Berkeley Journal of International Law

Volume 11 | Issue 2 Article 4

1993

NAFTA in the Context of Mexican Economic Liberalization

Lee Axelrad

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The national debate over NAFTA has centered on the agreement's potential to have positive and negative effects on the economy of the United States. The debate has assumed that any benefits flowing to the United States are the result of a quid pro quo. In this article, the author examines Mexico's history and current economic situation and concludes that Mexico is on an irrevocable path toward trade liberalization. Therefore, because the United States is not receiving any real concessions from Mexico, NAFTA is unnecessary.

I.
INTRODUCTION

On November 17, 1993, the U.S. House of Representatives voted in favor of the North American Free Trade Agreement (NAFTA).[1] This vote virtually guaranteed that the agreement would be approved, since a majority of U.S. Senators, the U.S. President and the governments of Mexico and Canada had already declared their support. As the House vote approached, the national debate focused on NAFTA's probable good and bad effects on the U.S. economy. However, there was only cursory discussion of how NAFTA fits into Mexico's national economic and political strategy.

This paper outlines NAFTA's role in Mexico's recent development and then contends that Mexico has set in motion an irrevocable journey toward free trade. NAFTA is unnecessary in the sense that the United States believes that it is receiving a quid pro quo for the agreement, for Mexico's continued trade liberalization will continue even in the absence of NAFTA.

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† J.D. Candidate, Boalt Hall School of Law, University of California at Berkeley, 1994; M.C.P. Candidate, University of California at Berkeley, 1994; A.B. University of Illinois at Urbana, 1985.

The author thanks Professors Kenneth F. Phillips, Alain de Janvry, and Elisabeth Sadoulet for important assistance with early drafts of this paper. The author thanks Mark S. Determan and the editors of the *International Tax & Business Lawyer* for their dedicated work on later drafts.

1. Marc Sandalow, *House Approves NAFTA: Tough Day of Debate Ends with 234-to-200 Victory*, S.F. CHRON., Nov. 18, 1993, at A1.

A. Overview of NAFTA

NAFTA is an agreement among the governments of the United States, Canada, and Mexico[2] that will phase out barriers to trade in "North American" goods and services, eliminate barriers to investment, strengthen the protection of intellectual property rights,[3] and establish procedures for dispute resolution.[4] NAFTA will also establish rules of origin defining which goods are "North American."[5]

Under NAFTA, the elimination of all tariffs among the three nations will occur over a fifteen-year transition period.[6] The agreement will eliminate all quotas and import licenses over this period, except for those in certain special areas.[7] Customs user fees and waivers of customs duties also will be eliminated.[8] Export taxes will be prohibited unless applied equally to goods consumed domestically. Mexico, however, will be allowed to apply export taxes to relieve critical shortages of foodstuffs and basic goods.[9]

Investments among the NAFTA participants will be treated as favorably as domestic investments and investments from countries with most-favored-nation status.[10] Both government and private monopolies will be permitted as long as they are not operated in an "anti-competitive" or "discriminatory" manner.[11] The land transportation and financial services industries will be given unrestricted access to the markets of NAFTA participants.[12]

NAFTA will create a "free trade area" that manages only the flow of goods, services, and investment among the three trading partners.[13] The agreement will not address labor mobility across borders or other common policies such as taxes. In addition, the member countries will retain their own individual tariff rates for countries outside the free trade area.

The North American agreement differs from the "common market" arrangement proposed for Europe. A common market arrangement establishes a "common external tariff" among member countries and the rest of the

2. JEFF FAUX & THEA LEE, ECONOMIC POLICY INSTITUTE, THE EFFECT OF GEORGE BUSH'S NAFTA ON AMERICAN WORKERS: LADDER UP OR LADDER DOWN? 28 (Economic Policy Institute Briefing Paper, 1992).

3. Office of the Press Secretary, The White House, NAFTA Fact Sheet, Press Release 1 (Aug. 12, 1992)[hereinafter NAFTA Fact Sheet].

4. GOVERNMENTS OF CANADA, THE UNITED MEXICAN STATES, AND THE UNITED STATES OF AMERICA, DESCRIPTION OF THE PROPOSED NORTH AMERICAN FREE TRADE AGREEMENT 1 (1992)[hereinafter DESCRIPTION OF THE PROPOSED NAFTA].

5. *Id.* at 2.

6. NAFTA Fact Sheet, *supra* note 3, at 1; Robert Trautman, *Trade Pact Sparks a Numbers War*, S.F. CHRON., Sept. 12, 1992, at B1.

7. Special areas include select agricultural sectors and energy production. Quotas and import licenses designed to protect life, health, or the environment will also be allowed. DESCRIPTION OF THE PROPOSED NAFTA, *supra* note 4, at 4.

8. *Id.* at 5.

9. *Id.*

10. *Id.* at 30.

11. *Id.* at 33.

12. *Id.* at 25, 33.

13. *Id.* at 1.

world.[14] A common market also allows for "labor mobility and common economic policies among the participating countries."[15] Since NAFTA entails only a "free trade area," the agreement does not satisfy the requirements for a common market.[16]

The formal negotiation process for NAFTA began on June 10, 1990, when U.S. President George Herbert Walker Bush and Mexican President Carlos Salinas de Gortari issued a joint statement endorsing the idea of a free trade area and directed their trade ministers to begin work on an agreement.[17] Canada joined the talks in February 1991.[18]

The three parties completed a final draft of NAFTA on August 12, 1992.[19] As of this writing, the following steps remain before NAFTA can take effect: (1) the agreement must win two-thirds approval in the Mexican Senate; and (2) the agreement must be "proclaimed" by the Canadian Prime Minister.[20] After these steps, NAFTA will formally take effect on January 1, 1994.

B. The Historical Context of NAFTA

If the concept of a hemispheric or continental free trade area seems grandiose and unprecedented in the United States, it is even more so in Mexico. Mexican governments have consistently imposed restrictions on imports. This has been the case since Mexico's colonial period under Spain.

In the 181 years from 1521 to 1702, all shipments of goods from Europe to Mexico were made in a single annual armed convoy through the port of Veracruz.[21] Spain also permitted a single ship to sail from Manila to the Pacific port of Acapulco. This policy was set by Spanish royal decree to control tax collection and protect against pirates.[22]

However, Spain gradually began to lessen these import restrictions. In 1702, a royal decree permitted two ships to sail from Manila to Acapulco

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14. U.S. DEP'T OF COMMERCE, INT'L TRADE ADMIN., QUESTIONS AND ANSWERS ABOUT THE NORTH AMERICAN FREE TRADE AGREEMENT 3 (1992).

15. *Id.*

16. Other existing and proposed free trade agreements in the world include the U.S.-Canada agreement, the U.S.-Israel agreement, and the European Free Trade Association. Sally Shelton-Colby, *Mexico and the United States: A New Convergence of Interests*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S 237 (Riordan Roett ed., 1991).

