, the Commission was required to identify sources of financing improvements in the border areas. Also, it would provide technical and financial assistance on environmental infrastructure projects in the U.S.-Mexico border area; and mobilize various sources of financing, including private, government loans, and grants.

(b) Labor

Labor issues were not completely resolved by the traditional negotiations of NAFTA. There have been concerns and fears raised by opponents of the free trade agreement, that NAFTA would give rise to massive job loss and diminished work place standards. Thus, the Bush Administration entered into parallel agreement with Mexico to sort out labor issues of mutual concern. This coincided with the creation of a tri-national commission in August 1993 to enforce labor rights and standards. Earlier on May 1, 1991, President George Bush, in his response to Congress articulated his proposal to address labor-related issues in the process of negotiating NAFTA.

The Administration highlighted three specific areas within the negotiations that are expected to avert injurious effects of dislocation to American labor: rules of origin, safeguards and lengthy transition periods. On the issue of transition period, it was expected that it would allow that sensitive duties and other barriers be phased out over a period of 10 years or more. Safeguard provisions would facilitate in responding to injurious increases in imports under NAFTA and to include measures such as the "snapback" provision that characterized the Canadian Free Trade Agreement to deal with temporary import surges of agricultural products during the period of transition. The purpose of seeking the strict rules of origin for products, according to the Administration was to ensure that Mexico does not become a conduit for the transshipment of goods from a third country to the United States.

The George Bush Senior Administration's main plan for addressing labor issues was facilitated by the creation of a bilateral cooperation between the United States and Mexico. This effort culminated in the Memorandum of Understanding (MOU) between the two nations. MOU provide both countries with a framework for mutual cooperation in such areas as labor standards and enforcement, resolution of labor conflicts, and labor statistics, health and safety measures and general working conditions. MOU's principal initiatives include the generation of studies that identified problems and recommended possible solutions. MOU also conducted studies on the occupational health and safety systems of the United States and Mexico, economic and labor trends of each country, including its child labor issues and labor law. According to the Congressional Quarterly, the United States and Mexico collaborated extensively on a number of labor issues of mutual concern in the following ways: **(33)**

(i) The Occupational Safety and Health Administration (OSHA),
sponsored technical assistance and training programs for Mexican officials to develop an improved workforce health enforcement program.
(ii) OSHA allowed Mexico to use OSHA laboratories for specialized sample testing not currently available in Mexico.
(iii) The U.S. Department of Labor Statistics worked with Mexico's Secretariat of Labor and Social Welfare to improve the collection, analysis, and international comparability of social and economic data in Mexico.

As a result of the successes generated by these cooperative ventures, The United States and Mexico signed an agreement in September 1992 to extend the scope and mandate of MOU.

Under NAFTA labor side agreements, some protections for American workers are guaranteed. The side

agreement would be judged by how effective Mexican labor laws are enforced and the extent to which wage rates rise in Mexico. Its protections to American workers are in broad general terms. It lays out the set of objectives and obligations that NAFTA members are committed to - enforcement of labor laws and running a transparent administration. Of course, the criticism of this obligation is that they are no more strict requirements. Rather, they fall under the voluntary agreements instruments like cooperation and collaboration among states which are overseen by a Labor Commission.

It should be noted also that the supplemental labor agreement calls for the use of Evaluation Committee of Experts and Dispute Settlement Panel to make recommendations on whose basis fines and trade sanctions can be made. But, the Committees of Experts are not allowed to examine matters relating to three select labor law principles. The principles relate to freedom of association (the right to organize), bargain collectively and strike. In case countries fail to enforce its laws pursuant to these principle, no penalties can be assessed neither can tariffs be re-imposed. The principles to which fines and re-imposition of tariffs can apply include health and safety, minimum wage and child labor.

C. Immigration

NAFTA provides the temporary entry of business professionals into the United States from other member states. However, it did not relieve entirely, the United States of its sovereignty responsibilities. for Example, the United States is obligated to guarantee the security of its border. She is also allowed to retain its right to regulate its labor force and employment, as well as implementing its immigration policies. Measures to control immigration from Mexico pose a serious problem and danger to the United States. According to reports by the Congressional Research service, Mexico is the leading source of illegal immigration to the United States. The main factors attributed to this trend are threefold. One factor is the attraction of the United States to Mexicans because of its high wage rates. Secondly, the Mexican economy has been unable to cope with the growth of its population. Lastly, Mexican economy has been unable to create jobs at a rate commensurate to its growth in labor force.

