

**Brief on the North American Free Trade Agreement Renegotiation
To the Global Affairs
and the
House of Commons Committee on International Trade**

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Introduction:

Founded in response to the U.S.-Canada Free trade agreement, which later evolved into the North America Free Trade Agreement, the Council of Canadians is keenly interested in the renegotiation of NAFTA.

For years, the Council of Canadians warned that NAFTA would significantly harmonize our social safety net downwards and that it would benefit corporations at the expense of people and the environment. Twenty-three years after NAFTA's implementation, with rising inequality, manufacturing job losses, stressed health and social programs and environmental regulations that have harmonized downwards with those of the United States, we are seeing that corporations have indeed taken advantage of NAFTA and the globalization and deregulation it brings to benefit their own interests.

NAFTA renegotiation should be used as an opportunity to balance the inequitable rights afforded to corporations with the rights of everyone else. Unfortunately, the trend once again is for industrial interests to be well represented during the pre-negotiation stage while the rest of us are not on the table. Fair trade must be implemented to combat the frustration, cynicism and populist revolt that is happening throughout the world.

NAFTA renegotiation shouldn't be a cosmetic patch up where a few industries meet to carve out the territory. Instead, it should be a profound discussion of how to make trade inclusive. "America first" or "Canada first" strategies are, in essence, limited in that they serve to include American or Canadian corporations and do not enhance the power of labour or environmental protections. Faced with a U.S. Trump presidency, and the possibility that rules could be further changed to benefit U.S. corporate interests, Canada should come to the table with ambitious goals that which give it a right to call itself a progressive world leader.

Corporate Rights

From the beginning, NAFTA was designed as a treaty that companies could arbitrage opportunities within North America and become more competitive on a global scale.

As one U.S.-based [proponent](#) writes, "We have the economic engine that is the United States. We have part of it in central Canada, which is an integral part of that economy: the auto industry and a number of other manufacturing industries, but we also have resource and energy assets in Canada that are significant. I think anybody will admit that is significant, especially in today's climate. And thirdly, we have something that no other developed economy has: We have access within a duty-free zone to a pool of educated, but low-cost labour. Now, if that isn't the recipe from a trade and economic policy perspective for injecting greater competitiveness into the North American economy, I really fail to see how you could write up a better one.

In other words, with access to the resources of Canada, the economic dominance of the U.S. and the low-cost labour of Mexico, companies could be more profitable. With lowered tariffs, simplified regulations, and competitive harmonization, companies could also exploit economies of scale to become profitable.

Bruce Campbell from the [Canadian Centre for Policy Alternatives](#) noted in 2006, "NAFTA is about much more than deregulating trade. It is about removing restrictions on the mobility of capital.

It goes way behind the border to the heart of domestic policy-making. It is an economic constitution, conferring enforceable rights on investors, limiting the powers of government, and making it extremely difficult for future governments to change. At its core, NAFTA *is about shifting the power in the economy from governments and workers to corporations.*"

Inequality

With corporations given the chance to flourish, NAFTA was supposed to mean that the Gross Domestic Product (GDP) would grow, productivity would increase, and jobs would be created. NAFTA proponents proclaimed that NAFTA would create "good middle-class jobs." However, it is clear that the wealth didn't trickle down.

Statistics Canada data show that since 1994, workers' inflation-adjusted average wages have stagnated while CEOs' incomes have risen. Between 1981 and 2011, the GDP grew 50 per cent while wages increased 14 per cent. Again, the CCPA's Bruce Campbell [writes](#), "During 1989-2005, personal income per capita growth continued its slide to a snail's pace of 0.63 per cent yearly. What is particularly striking is that [the] GDP per capita was growing almost three times faster – 1.57 per cent annually – than personal income."