17. NAFTA Fact Sheet, *supra* note 3, at 2.

18. Canada's participation has been primarily limited to defending the interests it acquired in the bilateral Free Trade Agreement signed with the United States in 1989. ROBERT PASTOR, THE NORTH AMERICAN FREE TRADE AGREEMENT AS THE CENTER OF AN INTEGRATION PROCESS: THE NON-TRADE ISSUES 4 (1992).

19. Office of the Press Secretary, The White House, Statement by the President 1 (August 12, 1992)(photocopy on file with the *International Tax & Business Lawyer*).

20. Sandalow, *supra* note 1.

21. MICHAEL C. MEYER & WILLIAM L. SHERMAN, THE COURSE OF MEXICAN HISTORY 180 (1983).

22. *Id.*

each year.[23] In addition, in the 1760s Spain opened new ports in Mexico and permitted trade between Mexico and other Spanish colonies for the first time.[24]

Imports were also restricted during the period that spanned from Mexico's independence from Spain in 1822 until the Mexican Revolution of 1910.[25] Customs house receipts constituted one of the few militarily controllable sources of revenue for the government. The Mexican federal governments imposed heavy import duties because the survival of each regime was dependent on the customs house receipts collected at the ports. For example, the government of Victoriano Huerta fell in 1914 approximately three months after U.S. Marines occupied the port of Veracruz, cutting off this source of revenue to the Huerta regime.[26]

Since 1910, the federal government has protected domestic economic sectors from competing foreign imports. For Mexico, NAFTA is part of a fundamental break from the government's historic protection of domestic goods, in place since the Spanish conquest.

C. The Policy Background of NAFTA

NAFTA is not the first step that Mexico has taken toward opening its markets to imported goods. Mexico has been undergoing a long process of transformation away from protectionist policies, a process which has merely intensified in recent years. This transformation represents a shift away from a policy of high tariffs and licensing restrictions meant to encourage industrial development and import substitution.

Prior to these economic reforms, Mexico had accepted the view of Argentine economist Raul Prebisch that import substitution industrialization (ISI) was the key to economic success in the developing world. Prebisch believed that manufactured goods had a higher market value than raw materials. Unless imported goods could be replaced with domestically produced goods, producers of raw materials ran the risk of becoming permanently cast in the role of natural resource extractors for the world. The process of substituting imported goods with domestically produced goods required an initial protection of infant industries, permitting these industries to maintain prices above world levels.[27]

Even before the initiation of NAFTA negotiations, Mexico had sought to open its markets, abandoning the ISI strategy and implementing sweeping economic reforms.[28] During the administration of Jose Lopez Portillo, from

23. *Id.* at 253.
24. *Id.* at 254.
25. *Id.*
26. *Id.*
27. SOL W. SANDERS, MEXICO: CHAOS ON OUR DOORSTEP 38 (1986); *see* PETER MORICI, TRADE TALKS WITH MEXICO: A TIME FOR REALISM 34 (1991)(citing Raul Prebisch, *Commercial Policies in the Underdeveloped Countries*, AM. ECON. REV., May 1959, at 251-73).
28. NAFTA Fact Sheet, *supra* note 3, at 1.

1976 to 1982, the Mexican government had negotiated terms for entry into the General Agreement on Tariffs and Trade (GATT).[29] Similarly, under President de la Madrid in Spring of 1984, Mexico had tried to negotiate a bilateral agreement with the United States that would give Mexico the benefits of GATT in the American market without having to join GATT.[30]

Since 1984, Mexico has entered into several trade agreements. In 1985, the United States and Mexico signed an understanding on subsidies and countervailing duties.[31] In 1986, Mexico finally joined GATT and began gradually, yet dramatically, reducing its tariffs and other trade barriers.[32] The pace of change was slower, however, in the agricultural sector.[33] In 1987, Mexico and the United States signed the "Understanding Concerning a Framework of Principles and Procedures for Consultation Regarding Trade and Investment Relations."[34] In October 1989, President Salinas visited Washington and, with President Bush, signed the "Understanding Regarding Trade and Investment Facilitation Talks."[35] Concurrently, Salinas relaxed many administrative and regulatory obstacles to foreign direct investment in Mexico.[36]

D. The Status of Mexico-U.S. Trade Before NAFTA

As a result of the changes made before the NAFTA talks formally commenced, Mexico and the United States had substantially reduced bilateral trade barriers, particularly tariffs. About 80% of Mexico's exports entering the U.S. market are subject to a rate of duty between zero and five percent. Half of Mexico's imports, which are overwhelmingly U.S. exports, enter duty-free, while the average tariff on the remaining half is about nine percent.[37] It is estimated that almost one-third of total bilateral trade is now carried on duty-free.[38]

NAFTA is not necessary to maintain or even increase the trade between the United States and Mexico. Even before Mexico's liberalization of trade and investment began in the 1980s, the U.S. share of Mexican trade and fi-

29. Entry into GATT was blocked during the Portillo administration by protectionist, nationalist, and communist opposition.

30. U.S. protectionist constituencies blocked that agreement. SANDERS, *supra* note 27, at 65.

31. *Id.* at 66. MORICI, *supra* note 27, at 37-38.

32. NAFTA Fact Sheet, *supra* note 3, at 1.

33. Clark W. Reynolds, *North American Interdependence: Mexico's New Paradigm for the 1990s*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 50-51.

34. Riordan Roett, *Mexico's Strategic Alternatives in the Changing World System: Four Options, Four Ironies*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 4.

35. *Id.*

36. Reynolds, *supra* note 33, at 50-51.

37. Shelton-Colby, *supra* note 16, at 235 (citing B. Timothy Bennett, *Are There Possibilities for Creating a North American Common Market?*, COMERCIO INTERNACIONAL BANAMEX, June 1989, at 1).

38. Shelton-Colby, *supra* note 16, at 235 (citing Office of the U.S. Special Trade Representative, Personal Communication (Apr. 1990)).

nancial inflows was increasing.[39] This trend was amplified after Mexico joined GATT. Bilateral trade between the United States and Mexico rose 25% per year from 1987 to 1989.[40] This occurred despite Mexico's declining oil exports, a stagnant Mexican economy, and a sluggish U.S. economy.[41] In 1988, the United States was Mexico's biggest export market and largest import supplier, while Mexico was the United States' third largest trading partner.[42] Because bilateral trade is already strong and growing without NAFTA, the agreement is not the catalyst for trade liberalization in Mexico. Rather, the economic and demographic conditions in Mexico are compelling Mexico to adopt a trade liberalization policy.

II.
ECONOMIC AND DEMOGRAPHIC FACTORS COMPEL THE TRADE LIBERALIZATION IN MEXICO

A. Macroeconomic Crisis in Mexico

Mexico's larger economic agenda can be viewed as a continuing response to the economic crisis which Mexico underwent in the 1980s. The road to this crisis was paved in the 1970s.

