

## **NAFTA Reset: What Fair Trade for People and the Environment Looks Like**

The notion of free trade in the modern sense extends well beyond the classical understanding of international exchange. To a significant extent many so-called ‘free trade’ rules actually advantage certain economic stakeholders at the expense of others, and in several ways are anti-competitive and anti-democratic. International corporations benefit from today’s rules at the expense of people and the environment. One needs not be “protectionist” to suggest a different model is needed, one that is designed to benefit all people while protecting our rights and the environment.

- **Fair trade implies that international exchange and investment occur *within* a global framework of rules designed to ensure benefits flow to all citizens.** NAFTA must be reset to function as a ‘fair’ trade agreement, distinct from the so-called “free” trade model that shields corporations from competition and the risks of international investment at the expense of people and the environment. International markets can alternatively function to improve the quality of life for all people, communities and nations. Fair trade honors domestic laws intended to protect human rights, enforce labor standards, preserve environmental quality, protect consumers and strengthen local economies.
- **Fair trade replaces the corporate-dominated Investor-State ad hoc tribunal system with an independent, transparent and accessible legal adjudication mechanism.** The ISDS tribunal system flies in the face of democratic principles, national sovereignty self-determination and due process all the way down to the local level. Numerous technical problems with ISDS are documented in a 2013 UN [report](#). Corporations must not be given a legal status equal or superior to sovereign governments. Trade should improve living standards across the board, not simply lower costs and risks for international investors at public expense. Less intrusive and arbitrary mechanisms can enforce trade agreements. One option is an independent international investment court with the power to suspend selective agreement-based trade preferences to ensure compliance. Compensation paid to corporations should be limited, as under current U.S. takings law, to the value of confiscated *real property*. Trade rules should not apply to the expansive definitions of investments and “expropriation” now covered under NAFTA.
- **Fair trade agreements are negotiated and administered transparently and inclusively.** Full public participation by civil society including, civic, labor, human rights and environmental organizations is guaranteed. There is no “fast track.” Congress plays its full constitutional role in overseeing, debating, amending and ultimately passing on trade agreements. Transparency and inclusivity in enforcement implies that proceedings are public, an appeal process exists and civil society has standing to bring cases of non-compliance by corporations and governments before adjudicators.

- **Fair trade prioritizes enforcement of international agreements on human rights, labor standards, consumer safety, environmental protection and climate policy.** All parties to a fair trade agreement must be in compliance with these international agreements *before* receiving trade benefits. Importantly, fair trade must facilitate effective international and domestic climate mitigation policies, carbon emissions reduction and sustainable development rather than act as a hindrance. Broad protection should be afforded to domestic public policies protecting human rights, enforcing labor standards, protecting, preserving and restoring the environment, advancing [climate-friendly trade policy](#) and ensuring consumer safety. Civil society should be empowered to legally hold corporations and governments accountable under the terms of the agreement. Wealthy nations should help developing nations acquire the enforcement capacity necessary to uphold these treaty provisions, again *before* a treaty's implementation or new members added.
- **Fair trade does not invalidate the Buy America Act or similar job creation programs in member nations.** Effective national and local jobs programs funded by public money are a necessary component of successful macroeconomic policy, particularly during recessions. Tax dollars used for procurement and the delivery of public services and infrastructure should be allocated at the discretion of domestic governments, including those programs dedicated to creation of local business and job opportunities.
- **Fair trade ensures imported goods and services meet domestic safety standards.** Safety requirements and inspection regimes for imports meet scientifically valid product safety and public health standards and protocols. Wealthy nations should assist developing nations to acquire the capacity to enforce standards *before* treaty provisions are implemented.
- **Enforcement of any trade agreement necessitates strong 'rules of origin' and effective safeguards against transshipment that enables production to be outsourced to countries in non-compliance with agreement standards.** Otherwise, some corporations will seek cheaper and potentially sub-standard inputs for products that benefit from the agreement.
- **Fair trade includes enforceable standards to guard against and offset currency manipulation.** A large share of the U.S. trade deficit and associated job losses since the launch of modern free trade agreements has been attributed to currency manipulation by a number of nations, especially China, and notably Mexico under NAFTA. Currency manipulation has a profound systemic impact on open economies. Currency devaluation by a trading partner artificially reduces the price of imports from that nation, which then

displaces domestic production and jobs. Concurrently, import prices in the manipulating country are increased, artificially depressing their trading partners' exports.

- **Fair trade excludes provisions enforcing strong patent and copyright protection.** The kind of patent protection in NAFTA and proposed for the TPP and other agreements are forms of protectionism – the opposite of free trade – that can raise the price of the protected items by a factor of 10 or even 100. Fair trade should not be a vehicle for globalizing excessively long and extendable patents and copyrights. Patents and copyrights on intellectual property are intended to provide incentives to innovate. However, trade should not become a vehicle to protect and perpetuate monopoly power. Most importantly, under a fair trade regime, all persons are guaranteed access to affordable medical treatment, including pharmaceuticals.
- **Export of privately produced goods subsidized by governments should be prohibited.** Subsidized U.S. corn exports were good for multi-national agribusiness corporations, but they undermined the Mexican economy causing mass unemployment and migration. A fair trade agreement prohibits this form of unfair competition.
- **Fair trade necessitates regulation of financial products, speculative financial transactions and capital flows.** Big banks and hedge funds supported U.S. efforts to prohibit regulations on financial speculation in the TPP, including transaction taxes. Dangerous financial products, reckless risk taking and a housing asset bubble helped bring down the world economy in 2008. Trade agreements must not prohibit enactment of reasonable domestic financial regulation to protect the stability of the world financial system. Also, nations should be allowed to deploy [capital controls](#) during periods of financial volatility. Many economists and the [International Monetary Fund](#) have recognized capital controls as necessary to protect small and developing economies from financial instability due to large short term capital movements.
- **Fair trade rules guarantee Internet neutrality for all member countries.** Equal access to the Internet is a condition for a free and informed public that can fully participate in the global marketplace. Restrictions on user access to information, pay-to-play “lanes” and other discriminatory manipulation of information across the Internet intended to advantage specific commercial interests should be barred under fair trade agreements.