

# Rachel's Environment & Health News

## #303 - Free Trade -- Part 1: Is Price The Only Measure Of Value

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The world is being remade before our very eyes, though most of us cannot see it happening. It is being done in the name of "free trade" and it is being done behind closed doors. Even the minutes of the meetings are not being made public as U.S. negotiators hammer out "free trade" agreements with other countries, which will have the effect of curtailing--in some cases completely nullifying--environmental protections, and protections of workers' rights, that took 50 years to win.

Free trade is coming upon us like a locomotive. The U.S. and Canada signed a free trade agreement in 1989. The North American Free Trade Agreement (NAFTA) between Canada, the U.S. and Mexico is before Congress now, facing a "yes or no" vote later this fall. The granddaddy of free trade agreements is the GATT [the General Agreement on Tariffs and Trade], which came into existence in 1948. The GATT has been signed by 102 countries including the U.S., and another 30 countries abide by its rules though they are not formally "contracting parties." GATT sets rules governing the kinds of trade restrictions that are allowed between GATT participants. The explicit aim of GATT is to eliminate all trade restrictions.

The latest round of GATT talks have been going on for six years now, seeking to abolish all trade restrictions between GATT countries. Because this round of GATT negotiations began in 1986 in Uruguay, people call this the "Uruguay round" of GATT talks, though the talks have long since moved to Geneva, Switzerland.

In principle, free trade sounds good. Free trade means the unrestricted exchange of commerce between buyers and sellers across international boundaries. Another term for free trade is LAISSEZ FAIRE (a French phrase meaning roughly, "let [people] do or make [whatever they want to]"). It means, basically, keep government interference to a minimum in all matters of trade.

Free trade means no trade barriers. Trade barriers are such things as TARIFFS and QUOTAS and SUBSIDIES.

TARIFFS are taxes on imports, aimed at protecting domestic producers. If U.S. cotton growers are being hurt by imports of cheaper cotton from Guatemala, a tariff on Guatemalan cotton raises the price of imported cotton and gives U.S. cotton producers an edge in the U.S. market. But in terms of price, the loser is the U.S. consumer who pays an artificially inflated price for cotton. In principle, free trade promises cheaper t-shirts for everybody.

QUOTAS are artificial restrictions on the quantity of goods one country can sell to another. For example, if GM persuades Congress that Japanese cars are hurting the Detroit economy, Congress might establish an IMPORT QUOTA on Japanese cars, to allow only so many in. One result: the consumer pays an inflated price or has fewer kinds of cars to choose from.

Another kind of trade restriction is the EXPORT QUOTA. For example, Congress might restrict the export of American high technology products, such as computer chips or software, to keep them from our competitors.

Another kind of trade barrier is the SUBSIDY. If the U.S. government employs taxpayer dollars to invent a new strain of wheat that grows fast in dry regions, wheat farmers in dry parts of Nebraska are better-equipped to compete against Canadian wheat farmers.

Free trade advocates envision an end to all trade restrictions, aiming to give the lowest prices to consumers everywhere and the highest profits to producers everywhere. And if price and profit were the only measures of value, free trade would create heaven on Earth.

But trade barriers are not always about price. For example, the U.S. Marine Mammal Protection Act, a federal law, bans the import of tuna into the U.S. from countries, like Mexico, whose fishing nets

kill more dolphins than U.S. standards allow. Tuna and dolphins swim together, and tuna nets catch and kill dolphins needlessly, so U.S. law aims to protect dolphins by outlawing the import of tuna not caught by "dolphin-safe" techniques. This is an example of an IMPORT RESTRICTION established not for price but to protect a valued species of mammal, the dolphin.

EXPORT RESTRICTIONS are also used to achieve social goals having nothing to do with price. For example, one U.S. law restricts the export of hazardous wastes on the theory that we're all better off if hazardous waste isn't spread about the planet willy nilly.

Import and export QUOTAS are sometimes used to preserve resources and to protect endangered species. For example, the U.S. has sometimes placed import quotas on Japanese and Icelandic fish products, to put an economic squeeze on these two countries, to pressure them to stop killing endangered whales.

SUBSIDIES are used often to protect the environment. For example, the U.S. government may pay farmers to set aside some land, to allow the land to rest and become revitalized--a method of soil conservation. The Canadian province of British Columbia subsidizes its logging industry, using tax dollars to replant trees in forests after logging because forests provide many benefits to the land, to rivers, and to humans.

Free trade advocates want GATT and NAFTA to abolish all trade restrictions--even those that serve social goals like preserving species, maintaining forests, and stopping the spread of toxic waste.

On August 16, 1991, a GATT panel concluded that U.S. import restrictions on "dolphin-unsafe" tuna from Mexico constituted an illegal restriction on trade. THE GATT PANEL RULED THAT IT IS ILLEGAL FOR MEMBER COUNTRIES TO MAKE DISTINCTIONS BETWEEN PRODUCTS BASED ON THE MANNER IN WHICH THEY ARE PRODUCED.

