

NAFTA: Past, Present and Future

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Abstract. The North American Free Trade Agreement (NAFTA) – an extension of the Free Trade Agreement (FTA) between Canada and USA to include Mexico – went into effect on January 1, 1994, primarily as an agreement to eliminate restrictions on trade and investment over the course of twelve years. NAFTA is a trade agreement and after twelve years remains as such with limited prospects, if any, of widening or deepening the integration process. Despite its narrow scope, the agreement became, from the start, controversial – and continues to be so – not only for trade and investment matters but for a whole host of other related issues. The other related issues include: the dispute settlement mechanism and side agreements on labor and environmental issues.

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“Put simply, NAFTA has been neither the disaster its opponents predicted nor the savior hailed by its supporters” Audley J, (2003, 7)

1. Introduction

The North American Free Trade Agreement (NAFTA) – an extension of the Free Trade Agreement (FTA) between Canada and USA to include Mexico – went into effect on January 1, 1994, primarily as an agreement to eliminate restrictions on trade and investment over the course of twelve years. NAFTA is a trade agreement and after thirteen years remains as such with limited prospects, if any, of widening or deepening the integration process.

Despite its narrow scope, the agreement became, from the start, controversial – and continues to be so – not only for trade and investment matters but for a whole host of other related issues. The other related issues include: the dispute settlement mechanism, membership enlargement, monetary integration, and side agreements on labor and environmental issues.

As NAFTA moves into its second decade, these issues require more urgent attention especially as the long-term effects of the treaty, anticipated or not, is slowly emerging. In this study we provide a retrospective assessment and evaluation of NAFTA thirteen years later and raise some of the issues that require immediate attention as we look to the future. Accordingly, in Section 1 we contrast NAFTA with the European Union (EU), in Section 2 we discuss the recent trend towards bilateralism, in Section 3 we look critically at NAFTA thirteen years later, and in the last section we raise some of the challenges affecting the future of NAFTA.

2. NAFTA and the EU

At the time, NAFTA was a unique case of integration in the world as it involved the integration of a developing country with two industrial ones. The per capita income of the US was six times that of Mexico. Whereas, in contrast, the per capita income of Germany – wealthiest – was twice that of Greece – poorest – among the EU 15.

NAFTA, unlike the European Union, is a trilateral agreement. NAFTA is structured as three bilateral agreements, one between Canada and the United States, a second between Mexico and the United States, and a third between Canada and Mexico. The first accord is CFTA, which took effect on January 1, 1989, and is subsumed by NAFTA. The second and third agreements are found in NAFTA itself.

Today, more than a decade later, NAFTA has not enlarged its membership to include other countries in the Americas. Since its inception, however, there have been several efforts to expand free trade agreements – at a multilateral level – in the Americas. But unlike the EU, which has established an elaborate legal process and criteria – albeit bureaucratic and sometimes intrusive – for the accession of new members, the NAFTA accession clause – article 2204 – provides no such clear guidance and criteria. It leaves it up to the individual members.

According to Robert A. Pastor (2004, p. 124):

Although NAFTA fueled the train of continental integration, it did not provide conductors to guide it.

No clause in the agreement established a mechanism to anticipate or respond to market failures. Whereas the EU has created too many intrusive institutions, North America made the opposite mistake: it created almost none.

In fact, in the absence of clear criteria in the Agreement, the candidate country must be willing and able to accept the conditions of the so-called

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