

January 1992

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Recommended Citation

Aureliano Gonzalez-Baz, *A Mexican Perspective on the North American Free Trade Agreement and the Environment*, 18 Can.-U.S. L.J. 235 (1992)

Available at: <http://scholarlycommons.law.case.edu/cuslj/vol18/iss/23>

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A Mexican Perspective on the North American Free Trade Agreement and the Environment

*Aureliano Gonzalez-Baz**

Mexico, compared to Canada and the United States in matters of trade and the environment, is in a somewhat different position. We must go back in history and understand what has happened in Mexico in scarcely ten, fifteen years.

With the advent of the Second World War, Mexico adopted an economic model whereby it was going to close its doors to foreign imports and was going to develop domestic industry in absolutely everything. As a consequence, between 1941 and 1986, Mexico had a very limited manufacturing capability, with obsolete technology and very high prices.

In 1986, because of the financial problems that Mexico was facing since the devaluations of 1976 and 1981, and because of the pressing need to resolve those problems, Mexico recognized two things: (1) that if it wanted to reduce inflation, it had to allow the importation of foreign goods that were cheaper than Mexican-made goods; and (2) that it desperately needed foreign capital.

Mexico joined GATT, and in literally an overnight period, Mexican manufacturers were faced with the fact that foreign products, which in the past had averaged at a rate of 100 to 110 percent, suddenly had a maximum of 20 percent and an average of 9.8 percent duty. Also, ninety-eight percent of all products no longer required an import license.

In 1987, Mexico started growing, and we did renegotiate our foreign debt. In 1989, we issued two very important pieces of legislation in Mexico: the new foreign investment regulations and the new environmental laws. Mexico had had environmental legislation since the early 1970s, but such legislation was not as widespread or as complex, nor was it intended to be as comprehensive, as that of 1989.

During the last week of 1990, in New York City, Dr. Jaime Serra Puche, our Minister of Commerce for industrial development, together with then Secretary Mosbacher publicly announced that neither the United States nor Mexico wanted to form an economic block, and accordingly that it was not in the best interest of Mexico to form an economic block. Dr. Serra Puche left New York and caught up with

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The following text was compiled from the transcript of the remarks made by Mr. Gonzalez-Baz at the Conference. This text was unedited by Mr. Gonzalez-Baz at the time of publication, but has been printed with his consent.

President Salinas in Germany, and two weeks later, they announced that the United States and Mexico were to negotiate what is now the North American Free Trade Agreement (“NAFTA”).

It seems that what President Salinas was able to observe between East and West Germany and in the Eastern Economic Block made him change his mind. Suddenly, Salinas, who had been considered a very aggressive and avant-garde president, was impressed as the changes were taking place in East and West Germany with rapid speed.

In 1990, Mexico prepared itself and lived through the shock, from a manufacturing point of view, of recognizing that it was going to have to have a North American trade agreement. This did not mean that foreigners could not come to Mexico until NAFTA — because the 1989 Foreign Investment Regulations changed all that — but it did mean that Mexican goods could not enter the United States on a competitive basis until we had that agreement. This is the key reason why Mexico wanted NAFTA. Mexico has predominantly tariff barriers with the United States, whereas the United States has non-tariff barriers with which Mexico must contend.

Mexico, which has no more than 600 companies that export products right now to the United States, was facing a very severe problem. The accession to GATT effectively opened its doors. The 1989 regulations effectively opened Mexico to foreigners more than ever. Suddenly, Mexico had to find a way to become a manufacturing power very similar to Taiwan, and this was the economic model for the government. If this was to happen, products that import a great deal of components, the manufacturing process and the value added are very significant. The government wanted to make Mexico a big market. It started working with the United States and began to learn that if you want to play the game, you have to abide by the rules.

Now, not being part of the government, let me tell you what we feel Mexico is facing right now. First of all, the government did a marvelous job convincing everybody in Mexico, including those to be affected, that NAFTA is a necessity.

The importation of goods into Mexico has unquestionably been a major source of inflation reduction, which in 1987 was 162 percent, and which last year came down to approximately 18 to 19 percent. We anticipate it being in the fourteen to fifteen percent range this year. That same economic change caused Mexico in 1991 to incur foreign debt of \$110 billion and a deficit of 20 percent. In 1992, we are going to have debt service.