In the same period, worker's wages [stagnated](#) and did not keep up with the rate of inflation. At the same time, income inequality within the U.S. and Canada increased. According to the OECD, the GINI coefficient, the international measure of inequality grew from 0.289 in 1993 to 0.316 in 2011 and the U.S. from 0.369 to 0.389 in 2011. In Mexico, the apparent "winner" of NAFTA, the poverty rate stayed at a [whopping 52 per cent](#). In Canada, the manufacturing sector was particularly hard hit. According to Statistics Canada, 540,000 manufacturing jobs were lost since 2000.

On the other hand, not everyone [suffered](#): "Big business, by and large, has done well under free trade. A study of 40 non-financial member companies of the Canada's main big business lobby, the Canadian Council of Chief Executives, (now Business Council of Canada) found that their combined revenues jumped by 105 per cent, while their overall workforce shrank by 15 per cent."

According to the [Canadian Centre for Policy Alternatives](#), in 1995, the top 50 Canadian CEOs earned 85 times the average Canadian income, and in 2015, it grew to 193 times. In 2015, it would take only two-and-a-half days for a CEO to earn the average annual Canadian wage.

NAFTA does not do this all by itself. Economic austerity, deregulation, and a series of economic restructurings all contribute to these effects. However, NAFTA is still a major factor.

Social harmonization

During the NAFTA period many have documented Canada's strong desire to integrate with the U.S. economy and increase competitiveness. While companies can easily and seamlessly move across borders, governments are then placed in competition, bringing their corporate taxation, their regulations, and social services down to the most "corporate friendly levels."

During the NAFTA years, both corporate taxation and social spending decreased. The federal corporate income tax [combined rate](#) went from 43 per cent in 1994 to 26.5 per cent in 2016.

The federal [basic rate](#) went from 36 per cent in 1980 to 15 per cent in 2012. At the same time, according to [Finance Canada](#), tax cuts made it so that federal revenue as a share of GDP fell from 17.2% in 1997-98 to 15.4% in 2004-05. The provincial governments also cut \$20 million Canadian in tax revenues. In 1964, [corporations](#) paid 55 per cent of tax revenues, and individuals paid 45 per cent. In 2004, the figures completely changed. Individuals paid 80 per cent of federal government revenues and companies not more than 20 per cent.

In the NAFTA period, Bruce Campbell from the CCPA writes, “A federal Finance Department study found that Canadian government (non-military) program spending fell from 42.9% of GDP in 1992 to 33.6% of GDP in 2001....Canada has dropped in the Organization for Economic Co-operation and Development (OECD) ranks from a middle-level taxation country to the bottom third of OECD countries in terms overall taxation level.”

He explains why, “(T)he big business lobby pushed hard for personal and corporate tax cuts on the grounds that they were necessary to maintain competitiveness, attract investment, and fuel growth.. Business also changed its tune around social programs once CUFTA was passed, arguing that cuts—especially welfare and unemployment insurance—were necessary to create a level playing field of competition. The largest of the unemployment insurance cuts were made by the Liberal government under cover of deficit elimination, but were also part of a strategy to increase labor market ‘flexibility.’The federal government also slashed welfare transfers to the provinces, breaking its 50-50 cost-sharing commitments under the Canada Assistance Program. Most provinces in turn slashed welfare support payments and bumped hundreds of thousands of people off the welfare rolls altogether.”

Chapter 11

Chapter 11 is the most emblematic problem of corporate privilege within NAFTA. It is a symbol of everything that is wrong with corporate globalization and Canada must seriously negotiate for its removal. Chapter 11’s Investor State Dispute Settlement provisions allow corporations to sue states over changes to legislation or regulations that impact corporate profits, even if the changes are made in the public interest. Under NAFTA and other trade agreements with ISDS provisions, corporations get binding rights to sue governments and obtain financial penalties while citizens have no such rights.

ISDS was developed in the 1950s to encourage investment in developing countries. The first such agreement was between Pakistan and Germany in 1959. Since then, there has been absolutely [no evidence](#) to show that [ISDS has actually encouraged investment](#).

