

By Mojca Nemgar

# Free trade or people?

The growth of the GDP seems much more important than overall development of the

country. The gap between rich and poor is increasing drastically. Everything that challenges profit e.g. worker's rights, pollution, decreasing absolute poverty is set aside and considered irrelevant. Only few are to decide what the world itself and world economy should be like. G-8, IMF, WB, WTO are deciding about the future of the world in a name of few, as they are deciding about the important matters of humanity away from the eyes of the public. Even the agreement of FTAA (Free Trade Area of Americas) was adopted away from the eyes of the public. Namely FTAA is compromising 34 states of Latin America and North America, although it seems that it is only an extension of the NAFTA who has proved to be harmful both for the Mexico, which obviously does not have enough economic power to cope (financial crisis 1995) with thriving American economy, as for Canada, a member of G-8.

The Canada-United and NAFTA Trade agreement can more accurately be described as a economic integration treaty designed to integrate the Canadian, American and Mexican Economies. Among the most important provision are:

- creating a continental energy, water and natural resource markets, guaranteeing the United States privileged access to Canadian
- integrating the Canadian banking system and capital markets with those of the United States by granting U.S. banks national status in Canada, restricting Canada's right to control the inflow of U.S. capital and U.S. takeovers of Canadian firms and resources and granting all American firms national status and the right of operation in Canada,
- granting U.S. firms guaranteed access to Canadian market for services,
- restricting Canadian sovereignty over large areas of internal economic policy (e.g., although the classification of a prohibited subsidy has yet to be agreed upon the two countries, it will almost certainly restrict regional development subsidies, that have been the

backbone of economic development policies dating back to the Confederation.), and restricting the use of the public sector and state aid to promote economic development in Canada.

The NAFTA agreement incorporating Mexico, signed in 1995, is largely the extension of FTA to include Mexico, though the agricultural provisions are somewhat different (Ferfila, 1999).

The problem is that corporations use NAFTA to Attack Environmental Laws: Of the seven known challenges using NAFTA's investor right-to-sue-governments provisions, six involve U.S. corporations attacking federal- or state-level environmental measures in Canada and Mexico. In three cases, the U.S.-based companies are suing Mexico for the right to open hazardous waste disposal facilities. The other three cases involve U.S.-based corporations suing Canada claiming environmental laws are "regulatory takings" against which NAFTA created new investor rights. These include a British Columbia ban on the export by tanker of water to the United States; a federal public health ban on the import of a toxic gasoline additive; and a federal rule temporarily banning the export of PCBs for disposal. The best known of these is the Ethyl Corporation's successful 1997 claim against Canada, which forced the Canadian government to kill a major public health law. The U.S.-based Ethyl Corporation the company that put the lead in leaded gasoline used NAFTA against the government of Canada to get the ban of its gasoline additive MMT reversed. Canada banned MMT because public health officials determined that potential neurotoxins in MMT posed a public health hazard. Ethyl demanded \$251 million in compensation under NAFTA, arguing that Canada's ban constituted an unfair "taking" of Ethyl's property that property included the profits Ethyl expected to earn from the sale of MMT in Canada. Ethyl charged, among other things, that simply by debating the proposed ban, the Canadian parliament had damaged Ethyl's reputation an actionable offense under NAFTA's rights for intellectual property holders. Faced with the growing likelihood it could lose the suit, Canada agreed to repeal the ban and pay Ethyl \$13 million in damages for lost profits to-date. Contrary to the views of its own Canada further agreed to pronounce MMT safe without scientific evidence and in direct contradiction to the views of the nation's environmental protection agency. Many trade lawyers viewed the Ethyl suit as a test case that would indicate whether NAFTA's investor rights provisions went too far.

*In the 1995 the UN set a target of a 50% reduction in the number of people existing in absolute poverty by 2015. This outcome is to be delivered not by any redistributive mechanism, but rather by application of the particular neoliberal model of development promoted in the 1980s and 1990s by global governance institutions. This model places its faith in the market rather than the state and focuses on export-led growth based on free capital mobility. The model represents a significant departure from the earlier embedded liberalism of the post-second world war period. It is even further removed from a critical alternative model of the development that places needs at the centre. The neoliberal model requires high and sustained growth to achieve the UN's target for poverty reduction, African economies, for example would need to grow at estimated 7% a year on average to reach the target by 2015 (Amodio, 1999).*

*Caroline Thomas, Global governance, development and human security: exploring the links, Third World Quarterly, 2001*

Ethyl vs. Canada certainly did prove that NAFTA provisions are favorizing multinationals not people. Implementing NAFTA did not help at all to create more working places in USA, Canada and Mexico, it just caused the wages to go down while working force in Mexico is cheaper.