President Salinas joined forces with President Bush last year, and they started touring the United States. Salinas was faced with the fact that in the United States, the president is one body, and Congress is another. In Mexico, the president convinces the legislature. In the United States, we believe that at times the legislature convinces the president.

The fact that the President of the United States cannot unilaterally order most everything is difficult to understand south of the border.

In any case, one U.S. congressman approached President Salinas and said, "Mr. President, I'm well aware that you have environmental laws, but I have to tell you that in my opinion, you do not apply environmental law in Mexico." Let me stop at that point and go back a little bit in history.

In 1976, Mexico had the first devaluation since 1941. The exchange rate was 12½ pesos for one U.S. dollar. We then had a devaluation from 12½ pesos to 18 pesos per dollar. We in Mexico thought that was the end of the world. Mexico definitely decided that the most important thing was to find a way to cover the need and generate those 800,000 to 900,000 jobs a year into which we needed to channel people. Like most countries in the process of development, we paid much greater attention to jobs than the environment.

Yes, Mexico City was having environmental problems then, but the country as a whole was not being inconvenienced. Yes, there were some industries that were polluting, but they were providing an enormous amount of revenue for the government, so they had to be assisted. Suddenly, in 1991, the President of Mexico recognized that without further addressing the issues of environment, the U.S. Congress was not going to approve NAFTA. The President of Mexico and his cabinet and advisors, who were barely learning the rules of free trade and who were barely negotiating the first significant trade agreement — we have others, but this is the first significant trade agreement — suddenly found out that they are going to have a shadow cabinet and that they must, on a parallel basis, negotiate matters relating to labor and the environment. It is beneficial to not make the environment one of the mainstream issues of trade, but we have to recognize that the environment is not going to go away.

We in Mexico believe that double standards apply. We really cannot say this publicly, but we believe that on one side, environmental issues are very important. We believe, however, that Mexico is being singled out on environmental issues, whereas the same environmental constraints or requirements are not being placed upon other trading partners of the United States who do not have trade agreements with the U.S. That would be tantamount to implying that a Mexican manufacturer could go to another country, which neither has a trade agreement with the U.S. nor is in the process of negotiating one with the U.S., and would be able to export that same product to the United States without having to comply with environmental controls. This is so because Mexico is still at the initial part of this trend, which is costing Mexico greatly in environmental terms.

We will see the benefits in the future, but we have to be aware that it is still costing us. We are trying to jump suddenly from 1969 to 1992, and Mexico has internal and external problems.

The first implication of this is that the U.S. Congress is effectively meddling in Mexican politics, through restrictions and by putting pressures on Mexico to sign the agreement. Congress is pressuring the United States, which is in turn pressuring Mexico. That pressure is something Mexico took many years to shake off, but Mexico must live and cannot make a issue of it. This is a reality. The second implication is that the Mexican Government will lose control of environmental matters. Instead of having the twenty, thirty or forty years that the United States had to do something about the environment, the Mexican Government must suddenly come into compliance without necessarily knowing how such is to occur. This is something new for Mexico.

Finally, in a sense, Mexican statutes are very similar to those of the United States. The reason is that we do not know how to reinvent them, so we are trying to adopt a model that we feel has been most successful. That in itself will have to go through various adaptations.

We know now that the implications of this are external and internal. Externally, we have the U.S. Congress involved in Mexican political relations. That will affect jobs in Mexico and will mean that environmental matters must become a top priority for the Mexican Government. This might be in conflict with political reality. We do not know how this is going to happen. Internally, we have local concerns that Mexico can no longer claim to be a leader. A country of 1.9 million square miles and a population of over 80 million people creates a serious problem for the government to control. There is not enough money; there are not enough people; and there is not enough technology available to take the necessary measures. Also, environmental matters and issues and decisions, as you know, are very complex.

We must also recognize that in Mexico, the political party now in power has opposition and is actually losing elections. We have governors from the opposition, like you have congressmen from the opposition. So, at this point in time, the existing government has to make some very hard decisions, which are going to be very unpopular, and they do not know when to make them. Suddenly, international environmental matters have become political issues in Mexico.