1. Economic Boom of the 1970s

In the 1970s, U.S., European, and Japanese banks were under pressure to find investments for the massive influx of petrodollars from the Middle East. These banks were eager to lend whatever amount Mexico was willing to borrow. The banks were impressed with Mexico's reputation in the past as a good risk and by its adherence to the 1978 International Monetary Fund programs, imposed after a massive peso devaluation during the administration of President Luis Echeverria Alvarez (1970-1976). In addition, both the banks and the Mexican government were overly optimistic about the extent of Mexico's oil reserves.[43]

In the late 1970s, during the administration of President Portillo, large petroleum discoveries were made in Tabasco, Chiapas, and the Gulf of Mexico. The "probable reserves" in 1980 (as opposed to "proven reserves") were estimated to be 200 billion barrels. This amount, if proven, would have been greater than the reserves of Saudi Arabia and almost equal to the total reserves of the entire Persian Gulf.[44] While Mexico had long been one of the world's largest oil producers, these new discoveries boosted expectations about its future. Furthermore, not only did production triple during the Por-

39. Reynolds, *supra* note 33, at 40.
40. Shelton-Colby, *supra* note 16, at 235.
41. *Id.*
42. Roett, *supra* note 34, at 4-5.
43. SANDERS, *supra* note 27, at 46. For an account of the crisis and surplus of petrodollars, see RICHARD ROSECRANCE, THE RISE OF THE TRADING STATE 9-13 (1986).
44. MEYER & SHERMAN, *supra* note 21, at 678.

tillo administration, but also oil price increases meant that earnings from petroleum sales actually increased twelvefold, from $500 million in 1976 to $6 billion in 1980.[45] Under these optimistic conditions, the Mexican government made plans to spend more than its projected revenue increases. Public and private investment increased between 15 to 20% per year, and accompanied an external debt increase to about $80 billion by the end of 1981.[46]

2. *Economic Bust of the 1980s*

The robust world oil market, however, did not last. Oil price increases (driven by the Organization of Petroleum Exporting Countries) led to worldwide inflation, an international recession (beginning in the metropolitan centers), and fuel conservation efforts in major petroleum consuming countries.[47] High interest rates led oil producing countries to increase oil production as a substitute source of funds, resulting in over-production.[48] This oil glut reduced the long-term possibilities for sustained higher world oil prices, and, as prices began to decline in 1981, Mexico floundered.[49]

Mexico's problems in the 1980s included large government deficits, a shortage of credit available to business, low levels of investment, unprecedented inflation, a net transfer abroad of income and foreign exchange resources, unemployment, a drastic drop in real wages, and deteriorating health, nutritional and educational services for the vast majority of Mexicans.[50] In August 1982, Mexico was unable to meet its foreign debt obligations, which by then totaled approximately $86 billion.[51] At this time, Mexican inflation greatly exceeded U.S. inflation, causing an overvaluation of the peso against the dollar and exacerbating a wave of capital flight to the United States. To stop this flight, the President of Mexico ordered the Central Bank to stop trading dollars and to allow the peso to find its true worth. Within a few days the peso lost one-third of its value, and four months later it had lost three-fourths of its value. At 100 pesos to the dollar, the peso had dropped to a new low. The resulting price increases and currency controls exacerbated the sense of economic panic.[52]

Finally, in 1982, Portillo nationalized fifty-nine private banks in Mexico.[53] In doing so, the federal government seized the dollar bank holdings of

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45. *Id.*

46. SANDERS, *supra* note 27, at 46.

47. *Id.* at 9-10; *see also* ROSECRANCE, *supra* note 43, at 9-13.

48. Jose Miguel Insulza, *Mexico and Latin America: Prospects for a New Relationship, in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 160-62.

49. SANDERS, *supra* note 27, at 9.

50. Gabriel Szekely, *Forging a North American Economy: Issues for Mexico in the 1990s, in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 222.

51. INTERNATIONAL SEC. COUNCIL, CRISIS AND RESPONSE: A ROUNDTABLE ON MEXICO 25 (1986)[hereinafter ROUNDTABLE ON MEXICO].

52. MEYER & SHERMAN, *supra* note 21, at 680-81.

53. SANDERS, *supra* note 27, at 47.

both domestic and foreign citizens and replaced them with devalued pesos.[54] Investor confidence was "annihilated," resulting in massive capital flight. According to one estimate, as much as half of Mexico's $100 billion international debt in 1986 was attributable to savings of Mexican nationals used as collateral abroad for continued short-term borrowing.[55]

In response to the crisis, international lending institutions tried at first to bail out Mexico with $5 billion in new loans, $3.55 billion of which came from the United States.[56] Later, in 1984, Mexico achieved a modicum of debt restructuring, but did so in an unrealistic way. For example, the scheduled payment amount increased from $1.305 billion in 1984 to $9.672 billion in 1985, as if, by some miracle, Mexico's ability to pay would change profoundly over 12 months.[57] A second restructuring ensued, but, as soon as it was completed, Mexico announced that it would be unable to meet the austerity targets it had set.[58] Consequently, U.S. bankers refused to provide the new funds necessary to continue economic maintenance during 1986.[59]

3. *Mexico's Response to the Economic Crisis*

It was in this context of economic and debt crisis that Mexican President de la Madrid shifted Mexican policy in the direction of trade liberalization. This shift may have been motivated in part by the growth of U.S. military involvement in Central America, considered in light of the historical U.S. invasions into Mexico and the 1838 and 1862 invasions by the French military for the express purpose of collecting debts.[60]

Mexico was primarily concerned with locating resources for national economic growth. The economic crisis in the 1980s made future debt-financed growth unlikely. Widespread overproduction of oil also made it unlikely that developing countries would be able to attain high oil prices over the long run. The only significant source of resources for development that remained was investment and trade.

Beginning in the mid-1980s, Mexico underwent a major program of macrostabilization and structural adjustment, and shifted to an outward-looking development strategy intent on trade providing the major engine of growth.[61] In a nutshell, the strategy has succeeded to some extent. The Mexican inflation rate dropped from over 100% in 1986 to under 20% in

54. *Id.* at 26.
55. *Id.*
56. ROUNDTABLE ON MEXICO, *supra* note 51, at 25.
57. SANDERS, *supra* note 27, at 55.
58. *Id.*
59. *Id.*
60. MEYER & SHERMAN, *supra* note 21, at 328-29, 387.
61. Raul Hinojosa-Ojeda & Sherman Robinson, Labor Issues in a North American Free Trade Area (Apr. 9, 1992)(unpublished draft presented at the Brookings Institution's Conference, *NAFTA: An Assessment of the Research*, on file with the *International Tax & Business Lawyer*).

1991.[62] In addition, the Mexican economy grew at an average rate of 3.1% per year over the last four years, after a long period of stagnation.[63]

However, Mexico is still recovering from the shock of plummeting from the height of oil-soaked national fiscal power to the depths of national debt peonage. Mexican trade liberalization is a response to this profound economic crisis. This liberalization is neither a fad nor a mere quid pro quo for U.S. trade liberalization.[64] Trade liberalization is the only remaining cure for Mexico's floundering economy. If the United States had rejected NAFTA, Mexico, nevertheless, would have continued to liberalize trade.

