

ONLINE SUPPLEMENT
to article in

AMERICAN SOCIOLOGICAL REVIEW, 2008, VOL. 73 (DECEMBER: 970–991)

How Environmentalists “Greened” Trade Policy: Strategic Action and the Architecture of Field Overlap

Rhonda Evans
Elm Research and Strategy

Tamara Kay
Harvard University

THE LABOR AND ENVIRONMENTAL SUPPLEMENTAL AGREEMENTS

There are broad similarities in the labor and environmental supplemental agreements and the institutions they created. The North American Agreement on Environmental Cooperation (NAAEC) and the North American Agreement on Labor Cooperation (NAALC) focus on the enforcement of domestic law to address concerns about the effects of NAFTA. To accomplish this goal, both agreements established a commission with a ministerial council and a secretariat to adjudicate relevant disputes in international trade matters related to domestic law. The councils, which are composed, respectively, of the equivalent of the environmental and labor ministers from each country, promote cross-border cooperation and resolve disputes emerging from the trade agreement. If a country is found to have persistently failed to enforce a relevant law, fines and ultimately trade sanctions may be enforced. The secretariats provide operational,

research, and technical support for the councils.

The environmental side agreement, however, is much stronger than the labor side agreement in scope, enforcement powers, and public participation. While the Commission for Environmental Cooperation (CEC) can rule on the enforcement of any domestic environmental law, the Commission for Labor Cooperation (CLC) is quite circumscribed in what labor laws it may address. CLC evaluations are restricted to mutually recognized labor law, preventing the use of dispute resolution for innovative, far-reaching, or more protective domestic labor law. Further, the CLC may only level trade sanctions in disputes that involve occupational safety and health, child labor, or minimum wages. Mexico’s minimum wage levels fall far below the poverty line, making the minimum wage component of limited usefulness. Violations of laws protecting the right to organize, strike, and bargain collectively may only be subject to

Rhonda Evans and Tamara Kay

How Environmentalists “Greened” Trade Policy: Strategic Action and the Architecture of Field Overlap

ONLINE SUPPLEMENT
to article in

AMERICAN SOCIOLOGICAL REVIEW, 2008, VOL. 73 (DECEMBER:970–991)

ministerial consultations and are conspicuously absent from the covered trade sanction list. The CLC prevents action on exactly those worker rights deemed essential for independent union activity and a meaningful protection of workers' rights (see Kay 2005).

Further, the Commission for Environmental Cooperation includes the institutionalized participation of nonprofit and nongovernmental representatives. The NAAEC established a Joint Public Advisory Council (JPAC), composed of five members from each country, to advise the Council. As described on the CEC Web site:

During negotiations for the North American Free Trade Agreement (NAFTA), citizens, public interest groups, and environmental organizations brought the issue of the environmental effects of liberalized trade into the free trade debate, a debate that eventually led to the negotiation of the side agreement NAAEC and the creation of CEC.

The mandate of JPAC is to provide advice to the Council on any matter within the scope of the North American Agreement on Environmental Cooperation (NAAEC). JPAC ensures that the views of the North American public are taken into account when formulating its advice to Council. This commitment to public participation makes the CEC unique and provides a model for other international organizations.¹

The NAALC does not have a comparable JPAC.²

1

http://www.cec.org/pubs_docs/documents/index.cfm?varlan=english&ID=951

² The NAALC has the ability to convene an Evaluation Committee of Experts (ECE) to resolve some public submissions, but it is not comparable to a JPAC. If ministerial consultations do not resolve a submission, any country may request the establishment of an ECE. The ECE presents a final report to the Council. ECEs may only be convened to examine trade-related matters; those covered by mutually recognized labor laws; and those related to

The CEC enables nongovernmental organizations and members of the public to submit claims of enforcement failure directly to its transnational "Citizen Submissions on Enforcement Matters" mechanism. While NGOs, labor unions, and individuals may file public submissions with the NAALC, they must do so via National Administrative Offices (NAOs) that are housed within each government's labor ministry. Submitters must follow the rules created by their own country's NAO. If the submission is accepted for review, the NAO evaluates it and can subsequently recommend ministerial consultations, which involve a transnational review. The NAALC procedure therefore creates an extra step before a submission can be considered for transnational review.³

Finally, negotiations over the side agreement and within Congress led to a separate U.S.–Mexican treaty to create the North American Development Bank (NADBank) and its oversight board, the Border Environmental Cooperation Commission (BECC). These additional institutions promote the development of environmental infrastructure projects and provide funding and oversight in the U.S.–Mexican border region. The

child labor, minimum wage, or occupational health and safety (<http://new.naalc.org/index.cfm?page=151>).

³ Ironically, the NAALC procedure actually has an unintended benefit by stimulating transnational collaboration among labor unions. The NAALC's procedural rules require that a submission be filed in a country *other* than the one in which the alleged labor law violation occurred. A submission for a violation in the United States must therefore be filed in Mexico or Canada. This rule not only makes it extremely difficult for a union to file with a "foreign" NAO without the assistance of a "foreign" union, but it also provides an incentive for unions to collaborate on submissions across borders (see Kay 2005).