Locally, people do not know how to react. Since 1987, we have been following a very strange and difficult economic path, primarily intended to abate inflation. As a consequence, the actual growth of the purchasing power of the average Mexican has intentionally decreased significantly in the last five years. If you are going to have to pay an extra price to buy a commodity because it is environmentally safe, that is going to be inflation, and how that inflation is going to deal with the risk price-wise is something that we do not know.

What then is the Mexican Government facing? First, the government is facing the fact that it must conclude a trade agreement. It is committed to do so, again, for the reason that Mexican goods and services must be able to enter the United States on terms far more competi-

tive than those of the past. Second, the government must learn how to deal with the United States Congress, and must learn to do so quickly. Third, the government must recognize that there are going to be forces outside the U.S. Government that are going to have a significant impact. Finally, the government is trying to get the United States to buy certain requirements of our goods and services, otherwise exported to the U.S. from sources other than Canada or Mexico, if Mexico agrees on environmental policies.

If we were to look back five or six years, we would see that Mexico and the United States have signed three environmental agreements, predominantly for the border area. I am convinced that the Mexican Government felt those were going to be the full extent of its environmental negotiations with the United States. One of those agreements has not been pushed by the United States, because it has to do with the Colorado River and that would represent a substantial cost to the United States. Nevertheless, those three agreements, which were considered very radical and important at the time, seem to have little significance when one considers what Mexico must now do with the environment.

Let me go back to my story about what happened to President Salinas in Washington when he was told by the congressman that Mexico did not apply environmental laws. One week later, the first of ninety-eight U.S. owned companies closed down in Mexico. Much publicity was given to the closure, but the Mexican Government found out it could take such action without being accused of being arbitrary, which was its concern. The world press began to price the actions from the company perspective. Suddenly, other companies started to comply, and the government has continued the process of closings.

Alternatively, under our current statutes, if SEDUE, which is the Mexican EPA, were to levy a penalty, those funds would go to the municipality and not to the federal government. If the law changes, and the federal government gets the money, I bet it will start to levy penalties like you cannot imagine.

On April 18, 1991, the anniversary of the expropriation of the oil industry in 1938, the President of Mexico made a fantastic decision. It was decided that the refinery servicing Mexico City and areas north of Mexico City, to which ten percent of the Mexico City pollution is attributed, would close at the end of that day, thereby displacing 5,000 employees. It is costing Mexico \$650 million to rebuild and adapt other refineries in order to supply what Mexico needs. Nevertheless, the government did close it down, and the president received much press attention. So, suddenly in Mexico, where we have not one technical school or graduate school that teaches one course in ecology, we are faced with meeting the developer of environmental technology.

I tend to believe that this should not be construed as having declared war against the United States. We Mexicans figure that we shall never win a war against the United States. We see Japan and Germany,

and we want to lose a war as they did. We do not want to lose as bad as Japan, but want just one-tenth of Japan's loss and one-tenth of Germany's. Give us a Sherman Program as well.

We feel now that we can come to the United States and Canada and say, "Okay, if I am willing to adapt and play by your rules, let's do the following."

First, make all other people — all other countries — that export goods to the United States, Canada or Mexico have the same requirements. We should all play by the same rules, which very neatly fall into the guidelines of GATT, but which would not necessarily allow many countries to continue their exports to the United States.

Second, we must find a way to help Mexico fix its problems internally so that it does not become a model of a country that produces ecological goods for exportation, but does not have a sound ecological environment. Mexico does not have a multitude of agreements, regulations and decisions — the technical norms that the United States has. We do not have Superfund. As a lawyer, I regret that. It would be the 1992 Relief Act Award. Mexico has not had the negative experience that the U.S. has had. That is not to say that if we look, we are not going to find it. We are now convinced that if we would start looking at our internal situation, we are going to find something very negative; we are going to open up Pandora's Box, and this is where the opportunity will lie.

In Canada and the United States, you have a history now of "environment". Suddenly, due to Mexico, environment and trade come hand in hand. Mexico does not have the experience and training. It has very sketchy and very simple experience in dealing with the environment, but Mexico is a very willing, learning partner. We believe that if Mexico is to be successful in its efforts, we will have to learn how to handle the multitude of regulations of the United States, Canada and European countries in such a way that will not kill Mexican manufacturing concerns, but will allow us to be competitive and capable of resolving our internal problems. This is something for which you and the generations to come in the United States, Canada and Mexico are going to have to work together to resolve.