B. Demographic Trends in Mexico

In addition to its economic crisis, another significant factor influencing current Mexican policymaking is its population growth. Mexico, like many developing countries, is experiencing a rapid growth and urbanization of its population. In 1990, Mexico's population was 85 million people. By 1994, that number is projected to increase by ten million.[65] In comparison, the country had only 7,860,000 people in 1856;[66] in 1910, at the time of the Mexican Revolution, the country had only 15 million people;[67] and by 1934, it had only grown to 16 million. However, by the end of World War II, the population had jumped to 22 million; in 1958, 32 million; and by 1980 it had more than doubled that figure, reaching 67 million.[68] The socioeconomic effects of this rapid population growth include dense urbanization, high unemployment, low wages, and heavy migration.

1. Urbanization of the Population

In recent years the population in Mexico's urban areas has skyrocketed, while the population of its rural areas is relatively stable and not expected to grow.[69] More than 60% of the population is crowded onto the high central

62. NAFTA Fact Sheet, *supra* note 3, at 2.

63. *Id.*

64. *See* MORICI, *supra* note 27, at 7 ("Mexico is undertaking reforms that open its market multilaterally to trade and investment while it is seeking as recognition preferential access to the U.S. and Canadian markets.").

65. *Id.* at 17.

66. MEYER & SHERMAN, *supra* note 21, at 419.

67. SANDERS, *supra* note 27, at 7. Actually this figure should be revised downward because 1.5 or 2.0 million people died during the revolution from 1910 to 1920. *See* MEYER & SHERMAN, *supra* note 21, at 552.

68. MEYER & SHERMAN, *supra* note 21, at 647. Of course to truly put Mexico's population situation into historical perspective, it should be noted that when the Spaniards captured and completely destroyed the Aztec capital of Tenochtitlan in 1521, that city was the capital of an empire of approximately 30 million persons. *Id.* at 89 (citing SHERBURNE F. COOK & WOODROW BORAH, THE INDIAN POPULATION OF CENTRAL MEXICO ON THE EVE OF THE SPANISH CONQUEST (1960)). Thus, it took approximately from the 1500s to the 1950s to repopulate the country just to its pre-colonial level, and it may be most appropriate to measure Mexican population change from that level.

69. Hinojosa-Ojeda & Robinson, *supra* note 61, at 5.

plateau around Mexico City.[70] In 1980, 66% of all Mexicans were living in urban areas.[71] This is particularly astounding considering the fact that the urban population had only surpassed the rural population twenty years earlier, in 1960.[72]

The effect of Mexico's staggering population growth and urbanization rate on its unemployment rate has been profound. As of 1990, Mexico's labor force of 30 million persons[73] was growing at a rate of one million persons per year, while only 300,000 to 400,000 jobs were being created per year in the formal economy.[74] Even at a growth rate of 5 or 6%, the Mexican economy will not be able to generate enough jobs to significantly reduce unemployment from its 1991 rate of approximately 20%.[75] The prospect of increased foreign investment as a result of NAFTA, and hence the creation of new jobs, offers one possible solution.

2. *Changes in the Standard of Living*

With the hope for employment opportunities comes the hope for improved income. Mexican real wages fell 40% between 1981 and 1991, with the declines spread through all sectors and skill levels.[76] Rural wage rates in 1988, when Salinas took power, were one-third those of the average Mexican worker.[77] NAFTA should lead to an increase in the exportation of goods produced by Mexico's abundant unskilled labor, consequently leading to a rise in wages.[78] Mexican per capita gross national product (GNP) is already on the rise but dramatically low when compared with per capita GNP in the United States. In 1988, Mexican per capita GNP was approximately $1,900.[79] By 1989, it had risen to $2,010.[80] By contrast, U.S. per capita GNP was approximately $19,800 in 1988[81] and had risen to $20,910 by 1989.[82]

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70. SANDERS, *supra* note 27, at 150.

71. *Id.*

72. MEYER & SHERMAN, *supra* note 21, at 655.

73. Reynolds, *supra* note 33, at 48.

74. FAUX & LEE, *supra* note 2, at 20 (citing OFFICE OF TRADE AND INITIATIVES, TRADE ANALYSIS DIV., TRADE AND INDUSTRY REPORT 9 (1990)); *see also* Hinojosa-Ojeda & Robinson, *supra* note 61, at 2 (noting that labor supply is growing at around 3% per year).

75. FAUX & LEE, *supra* note 2, at 20.

76. Reynolds, *supra* note 33, at 54.

77. *See generally* WESLEY R. SMITH, THE HERITAGE FOUNDATION REPORTS, SALINAS PREPARES MEXICAN AGRICULTURE FOR FREE TRADE (October 1, 1992).

78. Hinojosa-Ojeda & Robinson, *supra* note 61, at 13.

79. Reynolds, *supra* note 33, at 41-43 (citing WORLD BANK, WORLD DEVELOPMENT REPORT (1989)).

80. Hinojosa-Ojeda & Robinson, *supra* note 61, at tbl. 1 (citing WORLD BANK, WORLD DEVELOPMENT REPORT (1991)).

81. Reynolds, *supra* note 33, at 41-43 (citing WORLD BANK, WORLD DEVELOPMENT REPORT (1989)).

82. Hinojosa-Ojeda & Robinson, *supra* note 61, at tbl. 1 (citing WORLD BANK, WORLD DEVELOPMENT REPORT (1991)).

3. *Migration of Workers*

The low Mexican per capita GNP draws migration from Mexico to the United States; thus Mexico's low per capita GNP is also a problem for the United States.

The Mexican government estimates that there are between 800,000 and 1.9 million "undocumented" Mexicans working in the United States over the course of a given year.[83] These workers represent fully one-fifth of the entire Mexican work force.[84] A 1986 *New York Times* poll found that one-half of those Mexicans interviewed said they had a close relative in the United States;[85] if the survey was based on a representative sample, then about 40 million Mexicans had family in the United States.[86] "[S]ocial networks have now been established where binational codependency has become a way of life for many communities on both sides of the border."[87]

Based on such high rates of migration to the United States and the increasing levels of social contacts between residents of the United States and Latin America, it is appropriate to characterize NAFTA as an "element in a wider social . . . process of integration."[88] In particular, NAFTA itself would seem to be an attempt to get a grip on the future course of that process.[89]

Those that believe that NAFTA will result in reduced immigration are likely to find their expectations dashed. One study has predicted that complete trade liberalization will "induce[] large rural out migration from Mexico . . . . [O]ver 800 thousand workers [will] leave the rural sector, and over 600 thousand [will] migrate to the U.S."[90] This will happen as a result of cheaper agricultural imports. One reason for NAFTA's extended phase-in periods for agricultural trade is to avoid the release of rural laborers at a faster rate than Mexican urban economic growth can accommodate.[91] The question is

83. SANDERS, *supra* note 27, at 158.

84. Hinojosa-Ojeda & Robinson, *supra* note 61, at 3.

85. The U.S. Immigration Reform and Control Act of 1986 had initially reduced the inflow of migrants, but more recently many immigrants have returned. *See* Shelton-Colby, *supra* note 16, at 238. In response to NAFTA, U.S. immigration laws may be changed to accommodate Mexican nationals seeking non-migrant visas (for people who have some relationship to trade or investment), but there have been no discussions on immigration or free movement of workers. American Banker-Bond Buyer, *Immigration Law May Be Revamped For Mexicans*, NORTH AM. REPORT ON FREE TRADE, Mar. 1992, at 1.

