April 30, 1993

Dear Mr Lamb,

As a news junkie and politically minded person I consider C-SPAN to be a fantastic network. It is the most Democratic of the networks.

Back in January I read and photocopied two articles about (NAFTA), the North American Free Trade Agreement. Since then, I haven't read any mainstream report on it. And the network newshows didn't cover it. Not even Frontline or A&E's Investigative Reports.

I understand, Ross Perot testified twice against it. Ralph Nader has prepared a kit against it. And the AFL-CIO must be against it.

So perhaps you could establish a "NAFTA Week", filled with interviews, testimony, and call in shows.

I'am against NAFTA. All our laws will be subject to control by a lobbyist controlled tribunal. And by integrating our economy with Mexico our national sovereignty will be lost. Doctors, dentists, pharmacists, & teachers will be effected, not just blue collar workers. Everyone!

NAFTA is the most important treaty in years. And people should know about it. Please consider my idea.

Sincerely

[redacted]

The Free-Trade Sellout

BY KRISTIN DAWKINS AND WILLIAM CARROLL MUFFETT

"Free," says Canadian novelist Margaret Atwood, "is a positive word." People tend to associate "free" with good things—"free gift, free lunch, free world, free speech." So it isn't surprising that so many Americans say they support free trade. Certainly most politicians do: George Bush is a free trader, Bill Clinton is a free trader, so are most people on Capitol Hill, Republicans and Democrats alike. And why shouldn't they be? Free trade, after all, is supposed to benefit everybody: entrepreneurs, workers, farmers, consumers.

Yet opposition to free-trade agreements is building on all sides: from environmentalists, consumer groups, labor unions, farmers, state representatives, governors, and, in a vote last August, some 360 members of Congress.

The problem is that George Bush's version of "free" trade—in which competition is not perfect, labor cannot cross borders as quickly and easily as capital, and consumers do not enjoy the benefits of cheap raw-material prices—does not match the textbook definition of free trade. The President's free-trade proposals reflect an agenda only for global deregulation, the sole beneficiaries and major proponents of which are multinational corporations.

For these corporations, the North American Free Trade Agreement (NAFTA) among the United States, Mexico, and Canada and the global free-trade proposals under the General Agreement on Tariffs and Trade (GATT) mean freedom to maximize profits with less government intervention in business affairs. For the rest of us, GATT and NAFTA mean weakened environmental regulations, public-health-and-safety standards, and labor-protection laws. These agreements redefine international rules so that democratically enacted laws can be and will be overturned in the name of an illusory "level playing field." Secretive, industry-influenced tribunals will have the power to decide which of our laws we may keep and which must be abandoned as "trade-restrictive" or "trade-distorting."

If GATT and NAFTA are enacted as written, state and Federal laws dealing with everything from food safety to waste disposal will be open to the scrutiny of these tribunals. If they are found to restrict or distort trade in any way, they can be ruled illegal. In the words of Karen Lehman of the Institute for Agriculture and Trade Policy, "This trade agreement will have more power to determine what we eat, how we handle our garbage, [and] whether we handle other people's garbage . . . than our own legislature."

This is hardly surprising when you consider who wrote these agreements. The overall strategy for the United States in the GATT negotiations was designed by James D. Robinson III, chief executive officer of American Express. Already one of the biggest multinationals in the world, American Express seeks free access to other countries' financial markets. The original U.S. proposal for the GATT agricultural agreement was drafted by Daniel Amstutz, a former senior vice president of Cargill. Cargill has an enormous financial stake in reducing agriculture regulations everywhere. Advisory committees packed with more than 1,000 representatives from the business world counsel the official U.S. trade negotiators for both GATT and NAFTA. By contrast, the U.S. trade representative asked only five environmentalists, belatedly, for their suggestions on NAFTA.

Rules set forth in the final draft of the GATT agreement would require the "harmonization" of U.S. laws regulating pesticides and other food contaminants with generally lower international standards set by such obscure, industry-influenced committees as the Codex Alimentarius in Rome. Sixteen of twenty-eight U.S. delegates to the Codex represent food or agrichemical multinationals, including three officials from Nestlé, and one each from Coca-Cola, Pepsi, Hershey, Ralston Purina, Kraft, and CPC International. In fact, Nestlé sends so many delegates from different nations, it is better represented than most countries. This hardly constitutes a disinterested committee, yet it is vested by GATT and NAFTA with responsibility for defining "acceptable" levels of food contaminants for most of the world.