In 1994, Canada became a party to NAFTA in a deal with Mexico and the United States that introduced ISDS to North America. The underlying logic was to ensure protection for companies working in Mexico where rule-of-law indicators were lower. Instead, Canada, with its tougher social and environmental rules, became the primary target. A disproportionate number of lawsuits – 37 out of 78 so far – were launched against Canada, making it the most sued developed country in the world.

Maude Barlow, Honorary Chairperson of the Council of Canadians, has written about how ISDS hampers [environmental and social](#) policy by imposing mammoth penalties on any country that

attempts to ban fracking in oil and gas extraction, close a quarry, regulate drugs in significant ways, dispute patents, or attempt to establish an economic development program.

In the report Barlow illustrates some of the most egregious cases:

SOME CHAPTER 11 CASES

- Lone Pine, a Canadian energy company, is suing the Canadian government through its American affiliate for US\$118.9 million because Quebec introduced a temporary moratorium on oil and gas fracking under the St. Lawrence River. This challenge is even more concerning because it involves a domestic company using a foreign subsidiary to sue its own government.
- Ethyl, a U.S. chemical corporation, challenged a Canadian ban on imports of its gasoline that contained MMT, an additive that is a suspected neurotoxin. In a settlement, the Canadian government repealed the ban and paid the company \$13 million USD.
- Bilcon of Delaware is demanding \$300 million USD in damages from the Canadian government after winning a NAFTA challenge when an environmental assessment panel rejected its plan to build a quarry and marine terminal. The project, located in an environmentally sensitive area of Nova Scotia, was rejected by the local community, in part due to its threats to endangered species.
- Chemical giant Dow AgroSciences used NAFTA to force the province of Quebec, after it banned 2,4-D, a pesticide that many studies say has been linked to cancer and cell damage, to publicly acknowledge that the chemical does not pose an “unacceptable risk” to human health or the environment provided that the instructions on the label are followed.

These and other examples show that trade and investment agreements give transnational corporations incredible rights to impose their will on governments. But they are probably just the tip of the iceberg since many new laws – or changes to laws – never come to light because of the “chill effect” of governments avoiding certain public interest policies to avoid costly ISDS cases.

-Maude Barlow, [*Oil Corporations Vs. Climate: How investors use trade agreements to undermine climate action*](#),

A study by Gus Van Harten, a scholar at the Osgoode Hall Law School in Toronto, says it doesn't even take an ISDS challenge or the threat of an ISDS challenge to change policy. Based on [interviews](#) he gave to Ontario policymakers, they reported that policy decisions get delayed or shelved because of potential lawsuits.

One lawyer has reported that legislation is reviewed to see if it is compatible with trade agreements. He says “Chapter 11 is the one that really bites.” Another policy official said, “You don't have to be even threatened before it (ISDS) is a factor in your decision making process.”

And in 2016, ISDS cases handled by the World Bank's International Centre for Settlement of Investor Disputes (ICSID) show that investors win most of their cases against governments, with 56 per cent of cases decided in 2016 being in favour of [investors](#). Fifty-five per cent of the cases launched in 2016 were on behalf of energy, resource or mining companies, often targeting environmental regulations. Two-thirds of the ISDS cases against Canada have been launched by mining or resource companies.

Moreover, ISDS provisions favour foreign companies over local companies. They have become a tool of richer, larger corporations. Foreign corporations have VIP rights that are not available to domestic corporations, NGOs or any other actors in society.

ISDS is not inevitable

Many countries are re-evaluating or refusing to enter into trade agreements containing ISDS clauses. Recently, Ecuador said that it [would terminate](#) 13 of bilateral investment treaties with ISDS provisions. The [European Union](#) has also stated it would no longer put investment treaties in future trade agreements.

According to [The Economist](#), "Brazil continues to receive lots of foreign investment, despite its long-standing refusal to sign any treaty with an ISDS mechanism. Other countries are beginning to follow Brazil's lead. South Africa says it will withdraw from treaties with ISDS clauses and India is considering doing the same. Indonesia plans to let treaties with ISDS provisions lapse when they come up for renewal. Australia briefly forswore ISDS in the wake of a complaint by Philip Morris about its requirements for health warnings on cigarette packets, but its new government says it will consider allowing such mechanisms in future treaties."

