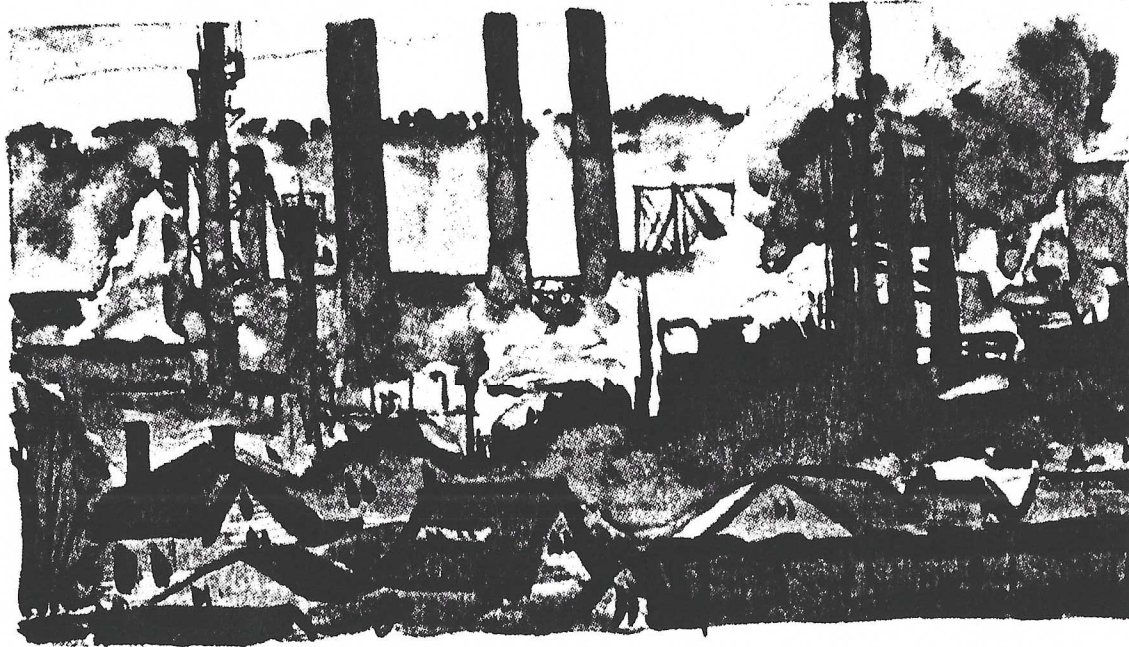


NAFTA's Link to Environmental Policies

By Steve Charnovitz



TOM HUGHES

PROGRESS on the North American Free Trade Agreement (NAFTA) is now linked to supplementary accords on environmental and labor issues. There is peril and opportunity here. The peril is that the Canadian, Mexican, and United States governments will not be able to find a formula that satisfies the skeptics. The opportunity is to use the new agreements to demonstrate that freer trade and a cleaner environment can be mutually reinforcing.

All sides are now focused on the proposed North American Commission on the Environment. There is wide agreement on creating such a body but disagreement about what it should do. Environmentalists would like it to enforce environmental laws in the region. If necessary, tariffs could be reinstated on offending firms or nations.

The Clinton administration apparently views the commission as an investigatory body that would actively encourage each country to implement its own environmental laws. Both approaches could cause difficulties. There may come a time when the three countries want to yield some of their sovereignty to a tri-national environmental authority. But not now. In the absence of agreement on common environmental rules for North America, there is really

nothing for a commission to enforce.

Having the commission second guess environmental enforcement in each country is mischievous at best. How can a commission know better than the government of Mexico what its laws dictate about a particular issue? It should also be remembered that enforcement can be too tight as well as too loose. Why give Canada another venue for pursuing its long-time complaint that the US Environmental Protection Agency (EPA) is unnecessarily restrictive in asbestos regulation?

The alternative approach, a "Kibitzing Commission," also suffers conceptual defects. If one

wants to use the commission to put the spotlight on inadequate environmental enforcement by the EPA, Mexico's SEDESOL or Environment Canada, does it make sense to appoint a watchdog commission composed of government officials from these three agencies? Obviously, the three agencies should meet on a regular basis. But such cooperation need not await the consummation of a free-trade agreement.

There is a third approach for chartering the new commission. Instead of a government-only body, it could be established as a tripartite organization composed of representatives from business, environmental groups, and the three governments. The mission

for such an organization would be problem solving. For example, the commission could make recommendations for improving technical assistance to companies on how to comply with environmental regulations. It could also begin the process of developing minimum environmental standards for North America.

The advantage of the tripartite approach (which has been used successfully by the International Labour Organization since 1919) is that business and environmentalists can sit at the same table as partners with government officials. Although such a commission would be purely advisory - with no enforcement powers - an advisory commission with a clear

purpose could have more positive impact than an operational commission with no mandate.

Businesses, environmentalists, and the three governments would all gain from this approach. Business gets an opportunity to bring up any NAFTA-related environmental issue in a nonadversarial setting. Government gets constructive and realistic input on knotty problems, and environmentalists get full-scale participation rather than outsider status. Such participation could also have the positive benefit of strengthening the environmental movement in Mexico.

A solution-oriented commission would better serve the economic aims of NAFTA. Although NAFTA has the potential of promoting new investment and job creation, this will be hindered if there is an unpredictable commission empowered to "snap back" tariffs or levy fines on environmental scofflaws. Uncertainty is bad for investment.

It is ironic that environmentalists, who are increasingly rejecting the old "command-and-control" style of regulation, have latched on to a doctrinaire demand for "a commission with teeth." NAFTA offers an opportunity to experiment with innovative approaches to regional decisionmaking. We should use it.

■ Steve Charnovitz is policy director of the Competitiveness Policy Council in Washington. The views expressed are his own.