On February 7, 1992, another GATT panel concluded that liquor laws in 38 states of the U.S. constituted a subsidy to the U.S. liquor industry and illegally discriminated against Canadian liquor producers. The panel further concluded:

...THAT BOTH PARTIES [THE U.S. AND CANADA] AGREED THAT UNDER UNITED STATES CONSTITUTIONAL LAW, GATT LAW IS PART OF THE UNITED STATES FEDERAL LAW AND, BASED ON THE COMMERCE CLAUSE OF THE CONSTITUTION, OVERRIDES, AS A GENERAL MATTER, INCONSISTENT STATE LAW

This interpretation would allow GATT to sue in U.S. courts to overturn U.S. laws. Even if this radical interpretation is not upheld, it indicates that, at a minimum, free trade will require federal governments to pass laws curbing the powers of state and local governments.

Since 1989, Canada and the U.S. have been joined in a Free Trade Agreement (FTA). Some recent events indicate the direction things are taking:

U.S. logging companies recently sued to stop the provincial government of British Columbia from subsidizing the replanting of forests in Canada, claiming it was an unfair subsidy of Canadian loggers. The government of British Columbia conceded and stopped paying for the replanting.

The Canadian timber industry is urging Canada's federal government to challenge a U.S. law requiring the use of recycled fiber in newsprint because the Canadian logging industry says such laws are "disguised non-tariff barriers to trade because Canada does not have the supply needed of recycled fiber to maintain market share in the United States."

When the U.S. Environmental Protection Agency in July 1989 announced its intention to phase out production, import, and use of asbestos over a seven-year period, the Canadian government challenged EPA's regulations in a U.S. court, claiming EPA had violated GATT and the Canada-U.S. free trade agreement. In its legal brief, the Canadian government challenged U.S. health and safety regulations on asbestos, saying there is no international scientific consensus to support them.

--Peter Montague

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Descriptor terms: free trade; gatt; tariffs; subsidies; marine mammal protection act; nafta; epa;

The U.S. non-ferrous metals industry has challenged Canadian pollution control programs aimed at reducing emissions from, and improving workplace safety in, several lead, zinc, and copper mines. The Canadian government says its goal is to protect workers and reduce acid rain, but U.S. industries say the effect is to give an unfair competitive advantage to Canadian smelters. If the U.S. wins the challenge, the Canadian government may do what the British Columbia government did when challenged over its tree planting pro-gram: abandon environmental values to avoid economic retaliation by the U.S.

From the Canada-U.S. free trade agreement alone, the trend is clear: laws intended to promote recycling, environmental health, sustainable use of fisheries, reforestation, and acid rain reduction are being challenged as "non-tariff barriers" and are in danger of being wiped off the books in both Canada and the U.S.

But it gets worse.

Both GATT and NAFTA will require all participating countries to adopt international standards for risk assessment. Furthermore, risk assessments will be required to include cost-benefit analyses. Merely protecting human health or other values will not be sufficient justification to establish the validity of a regulation. One will need to show that the economic advantages outweigh the economic disadvantages of a regulation. This principle is already embodied in U.S. pesticide law, widely criticized as among the weakest of U.S. environmental regulations.

The public has no direct way to affect free trade negotiations or disputes. Negotiations take place behind closed doors. Meetings are not announced. No written record of negotiations is released. Even the decisions of GATT panels, which are convened to settle disputes, are secret. However, representatives of multinational corporations are routinely invited to serve as advisors. Companies like Dow Chemical, Scott Paper, Weyerhaeuser, Amoco, Mobil, and General Motors, are invited to help decide the U.S. position. Is this the future of our democracy?

A recent must-read report from the Environmental Grantmakers Association says,

**CURRENT NEGOTIATIONS HAVE BECOME A TITANIC STRUGGLE BETWEEN FREE TRADE AND ENVIRONMENTAL PRESERVATION. IN FACT, TRADE NEGOTIATIONS IN GENERAL ARE BECOMING A KEY FORUM FOR SHAPING ENVIRONMENTAL POLICY**

This is an understatement. Many hard-won victories of the last 50 years are in danger of being scuttled by free trade fever. Grass-roots activists need to start paying attention. [More on this next week.]

GET: Thomas A. Wathen, *A GUIDE TO TRADE AND THE ENVIRONMENT* (New York: Environmental Grantmakers Association and the Consultative Group on Biological Diversity, July, 1992). Available from: Environmental Grantmakers Association, 1290 Avenue of the Americas, Suite 3450, New York, NY 10104; phone (212) 373-4260. 97 pages. \$7.50 for one copy; \$5.00 each for three or more copies. A lucid introduction to a dense and arcane topic. Highly recommended.