In n Australia, under a [Liberal-Conservative coalition](#), Australia's free trade agreement with the United States does not have an ISDS mechanism in it.

"In 2003," *The Economist* notes, "a conservative Liberal-National coalition government led by John Howard commenced trade negotiations with the United States. The AUSFTA, which came into force in 2005, did not include a standard provision on ISDS. The official line taken by both governments was that ISDS was unnecessary because each country has a 'robust' legal system for resolving disputes."

Later, a Labour government led by Julia Gillard pledged "that it will no longer include provisions on investor-state dispute settlement (ISDS) in bilateral and regional trade agreements."

In July 2016, India pledged to withdraw from its agreements that included ISDS and began renegotiating [47 agreements](#), asking for a new model for investment. With respect to international trade, India, Brazil, Australia and Indonesia are among the top 30 trading nations of the world, according to the [WTO](#).

Environment

NAFTA's Chapter 11 is one of the many threats that NAFTA presents to the environment. As Canada is seen as the provider of resources within North America, NAFTA sets the scene for

Canada not being able to live up to its Paris Climate Change Accord commitments. It also surpasses our constitutional commitments on the duty to consult and accommodate First Nations people and fulfill our obligations under the United Nations Declaration on the Rights of Indigenous Peoples.

Water as a good

Water is life. Without it, we cannot live. Not only that: it is a human right we have fought for. That is why the Council of Canadians successfully pushed to get this right enshrined by the United Nations.

Yet, we are facing a global water crisis of unprecedented proportions. Maude Barlow, who served as Senior Advisor on Water to the 63rd President of the United Nations General Assembly and was a leader in the campaign to have water recognized as a human right by the UN, [writes](#), “The UN reports that the demand for water will increase by 55 per cent over the next 15 years. By that time, global water resources will meet only 60 per cent of the world’s demand. The water crisis could affect as many as 7 billion people by 2075.”

But NAFTA treats water as a marketable good. The global annual market for water will be worth just under \$300 billion by 2020, making it very profitable for companies to want to buy and sell water. Already, financial instruments based on water are being created, to bank on the scarcity of water. Chilling.

In NAFTA, water is defined as a “tradeable good.” It is also referenced as a “service” or “investment.” As Maude Barlow points out in her book *Boiling Point*, “included in the annex [of NAFTA] that lists all the goods to be covered by the agreements are ‘waters, including natural or artificial mineral waters, and aerated waters not containing added sugar or other sweetening matter nor flavouring ice and snow,’”

NAFTA dramatically limits the federal government’s ability to stop provinces from selling water. If any provincial or territorial government decides to allow water sales to parched states, the federal government would be powerless to turn off the tap. And NAFTA’s proportionality clause (article 315) would mean we couldn’t cut back on the amount of water it was sending to the U.S. even in times of drought.

Removing all references to water as a good from NAFTA would end the debate about whether the federal and provincial bans on water exports are sufficient because it would remove any potential for a NAFTA challenge.

Water as a service

Water is not just exported in its raw form. Water services, through water delivery and waste treatment are also important services. In Canada, these services are made more accessible as they are provided generally through the public sector.

As these services are also provided by the private sector, NAFTA has provisions that limit the involvement of the public sector in water, thus helping to create new markets for global service corporations. NAFTA’s negative list approach means that unless a service is specifically exempted, it must be opened up to the private sector.

Water must be protected within NAFTA and must be exempted from ratchet and standstill clauses.

Water as an investment

NAFTA has important protections for investors, including Chapter 11 that allows corporations to sue governments for new laws that get in the way of their profits. Canada has already been sued for laws protecting water.

As water becomes an investment, with financial products created around water, investors can use NAFTA's Chapter 11 to challenge water protection laws that affect their ability to make profit.

