

Trading away the environment?

- Kevin P. Gallagher

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This year marks the tenth anniversary of the North American Free Trade Agreement (NAFTA). Although there are many lessons to be learned from the NAFTA experience, in a presidential campaign where trade policy and outsourcing dominate the domestic debate, each candidate has surprisingly little to say about NAFTA.

No news to Californians, NAFTA allows private firms to sue governments for actions, seen to be "tantamount to expropriation." Under this provision, private firms have been successfully filing claims against U.S., Mexican and Canadian environmental laws. The claims interpret new costs associated with complying with environmental law as "tantamount to expropriation."

Moreover, the NAFTA-sponsoring hearings, which take place with little government or public oversight, where such cases are decided, are not seen as transparent or accountable. California is victim to a \$1 billion claim from a Canadian firm over an environmental law to ban a gasoline additive that is threatening the state's water supplies.

The Bush administration has insisted that NAFTA-like investment provisions form the core of the U.S.-Chile Free Trade Agreement, the Central America Free Trade Agreement and the Free Trade Area of the Americas.

In response to the administration's efforts, Kerry (unsuccessfully) introduced a 2002 amendment to the Trade Act that would have limited the definition of expropriation so as not to allow suits by corporations that threaten legitimate environmental regulations.

On the campaign trail, albeit quietly, Kerry distinguishes himself from the Bush administration by taking the position that he won't sign any new trade agreements unless they contain strong environmental standards. Little known to the public, and even many environmentalists, is that Bush has been inserting environmental provisions in trade agreements since the day he took office. The question is, are these provisions adequate enough?

NAFTA has an "environmental side agreement." It is widely viewed that the agreement was not perfect, but an important first step. The majority of studies, including my own, show that the environmental effects under NAFTA has not been positive. The Mexican government estimates that the economic costs of environmental degradation as related to NAFTA have amounted to 10 percent of annual GDP. These costs dwarf economic growth, which amounted to only 2.6 percent on an annual basis. Moreover, the surge in U.S. exports has put added pressure on poor corn farmers in Mexico. This has caused not only increased poverty and emigration, but it also threatens the rich stock of plant biodiversity cultivated by Mexico's traditional farmers and relied on by the world's crop breeders.

In the environmental area, Mexico's loss is not the United States' gain. The rise in U.S. corn

production has provided a stimulus to some of the most environmentally destructive agricultural practices in the United States. Corn is very chemical-intensive, both in terms of fertilizers and pesticides. Recent expansions of corn production have taken place in some of the drier states, necessitating irrigation at unsustainable levels.

Kerry was an early supporter of the environmental side agreements to NAFTA and says that he will build on that record by placing environmental provisions inside the text of new trade agreements. By contrast, most observers argue that the Bush administration has been taking a "NAFTA-lite" approach to the environment that amounts to a rollback of even the limited gains in environmental protection made under NAFTA.

A July 2004 Gallup poll found that 2 out of 3 Americans believe that trade policy should not come at the expense of the environment. America needs a candidate who will see to it that all U.S. trade agreements will preserve the ability of our country to continue to be a leader in environmental protection and provide incentives for our trading partners to follow that lead.

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