86. Robert Pastor, The North American Free Trade Agreement as the Center of an Integration Process: The Non-Trade Issues (Apr. 9, 1992)(unpublished draft presented at the Brookings Institution's Conference, *NAFTA: An Assessment of the Research*, on file with the *International Tax & Business Lawyer*)(citing William Stockton, *Mexicans, in Poll, Call U.S. a Friend*, N.Y. TIMES, Nov. 17, 1986, at 6).

87. Hinojosa-Ojeda & Robinson, *supra* note 61, at 4.

88. Pastor, *supra* note 86, at 2.

89. Szekely, *supra* note 50, at 220.

90. *Id.* at 11 (citing SHERMAN ROBINSON ET AL., AGRICULTURAL POLICIES AND MIGRATION IN A U.S.-MEXICO FREE TRADE AREA: A COMPUTABLE GENERAL EQUILIBRIUM ANALYSIS (Department of Agriculture and Resource Economics, University of California, Berkeley Working Paper No. 617, 1991).

91. Hinojosa-Ojeda & Robinson, *supra* note 61, at 11.

whether such accommodation is possible. If not, the released rural workers will be drawn northward, across the border.

The phaseout of trade barriers under NAFTA may slow Mexican population growth, urbanization, and unemployment, but it will not bring these trends to a stop. The NAFTA phaseout may cause wages to increase marginally.[92] All of these things will occur, if at all, due to Mexico's unilateral investment attraction strategy,[93] of which NAFTA is merely one helpful yet unnecessary part.

III.
NAFTA ALONE CANNOT SOLVE MEXICO'S PROBLEMS

Access to the U.S. market through GATT, NAFTA, and bilateral agreements seems at first like the key to any solution to the economic situation and the race against population growth and wage shrinkage. It seems like a way to create an export job boom in Mexico. However, NAFTA itself will be insufficient for these purposes.

Exporting manufactured goods to the United States is unlikely to significantly reduce unemployment and raise per capita GNP. For example, the entire existing maquiladora[94] sector to date has only created 500,000 jobs, not enough to absorb Mexico's surplus labor created in a single year.[95]

For wages to rise, there must be a mechanism for negotiating them upward. The lack of strong independent labor unions in Mexico suggests that, even if the labor surplus were reduced, the Mexican labor force will be slow to achieve any wage gains.[96]

These considerations indicate that NAFTA is not a sufficient solution to the problems that Mexico faces. Mexico requires strong economic medicine if it is going to remedy its problems. If Mexico had a reliable theory of how to create a massive amount of jobs as a weak trading partner under a regime of restricted trade, then perhaps it might still try to follow that path. However, no such example exists.

92. "If a revaluation of the peso were to raise the current Mexican wage to 20 percent of U.S. levels and if Mexican real wage growth were to exceed U.S. wage growth by 4 percent a year—two fairly heroic assumptions—Mexican wages would reach 40 percent of U.S. levels after 18 years and 80 percent in 36 years." MORICI, *supra* note 27, at 3.

93. *See infra* part IV.A.

94. A maquiladora is an assembly plant given special tariff and duty status as part of a Mexican government program to encourage facility location in Mexico.

95. FAUX & LEE, *supra* note 2, at 20.

96. *Id.*

IV.
THE DRIVING FORCE BEHIND NAFTA IN MEXICO

A. *The Search for Foreign Capital and Technology*

Economic liberalization will help solve Mexico's economic crisis by restoring its attractiveness to investors. Mexico has to recover from an almost complete flight of foreign capital that occurred in previous years. As one author put it, "[w]ithout fear of contradiction it can be said that all the capital which could be moved has left Mexico in the past decade [from 1976 to 1986]."[97] NAFTA is one possible method of attracting foreign capital and technology.

1. *United States Investment*

One purpose of NAFTA is to attract U.S. investment. The wage differential between the North American countries is profound. In 1990, hourly compensation costs in U.S. dollars for production workers in manufacturing were $1.85 in Mexico, $14.83 in the United States, and $15.94 in Canada.[98] After NAFTA is enacted, this differential is likely to draw many labor intensive businesses from the United States into Mexico.

Mexico's goal is not only to attract U.S. investment. NAFTA is also intended to attract investment from other countries. One indicator of where Mexico is headed with its investment promotion strategy is the maquiladora program. In 1989, for example, the United States owned 1,200 of the 1,800 maquiladora plants.[99] This two-thirds investment ratio in the maquiladoras is replicated in the Mexican economy as a whole, in which the United States provides approximately two-thirds of the direct foreign investment. In 1989, the U.S. share of foreign direct investment in Mexico was 63%, the share of the European Community was 18.7%, and the Japanese share was 5.1%.[100] Thus, one-third of foreign direct investment is by investors from countries other than the United States.

2. *Asian Investment*

Mexico hopes NAFTA will help divert investment that otherwise would have gone to the newly industrialized countries (NICs) in Asia.[101] Asian

97. SANDERS, *supra* note 27, at 60.

98. *Id.* (citing U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, INTERNATIONAL COMPARISONS FOR HOURLY COMPENSATION COSTS FOR PRODUCTION WORKERS IN MANUFACTURING, 1990 (1991)).

99. Szekely, *supra* note 50, at 217-18.

100. Wolf Grabendorff, *Mexico and the European Community: Toward a New Relationship*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 103 (citing Comision Nacional de Inversiones Extranjeras, *Inversion Extranjera Directa en Mexico Segun Pais de Origen*, *reprinted in* EL FINANCIERO (1990)).

101. Roberta Lajous, *Mexico's European Policy Agenda: Perspectives on the Past, Proposals for the Future*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 83 (citing *President Salinas on Mexico's Economy*, WALL ST. J., Apr. 4, 1990).

countries such as Japan, South Korea, Taiwan and Singapore are capital exporters to a much greater extent than the debt-laden United States. Export-led economic development, however, is difficult and risky in a world where at least a dozen other nations with low wages are doing the same.[102]

Mexico has a comparative advantage in this competition, however. Mexican wages are lower than wages in the Asian NICs, yet Mexico's productivity is comparable in many sectors. In addition, compared with the Asian NICs, Mexico can offer easier access to the large U.S. markets due to geographic advantages and the minimal trade barriers after NAFTA.[103]

Japan, Singapore, Taiwan, and South Korea are currently ridding themselves of heavy and chemical industries that are intensive users of raw materials, energy, and industrial space. Mexico can take advantage of this "industrial shedding" by these Asian nations by modernizing and consolidating its heavy and chemical industries through pursuing inward foreign direct investment, technology imports, licensing agreements, and technical assistance contracts.[104]

Mexico, however, is fully aware that Asian foreign investors are much more interested in access to the U.S. market through Mexico than they are in the Mexican market itself.[105] Mexico's negotiating leverage with Japan and other industrial nations has been significantly enhanced because of NAFTA.[106] There has been strong criticism that the maquiladoras are just a Trojan horse to hide exports from the Pacific Rim to the United States under a Mexican guise.[107] NAFTA is subject to similar criticisms, but on a broader basis.