For example, in the Metalclad case, Mexico had to pay American waste management company Metalclad more than \$15 million in 1997 for stopping the company from continuing to dump toxic waste that contaminated the surrounding water sources. The company had improperly dumped 20,000 tons of hazardous waste.

Energy proportionality

While Canada trumpeted its signing of the Paris Climate Change Accord, it never changed climate destructive provisions in NAFTA, namely the energy proportionality clause.

Under this clause, Canada cannot enact policy that affects the export of energy products to the United States. At the moment, [99 per cent of Canada's energy exports](#) go to the United States. Canada, unlike Mexico, has to maintain the same proportion of energy exports to the U.S. **If there was an energy shortage, or environmental concerns where we wanted to cut back, we couldn't eliminate or scale back our exports to the U.S and just meet domestic requirements.**

Problems with the proportionality

NAFTA doesn't allow us to change the mix of energy, so transitioning from oil and natural gas to renewable energies such as wind and solar which cannot be exported would not be possible without violating NAFTA. A provision in the energy proportionality section prohibits us from changing "the normal proportions among specific energy or basic petrochemical goods... such as, for example, between crude oil and refined products and among different categories of crude oil and of refined products."

As conventional sources of oil become less available, it pushes Canada into extreme energy production such as fracking or continued expansion of the tar sands.

NAFTA and the petroleum economy

During the NAFTA years, energy exports to the U.S. increased [527 per cent](#), making Canada the U.S.'s largest supplier of crude oil. Without energy and resources, Canada has a trade surplus with the U.S. But when you take out energy, Canada has a manufacturing trade deficit with the U.S., meaning we import more than we export in manufacturing from the U.S. Many economists say the high dollar due to rising oil prices further hampered our manufacturing sector.

During these NAFTA years, Canada's economy became more and more deindustrialized as we shifted more and more to oil production. According to a report by [Economist Jim Stanford](#), in

1999, the resource sector represented 25 per cent of the economy and high-value added industries represented 60 per cent. In 2014, the export sector had grown to 40 per cent of the economy.

Stanford adds that our decline into a resource economy was so bad, that in 2013, according to the Observatory of Economic Complexity, we had the least technically complex economy in the OECD.

Andrew Jackson, Adjunct Research Professor in the Institute of Political Economy at Carleton University, [writes](#) “Since the late 1980s, Canadian productivity growth has been dismal, especially as compared to the United States; our dependency upon exports of resources and raw materials, especially energy, has greatly increased; and the growth of the “knowledge based” economy based on advanced manufacturing and high value business services has been relatively weak compared to the United States and other advanced industrial countries despite enhanced market access.”

The shift from a knowledge based economy to a resource economy is disastrous for our environmental stewardship, but equally dangerous for creating a high value economy able to produce good quality jobs.

Public services and government procurement

NAFTA also creates a floor for further liberalization of public services with its famous ratchet and standstill clauses. These clauses encourage more privatization and prevent the creation of new social services. As well, if a public service is privatized, it can no longer be brought back to the public sector through municipalization or nationalization. What these clauses mean is that public services are forever locked into a pattern: they can shrink or they can stay the same, but they cannot increase. Public services have important mechanisms for reducing inequality, providing equal opportunities for all, and achieving democratically decided on policy goals. NAFTA provides severe breaks to our government and people’s ability to create new social programs that respond to our changing population’s needs.

While NAFTA has a list of exemptions for liberalization, this list is a negative list, meaning that everything is subject to liberalization unless it is listed. If the public discovers a need for a public service that doesn’t yet exist or hasn’t yet been thought of, it cannot be created. In the case of expansion of the health care system, for example, it would be difficult for Canada to enact a national pharmacare program. As well, while public services are often protected, often health care services such as dentistry, seniors’ homes, pharmaceuticals, ambulances, and other such services are in a grey zone of whether they are public or private, and thus subject to further liberalization, and cannot be brought into the public realm.