Other studies indicated short-term and long-term impacts of NAFTA on member states. One of the short-term studies revealed that apart from the immediate consequences of NAFTA policies, migration from Mexico to the United States is likely to increase. Also, the expansive nature of labor-intensive agricultural sectors in the United States has the potential of attracting poor migrant Mexican workers into the United States. On the Long-term aspect of immigration, a report published by the International Trade Commission in February 1991 showed that" as the wage differentials between the United States and Mexico narrow, the incentive for migration from Mexico to the United States will decline. **(34)**

In 1986, the U.S. Congress took revolutionary measures to address this problem in its Immigration reform and Control Act. The law among other things provided that: **(35)**

(i) Employer sanctions for the employment of illegal aliens.

(ii) Legalization of aliens who had lived illegally in the United States since before 1982.

(iii) A program to grant temporary, and later, permanent, resident status to eligible aliens who had performed seasonal agricultural services in the united States for certain prescribed periods of time.

The Final Nafta Debates: To Be or Not To Be

The NAFTA treaty was signed in 1992 between the United States, Mexico and Canada. Subject to its enforcement in 1994 it was ratified by the United States Congress. Before its ratification in Congress NAFTA issues were subjected to great scrutiny in terms of its advantages and drawbacks. In order to comprehend the extent of congressional support and opposition for this free trade agreement, one must examine the attitudes of congress as exhibited during the hearings, speeches and statements made before the floor of Congress or before the Committees with respect to whether NAFTA should be approved by Congress or not. This segment explores the pro and con arguments with respect to NAFTA.

One of the proponents of NAFTA was the Clinton Administration. Ambassador Michael Kantor, the United States Trade Representative, in a hearing on NAFTA before the Senate Finance Committee in September 1993 argued that the United States should support the free trade agreement because the pursuit of isolationist policy would be detrimental to American national interest. He believed that there is nothing wrong with competition, and as such, the United States would be better of to compete than to retreat. He concluded that the United States should be proactive, futuristic, aggressive and innovative in its thinking; and that it should be so, since most studies conclude that NAFTA would not only create more jobs in the United States, but also help to increase real wages. Even though, in his opinion, export projections with respect to NAFTA are conservative compared to the amount of economic gains the United States would enjoy as a result of NAFTA implementation. he further noted that NAFTA is a joint byproduct of a multilateral negotiation involving the United States. Thus, it is a product of American strategy on which our commercial, social and foreign policy interests are safeguarded. Thus, he stated, since NAFTA is part of the solution to American economic challenges in the post-cold war world, the United States has no alternative but to support NAFTA. **(36)**

In support of this thesis, John H. Chafee, (Republican- Rhode Island) in a September 21, 1993 statement on the floor of the Senate argued that NAFTA would help address environmental problems in Mexico. Since NAFTA would increase investment, income and wealth in Mexico, its net effect is that a wealthy Mexico would on the long run be able to tackle its environmental problems through increased resource allocation for agencies responsible. Beyond these basic achievements, NAFTA, which is an outgrowth of many years of trade negotiation is aimed at promoting free trade in goods and services, as well as liberalizing trade and investment between the United States and Latin American states. **(37)**

Also, the American Bar Association (ABA) through its representative, Jack H. Watson, Jr. went before the Subcommittee hearing on Trade of the House Committee on Ways and Means on September 23, 1993. The ABA in its argument asked that NAFTA experiment should be tried for some considerable length of time.

Before its positive benefits could be realized : Creation of more jobs, improvement in the relations among its member states, improvement in the level of development and increased exports.

The ABA concluded that NAFTA deserves some benefit of the doubt also since it has improved safeguards in select areas where they had been absent. For example, it was pointed out that fines, denial of NAFTA benefits and enforcement mechanism have been instituted against parties that violate NAFTA rules and stipulations. **(38)**

In contrast, Representative Richard A. Gephardt, Democrat-Missouri in a speech on NAFTA delivered at the National press Club on September 21, 1993 stated that there are too many things in NAFTA that are of grave consequence. Thus, he cautioned that the United States must have to think NAFTA over thoroughly in terms of its overall potential negative implications because any mistake made in pushing for NAFTA would be irrevocable and thus might constitute a permanent damage to American national interest. He thus, warned that the United States should never for any reason tradeoff its national interest in pursuit of good relations with Mexico. Furthermore, Rep. Gephardt argued that NAFTA would make matters worse with respect to labor conditions and declining wages. He added that NAFTA would be unable to provide the funding necessary to clean up the environment along the United States' border with Mexico or make up for the shortfalls in tariff revenues that would be lost under the agreement. **(39)**