> The dilemma for the United States is that Mexico has undertaken a number of reforms that open its markets to all comers, and it is now seeking preferential access to the U.S. market to sustain domestic momentum and foreign economic support for these policy changes. It is seeking a free trade agreement with the [United States] to convince domestic actors, flight capital, and U.S. and other foreign investors that its economic reforms are permanent and that its access to the U.S. market is secure. In the process, *Mexico is seeking to exchange multilateral liberalization for bilateral concessions.* If the [United States] were to accede to such a deal, it would create a back door to unrestrained competition from the combined forces of Japanese and European skilled labor, technology and capital, and inexpensive Mexican labor at a time when the U.S. economy may be least able to respond.[108]

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102. SANDERS, *supra* note 27, at 64.

103. FAUX & LEE, *supra* note 2, at 17. For information regarding Mexican productivity, see MORICI, *supra* note 27, at 3-4.

104. Terutomo Ozawa, *The Dynamics of Pacific Rim Industrialization: How Mexico Can Join the Asia Flock of 'Flying Geese'*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 149.

105. Shelton-Colby, *supra* note 16, at 236.

106. Szekely, *supra* note 50, at 226.

107. Ozawa, *supra* note 104, at 151.

108. MORICI, *supra* note 27, at 57 (emphasis added).

3. *European Investment*

In his 1990 trip to Europe, President Salinas vigorously lobbied for European investment in Mexico as the gateway to the North American market.[109] The results of this trip partly revealed President Salinas' strategy for obtaining trade, investment, and technology. The integrated Europe of the future will be a difficult trading partner for Mexico because Mexico will have to compete with the preferential trade structure offered to the former European colonies in Africa, the Caribbean, and the Pacific.[110] In addition, oil comprises almost 50% of Mexico's exports to the European Community (compared with 33% to the United States), making its trade relations with Europe vulnerable to the fate of a single commodity that has proven unreliable.[111] It is also predicted that Mexico will cease to be an oil exporter around the year 2000.[112] Mexico's NAFTA strategy will help it by diversifying its investment portfolio in anticipation of the depletion of its oil reserves.

Europe, however, is also a poor source of capital for Mexico while Eastern Europe undergoes political and economic transformation.[113] Not only does Mexico lack the geographical advantages of Eastern Europe in attracting European capital, it is also at a competitive disadvantage as a result of the perception that the Eastern European labor pool is not merely low-wage, but highly educated.[114]

4. *Technology*

Mexico is especially interested in Japanese and German trade not only for their investment, but also, and perhaps more importantly, for access to their technology. Europe is considered the world leader in chemical and pharmaceutical technologies and in some areas of communications technology. Japan has pulled ahead of the United States in electronics and automobiles and the two are in a tight race for the semiconductor industry.[115] The United States appears to be lagging behind in technology, and has become the world's foremost debtor country.[116] U.S. investment in research and development, as well as its precursor, education, is decreasing.[117] Although it would be inaccurate to say that the Mexicans have no interest in U.S. know-how, it is probably fair to say that they would rather learn, for example, modern steel making from the Japanese.

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109. Grabendorff, *supra* note 100, at 104.
110. Lajous, *supra* note 101, at 84.
111. Grabendorff, *supra* note 100, at 102.
112. Roett, *supra* note 34, at 16.
113. Lajous, *supra* note 101, at 84.
114. Jesus Silva-Herzog, *Mexico and the World: Opportunities and Risks in the 1990s*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 23.
115. Grabendorff, *supra* note 100, at 103.
116. Silva-Herzog, *supra* note 114, at 25-26.
117. Roett, *supra* note 34, at 16-18.

NAFTA will allow Mexico to sell access to U.S. markets to prospective investors. While the chief source of foreign investment in the past has been the United States, the chief prospect for capital in the near future is Japan. Mexico, however, would have had a more difficult time luring investors and technology without the attractive guarantee of permanent access to the U.S. market.

B. Changing Investor Perceptions of Mexico

Perceptions and expectations play a major role in directing investment.[118] With this in mind, the Salinas administration has implemented policies that have high-profile symbolic appeal to investors and serve technical economic functions. For example, the administration has implemented a government anti-corruption drive and an anti-corruption drive within the controlling political party. The government also has allowed, for the first time ever, an opposition party member to win the governorship of a state.[119] The Mexican government's acceptance of the Brady Plan in 1989 did not have a significant effect on Mexico's overall level of indebtedness, but had the symbolic effect of reassuring investors who were waiting in the wings or who had earlier taken flight.[120]

The liberalization of tariff policy has been broader and more rapid than would have been necessary for NAFTA itself.[121] Mexico has, more or less contemporaneously, joined GATT, undergone a reduction in tariffs and other trade barriers, engaged in a process of domestic economic reform, participated in the renegotiation of GATT under the Uruguay Round, and sought to obtain a free trade agreement with the United States.[122] Some argue that Mexico's unilateral actions to liberalize its economy have been merely an attempt to induce the United States to sign NAFTA. In fact, however, Mexico has no economic choice but to pursue such a pro-trade policy. The unilateral actions are less an inducement to the United States to sign NAFTA than they are an attempt to increase Mexico's attraction to investors by changing perceptions.

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118. Reynolds, *supra* note 33, at 49.

119. Shelton-Colby, *supra* note 16, at 233.

120. Silva-Herzog, *supra* note 114, at 31; *see also* Roett, *supra* note 34, at 14.

121. Tim Josling, NAFTA and Agriculture: A Review of the Economic Impacts 5 (Mar. 1992)(unpublished draft, on file with the *International Tax & Business Lawyer*).