These ratchet and standstill clauses need to be taken out. Roy Romanow, former Saskatchewan premier, [said](#) that “if medicare did not already exist today, Canada’s current trade commitments would almost certainly make its creation far more difficult, if not impossible.”

Another issue is procurement. These include “buy local” and procurement policies that favour domestic or local. While the United States has enacted preferential “Buy American” policies, we

feel that we too, should allow governments to also source domestically to keep tax payer dollars within the local economy and help smaller businesses that operate at a local level.

Drug costs

Within the U.S. media, there are many reports of the U.S. pharmaceutical industry lobbying for Trans-Pacific Partnership-like patent term extensions within a renegotiated NAFTA. These would extend the patents on biologic drugs – including drugs such as insulin or those used to treat rheumatoid arthritis – by two years. It is [estimated](#) that this would cost \$800 million dollars a year. Canada is the [fourth highest spender](#) on drugs in the OECD with the least amount of public pharmaceutical drug coverage in the OECD. Only Poland and the U.S. had less coverage. This means that drugs costs will be borne by the public. And this will likely jeopardize the possibility of developing a national pharmacare program. As a net importer of pharmaceutical drugs, Canada will not be the beneficiary of these changes which basically grant monopolies to pharmaceutical companies against the public interest.

Labour

According to a paper by Angella MacEwen and Laura Macdonald from the [Canadian Centre for Policy Alternatives](#), NAFTA went further and created the North American Commission for Labour Co-operation (NACLCL) which was designed to examine labour violations. They write, “A flurry of labour cases were submitted in the five years after the NAALC came into force. But their number dwindled after that to the point where today the agreement is rarely used. Trade unions and other workers’ rights advocates found that the formal complaint mechanism almost never resulted in ministerial consultations or sanctions.”

The authors add that the process was cumbersome and had minimal penalties. “Not only are the sanctions for labour violations much weaker than those available in NAFTA to promote the interests of corporations and investors, the process for bringing cases to adjudication is long and cumbersome.”

Nathalie Guay, Responsible for International Relations at the Confédération des syndicats nationaux, [writes](#) that out of 36 labour complaints filed by governments to the NACLCL, none of them went to the stage of being heard by an arbitration panel. She writes, “The progress report of the NACLCL allows us to state the ineffectiveness of mechanisms supposed to respect workers’ rights.”

Meanwhile, violations of human rights and labour standards have remained frequent in Mexico, and the ILO has expressed dismay over threats to freedom of association in that country. Mexico has [ghost unions](#), or pro-management unions, noted by [Human Rights Watch](#): “The dominance of pro-management unions continues to obstruct legitimate labour-organizing activity. Independent unions are often blocked from entering negotiations with management, while workers who seek to form independent unions risk losing their jobs.”

Binding labour regulations with penalties and standards for all three countries would be the only way to enact fair trade and protect workers.

Agriculture

NAFTA's tariff reductions and encouragement of large-scale industrial farming with massive production means the deal has not been kind to small farmers in all countries.

Canada's former Minister of International Trade, Jim Peterson, said to a [Senate agriculture Committee](#), "When you say free trade and NAFTA have not been good for our farmers, you are right and I would not try to convince them that it has been."

For those who want to protect food sovereignty and the ability to have quality, healthy local food, this is problematic, as it is for the rural communities who have seen their farms dwindle away.

In the last 40 years, Canada has lost [45 per cent of its farms](#). This is not because we weren't trading more. In fact, agriculture exports tripled from [\\$11 billion to \\$33 billion](#) between 1988 and 2007. Yet, according to a survey by the [National Farmers Union](#), net farm income fell by more than half over this same period while Canadian farm debt doubled. According to the [Easter report](#), net farm income in Canada has declined from over \$3 billion annually in 1989 to below \$0 in 2003. And farm debt rose from \$23.5 billion in 1994 to \$48.9 billion in 2004.

[According to Statistics Canada](#), farms are fewer, larger, and older. In Canada, farms with \$1 million or more in revenue make up 5 per cent of the number of producers, but nearly half of Canada's food production.