Rhonda Evans and Tamara Kay

How Environmentalists "Greened" Trade Policy: Strategic Action and the Architecture of Field Overlap

**ONLINE SUPPLEMENT
to article in**

AMERICAN SOCIOLOGICAL REVIEW, 2008, VOL. 73 (DECEMBER:970–991)

Bank has U.S.\$450 million in paid-in capital and U.S.\$2.5 billion in callable capital contributed equally by both countries; it focuses on financing potable water supply, wastewater treatment, and municipal solid waste projects. BECC, which includes representatives from border states, public officials, and NGO representatives, provides technical assistance and certifies environmental infrastructure projects. The creation of NADBank and BECC establishes self-perpetuating and relatively autonomous binational organizations that focus on infrastructure development in support of the local environment.

A NOTE ON THE DIVERSITY OF SOCIAL MOVEMENT ACTORS FOR THE NAFTA BATTLE

When discussing social movements, it is imperative to note that not all organizations within a movement act identically or according to the same tactical plan, even when their broad goals are in alignment. Rather than being unitary empirical phenomena, social movements are dynamic and multipolar (see Melucci 1988). Social movement actors negotiate and renegotiate with outside agents and amongst themselves to assess the parameters of action and the best means to achieve collective goals. The importance of strategy and social skill come sharply into focus, and dissension and conflict play a role in even the most successful movements.

During the NAFTA debates, divisions existed within both the labor and environmental movements. Within the labor movement, organizations differed substantially in their prioritization of trade issues and their commitment of resources toward the NAFTA struggle. Organizations such as the International Labor Rights and

Education Fund, the International Ladies' Garment Workers' Union (ILGWU), and the Amalgamated Clothing and Textile Workers Union (ACTWU) placed NAFTA as a high legislative priority and coordinated with environmental and social welfare organizations from the earliest days of fast-track. In contrast, while AFL-CIO representatives participated in early events, the organization was not the primary mover in the fast-track struggle and did not work openly with cross-sectoral coalitions until late in the negotiations.

Among environmentalists, strong tactical and coalitional differences were apparent early in the process and became amplified over time. The cleavages in the environmental movement tended to fall along existing fault lines between those more supportive of and those more opposed to an economic model of growth (Audley 1997). While all groups broadly embraced the concept of sustainable development, the philosophical divide had important consequences for the level of concessions that different environmental organizations were willing to accept. Furthermore, it influenced their assessments of the relative benefits of a coalitional alliance with labor organizations.

No organization acts in a vacuum, and organizations both benefited and were harmed by fellow social movement actors' decisions to use alliance brokerage, rulemaking, resource brokerage, and frame adaptation mechanisms. In the case of NAFTA, overlapping cross-sectoral coalitions developed that bridged the environmental and labor communities without fully incorporating all the respective members of both movements. These cross-sectoral coalitions represented a wide range of interest group organizations and

Rhonda Evans and Tamara Kay

How Environmentalists "Greened" Trade Policy: Strategic Action and the Architecture of Field Overlap

**ONLINE SUPPLEMENT
to article in**

AMERICAN SOCIOLOGICAL REVIEW, 2008, VOL. 73 (DECEMBER:970–991)

constituencies that extended to include groups representing consumers, indigenous people, peasants, farmers, religious communities, and women. They came together, not always smoothly or in perfect

harmony, to pursue a shared vision of the preservation of health, safety, and human rights from erosion by international trade laws.

REFERENCES

Audley, John. 1997. *Green Politics and Global Trade: NAFTA and the Future of Environmental Politics*. Washington, DC: Georgetown University Press.

Border Environment Cooperation Commission: <http://www.nadb.org/about/mission.html>.

Commission for Environmental Cooperation: http://www.cec.org/who_we_are/index.cfm?varlan=english.

Kay, Tamara. 2005. "Labor Transnationalism and Global Governance: The Impact of NAFTA on Transnational Labor Relationships in North America." *American Journal of Sociology* 111:715–56.

Melucci, Alberto. 1988. "Getting Involved: Identity and Mobilization in Social Movements." In *International Social Movement Research*. Vol. 1, edited by B. Klandermans. Greenwich, CT: Jai Press.

"North American Agreement on Environmental Cooperation Between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America." 1993. http://www.cec.org/pubs_info_resources/law_treat_agree/naaec/index.cfm?varlan=english.

"North American Agreement on Labor Cooperation Between the Government of the United States of America, the Government of Canada and the Government of the United Mexican States." 1993. September 13. <http://www.naalc.org/naalc/naalc-full-text.htm>.

North American Development Bank. Web Site: <http://www.nadb.org/>.

Secretariat of the Commission for Labor Cooperation: <http://www.naalc.org//index.cfm?page=137>.