122. Claimed "scientific accounts" of the effect of NAFTA on the United States and Mexican economies are generally useless. The Salinas administration is pursuing its aims simultaneously through NAFTA, GATT, and unilateral domestic action. What the administration cannot achieve in one area it will seek in another. The only analysis that makes sense is an analysis of the entire Mexican trade agenda as a whole. It is misleading to calculate separately what the effect of NAFTA, GATT, or the domestic reforms will be on the Mexican or U.S. economy. *See* Josling, *supra* note 121, at 6-8. NAFTA itself is merely one part of a wider Mexican process of change away from protectionist policies toward the United States, a wider process which must somehow be taken into account in any analysis of NAFTA's impact. *Id.*

NAFTA itself is an attempt to give a perception that pro-trade policy is "locked in."[123] NAFTA to a great extent is merely the "locking-in" of already low tariff levels and the rights of foreign investors through an international treaty that future Mexican governments will find difficult or impossible to change.[124] Mexico has sought NAFTA not to induce future change, but rather to institutionalize past change. This "locking-in" is a key to investment attraction.[125]

The perception of "locked in" change is especially important due to Mexico's history of instability and abrupt changes that have devastated investments. This instability is in part due to the strength of the Mexican executive branch. It has long been the case that if the Mexican government permitted one foreign corporation to invest in a certain manner, that would not set a precedent for another corporation to do the same.[126] NAFTA takes the power to change policy out of the hands of the executive and places it into an international treaty which is resistant to change. By committing itself in this way — voluntarily reducing its own power — Mexico increases its attractiveness to investors.[127] Because of the strong perceptive change NAFTA is likely to effect, NAFTA may delay the need to pursue other necessary changes: wider political reform and diminution of other executive powers.[128]

Trade liberalization is necessary to ameliorate the socioeconomic situation in Mexico. New jobs require economic growth. Growth requires investment. Investment requires attractive trade policies. Attractive trade policies insure stability and predictability. NAFTA is helpful in attracting investment because it reduces investor concern over the concentration of power in the executive. Absent NAFTA, however, Mexico would have to take more drastic steps toward trade liberalization to obtain a similar perception of stability.

C. *The Global Restructuring Process*

Politically it is important that the Salinas administration not appear to be subordinating the interests of Mexico to those of the United States. The loss of Texas, northern New Mexico, and California to the United States, as

123. *Id.*; *see also* U.S. DEP'T OF COMMERCE, INT'L TRADE ADMIN., QUESTIONS AND ANSWERS ABOUT THE NORTH AMERICAN FREE TRADE AGREEMENT 2 (July 23, 1992).

124. FAUX & LEE, *supra* note 2, at 12.

125. MORICI, *supra* note 27, at 7, 54.

126. SANDERS, *supra* note 27, at 25-26.

127. Interview with Alain de Janvry, Professor of Agricultural and Resource Economics at the University of California at Berkeley (Fall 1992).

128. Joel Simon, *Free Trade in Mexico: NAFTA — the View from Tijuana*, NATION, Nov. 30, 1992, at 666. Locking out the potentially anti-trade policies of future administrations may also have the effect of precluding altogether the resurgence of the Mexican political left. Once its political platform of protectionist policies, price supports for small farmers, and nationalization of key industries is rendered illegal by NAFTA, the Mexican left may be permanently excluded from office. *Id.*

well as the voluntary sale of southern New Mexico and Arizona, is still a source of ire to many Mexicans.[129]

There is mixed opinion and evidence as to whether the Mexican government is under the thumb of the U.S. government. In June 1986, the de la Madrid administration dropped its threat of unilateral action on the debt issue and took the limited concessions it was offered.[130] On the other hand, Mexico's voting record in the United Nations continues to be independent of U.S. influence.[131] Whether or not Mexico is now subservient to U.S. interests, Mexico has shifted the focus of its foreign relations during the years since the debt crisis.

Mexico has historically been oriented with Latin America and the third world. In terms of trading partners, the economic policy changes since the debt crisis do not represent an abandonment of Latin America. Mexico has always had a higher level of trade with the United States than with Latin America.[132]

However, in terms of ideological orientation, NAFTA can be viewed as part of a larger Mexican abandonment of Latin America and the rest of the developing world. Mexico has backed down from its original Central American policy which ran counter to U.S. policy. It has shown reluctance to coordinate policy with other large debtors in Latin America. Mexico displayed an almost neutral attitude toward the U.S. invasion of Panama in December 1989. Finally, Mexico has shown a willingness to cooperate with the United States to stem the flow of migrants from other southern countries.[133] This change in Mexico's relationship with other developing countries is significant as a possible harbinger of future relations among third world countries as they each maneuver to link up with the first world.

Many countries will be watching the results of NAFTA for a glimpse of the possibilities it holds for the future of relations between the first and third worlds. The Mexico-U.S. relationship brings the issues of first world-third world relations into stark relief. "Mexico-U.S. relations include the largest debtor-creditor relation and the largest trade relation between any two developed and developing countries, the largest foreign investment flows, and the longest continuous border with the highest levels of border crossings and border commerce, both legal and illegal."[134]

Relations among all developed and developing countries will be subject to revision in the coming years as a consequence of integration into what has been dubbed the "flying geese" formations.[135] In such multilateral relation-

129. MEYER & SHERMAN, *supra* note 21, at 334, 353.
130. Laurence Whitehead, *Mexico and the 'Hegemony' of the United States: Past, Present, and Future*, *in* MEXICO'S EXTERNAL RELATIONS IN THE 1990S, *supra* note 16, at 256.
131. Shelton-Colby, *supra* note 16, at 241.
132. Insulza, *supra* note 48, at 165.
133. *Id.* at 158.
134. Hinojosa-Ojeda & Robinson, *supra* note 61, at 1.
135. Ozawa, *supra* note 104, at 129.

ships, the most-developed countries take the lead in advanced technological production, while less-developed trading partners assume responsibility for the prior "evolutionary step" in development of production capability. The formation is essentially an intereconomy sequencing of economic development.[136] This pattern characterizes relations between Japan and the Asian NICs, which Japan is leading in rapid development. Policymakers in Mexico, the United States, and Canada may be making a deliberate attempt to emulate such a structure. In any case, trade among Mexico, the United States, Canada, and Asia may end up having approximately that effect, regardless of whether it was achieved by design.

The U.S.-Canada agreement and NAFTA are steps in a long-term process toward developing similar agreements with other countries. In late June 1990, soon after initiating the NAFTA process, George Bush announced his "Enterprise for the Americas Initiative." This measure addressed debt, investment, and trade issues. It included a call for the establishment of a comprehensive free trade area for the entire Western Hemisphere.[137]

Pacific Rim countries could become key players in NAFTA. According to Dean Albert Fishlow of the School of Economics at the University of California at Berkeley, it is easier to imagine expanding NAFTA to include Asian countries than Latin American countries. Argentina's overvalued peso and its imminent devaluation make NAFTA membership unlikely for that country. Similarly, Brazil's 28% per month inflation and Columbia's stubborn cocaine problems are barriers to their entry into NAFTA. Furthermore, the current trend has been for U.S. investment to flow to Asia.[138] A constituency of "U.S." corporations is growing in Asia and may be able to influence U.S. free trade policy to their benefit.

Free trade agreements, such as NAFTA, are the result of growing interdependency and are intended to facilitate the emerging comprehensive structure of relationships among more and less developed countries. Given that such patterns are clearly emerging, the key issue for Mexico is not whether the train should leave the station, but rather, how to get on board. If NAFTA had not been achieved, Mexico would have been forced to seek wider relations with investing countries through greater trade liberalization; that is, unless Mexico is to be left behind.