There are similar findings in Mexico, which basically invented corn, a culturally and historically important crop there.. Mexico, flooded by cheap American corn, has become a net importer of corn.

According to the Institute for Agriculture and Trade Policy, "Under [NAFTA](#), U.S. corn exports to Mexico increased more than 400 per cent in the first few years of the agreement, disrupting local markets. Based on Mexican Census data, Tim Wise estimates that more than 2 million Mexicans left agriculture in the wake of NAFTA's flood of imports, or as many as one-quarter of the farming population."

The NAFTA model, they write, often does not benefit farmers, "Lots of parties make money from agriculture, including – in some years – farmers. Many years, however, farmers work at a loss. Agribusiness makes money much more consistently. When we look at the cost of production and the movement to ports and then to export, there are profits and losses at various stages along the supply chain, but much of it is hidden behind proprietary contracts and vertically integrated supply chains. The system is structured in a way that allows, even encourages, farmers to operate at a loss, which maximizes profits further downstream for agribusiness and leaves the public covering the farmers' losses."

There is often another loser: the consumer. Studies of both Mexican and Canadian health outcomes in the [Canadian Medical Association Journal](#) show that since NAFTA, the import of cheap, unhealthy food – namely in high fructose corn syrup, has contributed to increasing obesity. They say as tariffs on high fructose corn syrup went down, caloric consumption of high fructose corn syrup increased. At a time when consumers are increasingly sensitized to buying

domestic and local produce for health and environmental reasons, NAFTA works against their desires.

We must protect supply management

Canada's ability to protect its own food security by producing milk, poultry and eggs in Canada is being compromised by pressures on the supply management system in NAFTA talks.

Canada's supply management system is the envy of many farmers around the world. A working system that adjusts production based on demand to avoid overproduction, with farmers able to make a decent livelihood, has helped maintain the farm economy in a northern climate. In Canada, regulations control the market. In Europe and the United States, farmers receive huge government subsidies. European agriculture faces a crisis due to collapsing Chinese demand and Russian sanctions. Prices paid to farmers are down 30 per cent, sometimes to less than the price of production. Europe has increased subsidies by €500 million, on top of the \$60 billion already offered in assistance, to cope with the crisis.

New Zealand, which dismantled supply management and is a huge exporter of milk, has ironically seen farm revenues decrease while consumers pay high prices. According to [*Les Producteurs du lait du Québec*](#), "In New Zealand, which exports more than 90 per cent of its production, things are even worse. Milk producers have absorbed revenue losses of more than 50 per cent. Farm debt has tripled in three years and 85 per cent of producers operate at a loss. And you know what? Consumers don't benefit really from the situation. They pay more for a litre of milk than Canadians do."

Unlike the U.S., Canada prohibits the use of [bovine growth hormones](#) in milk production, another consequence of giving up import controls on milk and dairy products.

Despite the rhetoric, Canada is not responsible for an overproduction of milk within the United States, and [cannot be blamed for](#) it.

As the Wisconsin Farmer's Union spokesperson says, "The key piece of information in this story is that U.S. dairy farmers are simply producing too much milk. According to data from the U.S. Department of Agriculture, 43 million gallons of milk were dumped in fields, manure lagoons or animal feed or were discarded at plants just in the first eight months of 2016. Farmers are caught in a vicious cycle. When markets are up, farms often expand and production increases to take advantage of better prices. When the milk supply goes up and markets are down, farms often expand and production increases as they try to keep their heads above water. If that's not a recipe for more of the same, I don't know what is."

Regulatory harmonization and deep integration

Through various committees, Canada has along the NAFTA project, changed its regulations and laws to harmonize with the U.S. and Mexico. In her book *Too Close for Comfort: Canada's Future Within Fortress America*, Maude Barlow writes, "Years of harmonization under NAFTA have imposed policy constraints on Canada as power shifted from government to the market and corporations have become more influential in dictating policy. This dramatic increase in Canada's reliance on U.S. markets for economic survival has also subjected Canada's laws,

practices and regulations, including government spending, to the test of whether they violate American business interests. This in turn has limited Canada's ability to maintain social, cultural and environmental policies that are in the interests of Canadian citizens."