Although i have just superficially revised some of the problems connected with globalisation and free trade agreements, it must be obvious from the problems stated above that Global governance institutions are promoting neoliberal agenda.

With the fall of communism in Eastern Europe all the alternatives to capitalistic world-system seemed to be history, so we should live happily ever after in democracy and American model of world order. But human rights are also workers rights, right to free education, access to health services, etc. not just freedom of association, freedom of speech. The free market economy which is obviously not free of obstacles since third-world countries have problems with exporting their products to USA and EU, it is only a market dominated by economically and politicaly most powerful states, and multinationals. On the other hand World Bank and IMF structural adjustment policies have required 36 countries in sub-Saharan Africa -- where more than half of the population lives in absolute poverty -- to decrease domestic consumption and shift scarce resources into production of cash crops for export; state-owned companies and many state services have been privatized, civil services have been drastically downsized, and health and education expenditures have been cut and restructured. The absolute number of people

living in poverty rose in the 1990's in Eastern Europe, South Asia, Latin America the Caribbean, and sub-Saharan Africa--all areas that came under the sway of adjustment programs. What's more, the World Bank has an astounding 65-70 per cent failure rate of its projects in the poorest countries.

Obviously the neoliberal agenda is only blurring the real problems of the today world, since the deregulating of the markets, privatisation, will not make world more just and democratic, because the driving force of the world is not only the » mighty « market. We have not yet come to the end of the history.



Notes:

G-8 Group of

eight. Established in 1975 as the G5 (France, Germany, Japan and UK and USA) and subsequently expanded to include Canada, Italy and Russia. The G-8 conducts semi-formal collaboration on world economic problems.

GATT General agreement on Tariffs and Trade. Established in 1947. Has coordinated the multilateral negotiations to reduce state restrictions on cross-border merchandise.

It was replaced by WTO 1995, which has a wider agenda and greater powers.

IMF International Monetary Fund. Established in 1945. Membership of 182 states. The IMF oversees short-term cross-border money flows and foreign exchange questions. Since 1979 it has also formulated stabilisation and system transformation policies on states suffering chronic difficulties with international debt (many of Latin American states, Africa) and transitions from communist Central planning.

#### BIBLIOGRAPHY

- Caroline Thomas, *Global governance, development and human security: exploring the links*, *Third World Quarterly*, 2001
- Bogomil Ferfila and Paul Philips: *Slovenia and Canada; a comparative approach*, 1999
- International Center for the Settlement of Investment Disputes (ICSID); *Appleton & Associates*. ICSID is the only investor-to-state arbitration facility that keeps a public listing of its cases. Under NAFTA, investors may also use the United Nations Center for International Trade Law (UNCITRAL) rules to sue governments. Unlike ICSID, UNCITRAL is not an agreement nor an institution; it is merely a set of rules. There is thus no Secretariat to maintain publicly accessible records on each case. Thus, there is the distinct possibility that other NAFTA Chapter 11 cases exist, but have not been leaked to the public.
- *Metalcald Corp. v. Mexico* (being arbitrated at the International Center for the Settlement of Investment Disputes (ICSID); *Azinian, et. Al v. Mexico* (being arbitrated at ICSID) and *Waste, Inc. v. Mexico* (ICSID).
- Heather Scofield, "B.C. Water Export Ban Brings U.S. Lawsuit." *The Globe and Mail*, 12/9/98.) *S.D. Myers v. Canada* is being arbitrated under the UNCITRAL rules. *Ethyl Corp. v. Canada* was settled in 1997.
- Ethyl Corporation, "U.S. Company Files Notice to Seek \$200 Million in Claim Against Government of Canada," Press Release, September 10, 1996.
- *NAFTA Lawsuits Cloud MAI Discussions*, "Parliamentary Bureau, August 24, 1998.
- "Expropriations' Takes on New Meaning: MMT Case Sets Far-Reaching Precedent," *The Financial Post*, 7/28/98.
- [www.oneworld.org](http://www.oneworld.org)
- [www.debtchannel.org](http://www.debtchannel.org)