Furthermore, Carl Pope, the Executive Director of the Sierra Club, arguing in a hearing on September 21, 1993, before the Subcommittee on Trade of the House Committee on Ways and Means argued that the United States at this time could not determine all the unintended consequences of NAFTA. He

concludes that some of America's obligations under NAFTA are ambiguous. For example, he cited the fact that numerous deregulatory requirements of trade are in conflict with U.S. domestic regulations. Thus, NAFTA, he suggests would water down American food safety standards for food and fruits imported into the United States from Mexico. Thus, he warned against the United States should not rush to embrace NAFTA, but wait until Mexico improves its basic infrastructure and environmental standards to U.S. level. Under this circumstance, he warned against American companies being encouraged to relocate or invest in Mexico in order to help reduce or eliminate the hazards of its environmental emissions. **(40)**

Finally, and before the same Subcommittee, Thomas R. Donahue, Secretary-Treasurer of the American Federation of Labor and Congress of industrial Organizations (AFL-CIO) arguing in opposition to NAFTA said that the United States should not be driven by the urge to sign a trade agreement with Mexico. The important thing we should do, he suggested, is to measure the utility of NAFTA based on America's net gain in terms of our basic laws and principles being promoted: impact on minimum wage, collective bargaining, environmental protection and export of jobs from the United States. The AFL-CIO expressed skepticism that NAFTA would not be as beneficial as it is made to be because most forecast and projections about NAFTA have been exaggerated. The reality, the AFL-CIO noted is that American trade surplus with Mexico remains small; and any possible progress or gain envisioned would in the long run be offset by social dumping, inequity in rules of investment and market access; and massive job dislocation. The AFL-CIO maintained that despite the fact that the five former American Presidents supported NAFTA, the agreement was opposed by the majority of the American people who understood the negative consequences of NAFTA. **(41)**

In the end congress voted in favor of NAFTA. In 1992, the Treaty was signed. The NAFTA treaty later went into force in 1994. The treaty was signed by the United States, Mexico and Canada. NAFTA is expected to be fully implemented in 20005.

Nafta: Lessons for Africa and Central America

African states have a lot to learn from NAFTA in any future broad trade agreement, especially with respect to its problems, challenges, prospects, progress and new opportunities. First, NAFTA was negotiated in a haste and with limited participation and input of many concerned citizens groups, labor and congress as a law was passed that conferred Trade Promotion Authority (Fast Track) to the White House. U.S. Congress was thus limited to an up and down vote, with no power to amend the trade agreement. In any future trade negotiation and agreement between Africa and the United States, African

allies and friends like the AFLCIO, Trans-Africa, Congressional Black Caucus and such environmental-sensitive organizations like Sierra Club, and Safe Earth and the Environ-citizens should be involved in all aspects and processes of the negotiation.

Secondly, any future trade agreement between African states and the developed world should be acknowledged as being between unequal trading partners (as in the case between Mexico and USA/Canada) – a merger of three nations with disparate laws and Gross Domestic Product (GDP). NAFTA required market liberalization for the majority of goods and services – including agriculture and manufacturing goods especially with Mexico. In return, the United States enjoyed increased access to certain sectors in the Mexican market – textiles and sugar quotas, including the elimination of high tariff. As NAFTA eliminated trade protectionism, it created a false level playing field between the United States, Canada and Mexico. It also opened up Mexican markets to high influx of U.S. farm products – wheat, beef, pork, potatoes, poultry, corn, soy beans and other produce. As such, local production in Mexico became threatened as many indigenous farmers failed to compete due to lack of technology, rising cost of production and declining prices.

Although NAFTA somehow, attracted foreign direct investment from the U.S. and Canada into Mexico and boosted Mexican exports in certain sectors, it provided little benefit to the rural and urban poor in Mexico. African nations should guard against this pattern of uneven development in any future trade negotiation and agreement with the developed world.

Also, NAFTA threatened democratic control and national sovereignty in Mexico, as national authority competed with NAFTA authority and other transnational organizations like the World Trade Organization (WTO). Equally, health, environmental and food safety standard and worker rights were compromised – protections designed to improve domestic labor laws. - control of urban sprawl, toxic emission standard and the relation of patent rules were relaxed as Mexico succumbed to new and lesser standards and demands imposed by multinational corporations and other entities to relocate just in the name of creating employment for Mexico's teaming population of unemployed school leavers and university graduates. The changes in traditional patent rights in effect gave impetus to new forms of monopoly rights to drug companies in particular, who enjoyed "exclusive" test data rights. These rights forbid indigenous companies from using the test data submitted to regulatory agencies to manufacture low cost and generic versions of drugs for such illnesses as Aids, Malaria, and Tuberculosis. These are ailments that disproportionately affect the population of developing nations; and thus deny them access to life-saving medication.