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136. *Id.* at 133.

137. Roett, *supra* note 34, at 5; *see also* FAUX & LEE, *supra* note 2, at 19 (quoting Linda Dieble, *Will U.S. Dominate Hemispheric Trade by the Year 2000?* TORONTO STAR, Apr. 25, 1992).

138. Albert Fishlow, Introductory Remarks at a Conference at the University of California at Berkeley, The Transformations of Mexican Agriculture: Opportunities, Dilemmas, and Implications for California (Dec. 3, 1992).

V.
MEXICO'S TRADE LIBERALIZATION IS IRREVOCABLE

As part of the emerging pattern of relations among more and less developed nations, Mexico's national public sector is being replaced by a multinational private sector. In addition to the reduction in protectionist trade policies, the Mexican policy response to the economic crisis of the 1980s included a reduction in the size of the public sector.

Mexico has a long and enthusiastic tradition of public sector ownership of the means of production. This practice underwent a considerable boom under the administration of President Echeverria. When he took office in 1970, the state owned 86 companies; when he left in 1976, the state owned 740 companies.[139] At the same time, he increased public spending on housing, schools, and agricultural credits.[140] He also built rural roads and increased electrification.[141]

Under his successor, President Lopez Portillo, government employment was the locus of public sector growth, growing from around 600,000 in 1976 to nearly 1.5 million persons in 1982 when Portillo left office.[142] By the time President de la Madrid took over and began to reduce government expenditures, such expenditures amounted to 40% of the Mexican GNP.[143]

Privatization and the removal of subsidies began a fundamental change in Mexican rural life even before NAFTA. President Salinas reduced the authority and budget of the state food distribution monopoly, Compania Nacional de Subsistencias Populares (CONASUPO). CONASUPO set prices on most food commodities and was the sole purchaser and distributor for most foodstuffs. Its goal was to maintain high producer prices and low consumer food prices in order to support low nominal wages and insure peace in the urban industrial populations.[144] Today CONASUPO supports artificial prices for only two commodities, beans and corn, staples of the Mexican diet. The government monopoly on fertilizer production and distribution ended in 1991 with the privatization of the state-owned fertilizer company, Fertilizantes Mexicanas. Furthermore, the size and authority of the Secretariat of Agrarian Reform has been reduced.[145]

Salinas is also revolutionizing the ejido farming sector, which constitutes two-thirds of Mexican agriculture.[146] Ejidos are communal farms. Originally a traditional form of organization, today they are mostly of government

139. SANDERS, *supra* note 27, at 42.
140. *Id.*
141. MEYER & SHERMAN, *supra* note 21, at 672.
142. SANDERS, *supra* note 27, at 45.
143. *Id.* at 59. By 1983, the Parastatal sector produced about 18% of GNP, with Pemex, the national petroleum monopoly, accounting for two-fifths of this. MORICI, *supra* note 27, at 20, 34 n.10.
144. Josling, *supra* note 121, at 5-6.
145. SMITH, *supra* note 77, at 15.
146. Josling, *supra* note 121, at 6.

creation.[147] Until recently, the ejidos have been, in effect, "simple extensions of the economic and social planning bureaucracies in Mexico City."[148] By 1988, one-half of Mexico's arable land was controlled by the government through the ejido system,[149] which comprised approximately 246 million acres.[150] In 1988, 60% of all ejido arable land was held by ejido farms that averaged less than 1.5 acres. Ejido farmers working these plots received less than one-sixth the salary of ejido farmers working on plots larger than 18 acres.[151]

Under the Salinas government, support of the ejidos was cut through an amendment to Article 27 of the Mexican Constitution. Mexicans no longer had a right to receive land from the government. The process of land distribution to ejidos was formally ended. Individual ejido farmers were given title to their land and the right to sell, rent, sharecrop, pool, mortgage, or pass the land to their heirs. In addition, they can now form commercial joint ventures. Further, the maximum amount of acreage that can be owned by a single corporation or association has been increased by a factor of 25.[152] Foreigners can also now own agricultural land and acquire water rights.[153]

The specific effects which these changes will have on Mexican rural life are currently unknown and debated. The gross scale of the change, however, does not seem to be in doubt. A fundamental restructuring of Mexican rural life will have profound effects on Mexico because of the great symbolic importance this sector has carried in Mexican history.

Mexico is undoing a revolution dedicated to maintaining a strong connection between the people and the land.[154] Once they are released into urban life, Mexico hopes to employ them. Whether or not this is achieved, the Mexican government will not be able to simply return those people to the land.

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147. This was part of a program articulated in Article 27 of the Constitution in the years since the Mexican Revolution.

148. SMITH, *supra* note 77, at 15.

149. *Id.*

150. *Id.*

151. *Id.*

152. *Id.*

153. *Id.*

154. SANDERS, *supra* note 27, at 16 (citing RAMON EDUARDO RUIZ, PREFACE, THE GREAT REBELLION, MEXICO 1905-1924 (1980)). Some contend that Mexico's policies represent a historical reversal of ideology and a betrayal of the Mexican Revolution. Others argue that there never was a Mexican Revolution, although the magnitude of social changes over the past 80 years indicate that there was a Mexican Revolution. *Id.* The land redistribution that occurred since 1910 itself qualifies as a social revolution. Taking literacy as one measure of development, it is evident that the Mexican government has also made progressive social strides since 1910. By 1960 the percentage of illiterates in the Mexican population had begun to decrease. MEYER & SHERMAN, *supra* note 21, at 657. By 1980, for the first time, both the percentage and absolute number of illiterates showed a decrease in the official census. *Id.* at 681. The caloric intake in the average diet doubled between 1910 and 1970; the infant mortality rate (deaths before one year old) fell from 30 deaths per hundred to about 5; and life expectancy soared. *Id.* at 683-85.

The governmental and social structures which held the people to the land will have been dismantled. The old development policies will be unworkable as the removal of the government's visible hand will result in the binding of Mexico to the international economy. Thus, trade liberalization and investment attraction are a path to which Mexico is irrevocably committing itself, not because its resolve is so great, but rather because the path Mexico has taken entails burning its bridges behind it.

VI.
CONCLUSION

Mexico's broad policy of trade liberalization represents a break with the continuity of the past. Concomitant with that shift is a change in the role of the Mexican government both within Mexico and in the world at large. When this decade is but an entry in history books, it is possible that this entire transformation will be blamed on, or credited to, NAFTA.

However, Mexico is committed to a course of action that would have occurred with or without NAFTA. If the goal of the United States is to have a southern neighbor committed to free trade, investment promotion, and participation in the world trading system, it had such a neighbor prior to NAFTA. To the extent that the United States is changing its own trade policies to its detriment through NAFTA, the United States should recognize that it is not receiving a quid pro quo change from Mexico.

Mexico is on a road. The United States may perhaps speed Mexico on its way by paving that road with the provisions of NAFTA. Absent NAFTA, however, Mexico could not have turned back to the policies and the attendant crises marking the point where it began its journey.