With smart regulation, the Regulatory Cooperation Council, and NAFTA's 30 regulatory working groups, there is a formal pressure for industry groups to have a further say on industry norms, food safety regulations, pesticides, GMOs and other important public health and safety regulations. Many business groups [advocated](#) for common and light regulations in order to facilitate trade. The Regulatory Cooperation Council, started in 2011, argued for aligning at the earliest possible stage the regulatory processes of the two countries.

These committees, heavily dominated by multinational corporations, with scant representatives from civil society, are having an influence on public policy, curtailing parliaments and the democratic process. According to a report from the CCPA, on pesticides, Canada, once a leader in chemical controls with its Canadian Environmental Protection Act of 1999, gradually, with regulatory harmonization, began a process of weakening regulations. "Another report that year found that Canada allowed many ingredients in registered pesticides that were banned in other OECD countries, including known or suspected carcinogens and developmental toxins. The report claimed North American harmonization efforts were a 'driving force' of changes to Canadian pesticide regulation." Other environmental, farming, and seed laws have also faced pressure to become harmonized with the U.S.

Sept 1, 2011, George W. Bush, Canada came to a stall which revealed the zeal in which Canada felt it needed to integrate with the U.S. in terms of defense in order to keep open trade with North America. The feeling was that if trade was Canada's concern, and security was the U.S.'s concern, that Canada's concern was the U.S.'s security. We joined Bush's war on terrorism and adopted border policies, put in the third country agreement which forces refugees to claim asylum in the country they land in, joined in the common security perimeter, the United States Northern Command, and promoted the now defunct Security and Prosperity Partnership.

In these negotiations, after pressure from Trump, according to [Brent Patterson](#), Political Director at the Council of Canadians, Canada extended its mission in Iraq two more years, and the Trudeau government announced in early June that it would increase Canada's NATO spending by 73 per cent from \$18.9 billion in 2016-17 to \$32.7 billion in 2026-27. This means \$62.3 billion more will be spent on the military over the next 20 years, with \$6.6 billion of that to be spent within the next five years.

Conclusion

In NAFTA renegotiation we will face pressure from an "America first" President who claims to represent workers, but often comes on the side of American corporations. It is important that Canada stand up for the values of the population and ensure that democracy, public services, the environment, inequality, food sovereignty, regulatory harmonization, and corporate lawsuits do not become worse. It is a tall order, but the only one worthy of a public institution such as the government.

In this brief, we have identified a few parts of NAFTA that should be ditched: the ISDS provisions, ratchet and standstill, limits on public procurement and energy proportionality. We

have also identified things that should be protected, including supply management, water, and binding environmental and labour regulations.

In the future, to enhance this debate, civil society should be invited, along with the public, to have public open debate. To date there has been little opportunity for people to comment on NAFTA renegotiation priorities. This has been a closed process with corporations around the table. That is not a recipe for a deal worthy of the type of trade deals that can respond to the needs of this century. In order for it to work, First Nations, provinces and municipalities should be invited in, along with labour and civil society. A Royal Commission with information and different points of view should tour the country with proper evidence-based trade information, based on independent economic and human rights analysis and not on the many studies bombarding us from non-independent sources.

In the U.S., we know their negotiating position, and Congress and civil society will be quite active in being part of that. In Mexico, they were the first to launch a process. We have yet to see the process that is worthy of a government that likes to talk about progressive trade. We don't know the mandate, nor will we ever likely know, and Parliament and Senate's involvement will be probably minimal.

This has to change.

For too long, trade has become the bastion of a privileged few, and without Parliamentary supervision, out of hand and out of grasp of our democracies. A true NAFTA process would incite debate, not just from corporate Canada, but from people who aren't industries or sectors, but have jobs, lives, and their communities at stake.