As the Mexican experience equally shows, NAFTA promoted privatization and deregulation of key public services in Mexico, especially telecommunication and the petroleum industry. Independent farmers in Mexico are disproportionately hit hard with many displaced as farmlands shifted into the hands of big American and agro-business concerns, such as Cargill and Tyson Foods.

As a matter of fact, the following problems have been highlighted by the Mexican experience in NAFTA: unequal development ; demise of labor and environmental laws; monopoly of the oil and telecommunication sector of the economy in the name of privatization, threat to national sovereignty by NAFTA and WTO; elimination of trade protectionism (tariffs) that protected Mexican indigenous companies from cut-throat competition by foreign conglomerates; and a skewed competition engendered by NAFTA among unequal states: Mexico v. USA/Canada, with respect to industrialization and levels of productivity (GDP). African countries must avoid the pitfalls of NAFTA as they embark on the New Partnership for Africa's Development (NEPAD). The primary goal of NEPAD is to set African states on the path of sustainable development, eliminate Africa's marginalization in the global arena and enhance the continent's integration into the global economy. NEPAD has the potential to serve as the springboard or platform for future trade negotiation or partnership with industrialized nations. This hope was raised at the G8 Summit at Genoa in 2001, when member states endorsed the New Africa Initiative (NAI), and renamed it NEPAD. As Daniel A. Omoweh observed, the G8 appointed partnership representatives known as the Action group for Africa (APGA), charged with fashioning programs flowing out of NEPAD agenda that each country would support. This agenda was further discussed at the G8 Summit also in June 2002 in Kananaski, Canada. Here, the G8 members – USA, Germany, Britain, Japan, France, Belgium and Russia identified five project areas for support under NEPAD initiatives to include education, health, trade and investment, conflict resolution and good governance. (**42**) For the Central American states, there are equally lessons to learn from NAFTA. These nations are Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. These nations are member states (signatories) of the Central American Free Trade Agreement (CAFTA) with the United States. Modeled after NAFTA, CAFTA is considered to be a stepping stone to the larger Free Trade Area of the Americas (FTAA) which is expected to include up to thirty four economies, including Brazil. As the Dominican Republic joined the original CAFTA members in the negotiations of the free trade agreement in 2004, the agreement became known as DR-CAFTA.

Conclusion

The essence NAFTA was to achieve sustainable development – economic growth, along side social progress, economic integration and protection of the environment. As trade tendencies between Mexico and the United States grew, the Trade Act was promulgated in 1974. The Act provided the "fast track"

procedure between the President and Congress. Fast track device required the President to consult with congress before entering into any trade agreements with foreign nations. In return, Congress would surrender its authority to alter elements of the trade agreement through amendments. Fast track instrument was intended to give the President full Congressional backing in foreign trade negotiations and to give foreign trade negotiators the confidence to negotiate in "good faith" with the idea that any trade agreement would easily win Congressional ratification. Despite all the debate in support, as well as in opposition to NAFTA, the trade agreement was signed into law in 1992; and expected to be fully implemented in 2005.

But, one of the biggest challenges NAFTA signatories faced was the issue of "rule of origin" designed to prevent transshipments by a nonmember with limited trade protection export commodities to a member country for the purpose of re-exporting it to another member nation. NAFTA's goals included eliminating tariffs and non tariff trade barriers, converting non-tariff barriers to tariff types, determining the origins of trade goods and laying down the rules for promoting investment. Of course, many issues central to the success of NAFTA were not negotiated under NAFTA proper, but, under "side agreement" arrangements. They included the effects of NAFTA on the environment, enforcement of labor standards and immigration.

Whether we support or oppose NAFTA, as a matter of philosophy, the main fact remains that the essence of establishing this trilateral economic bloc among Mexico, Canada and the United States was to create a sense of community and establish institutions to promote economic and political exchanges for peaceful and dependent change and cooperation among the member states.

Given the shortcomings of NAFTA to Mexico in particular – unequal development, decline of labor and environmental standards, privatization of the oil and telecommunication sectors, and the takeover of the indigenous farming industry by American and Canadian agro-business, African states should be cautious as they expand NEPAD to partnership with the G8. Also, the Central American members of CAFTA should be careful not to repeat the mistakes made by Mexico in its trade relations with the United States and Canada with respect to NAFTA as they construct, amend and implement CAFTA. Similarly, African states should be cautious as they craft NEPAD to include the participation of G8 nations.

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