Codex allows levels of DDT, which is banned in the United States, on meat, grains, and dairy products. It allows levels of such pesticides as Heptachlor up to fifty times greater on some products than U.S. law permits. Yet under GATT and NAFTA, any national, state, or even local health or environmental standard more stringent than those set by Codex could be considered an unnecessary barrier to trade, and thus illegal.

Even laws or ordinances that are not directly trade-related may be subject to the

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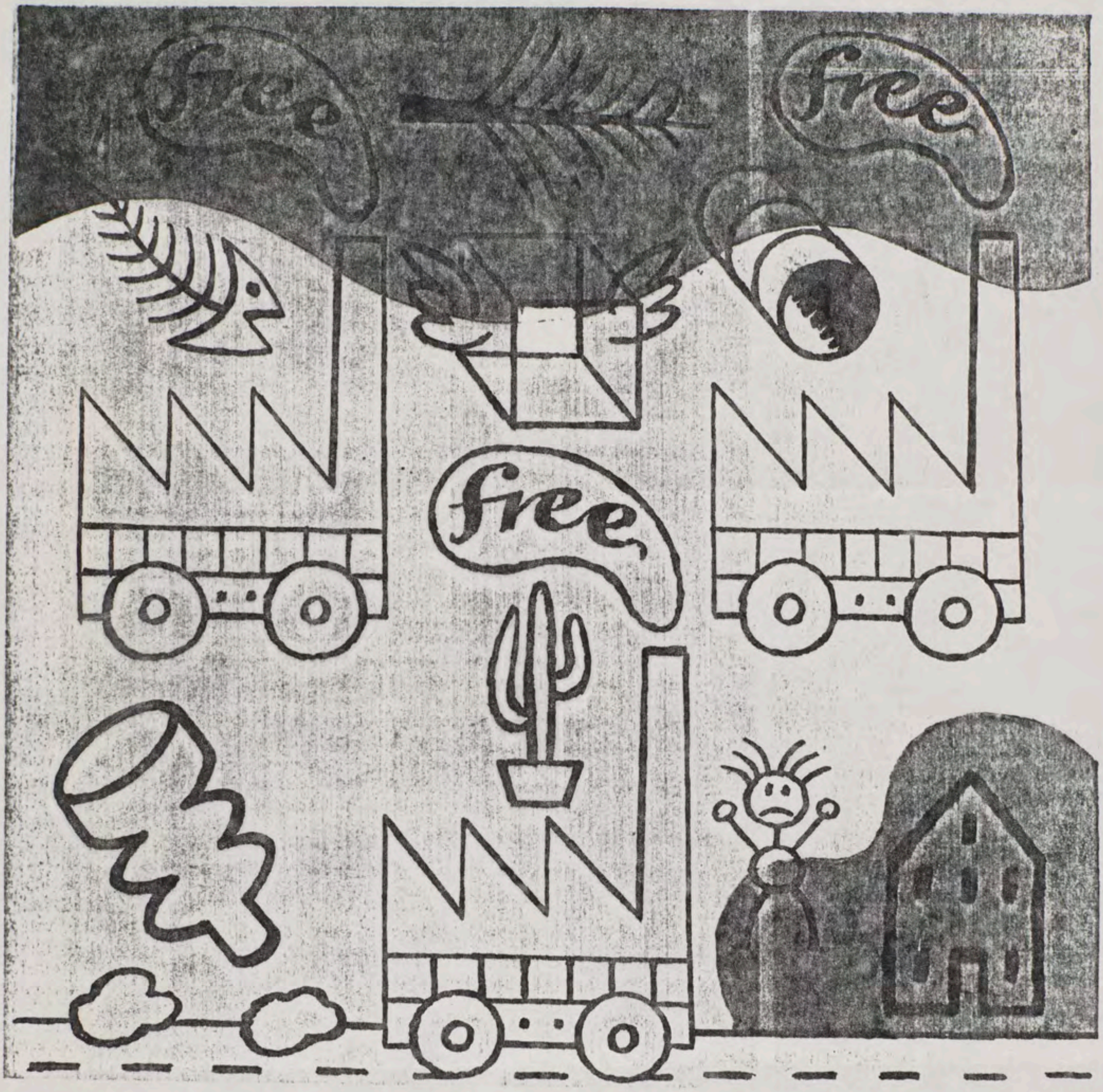


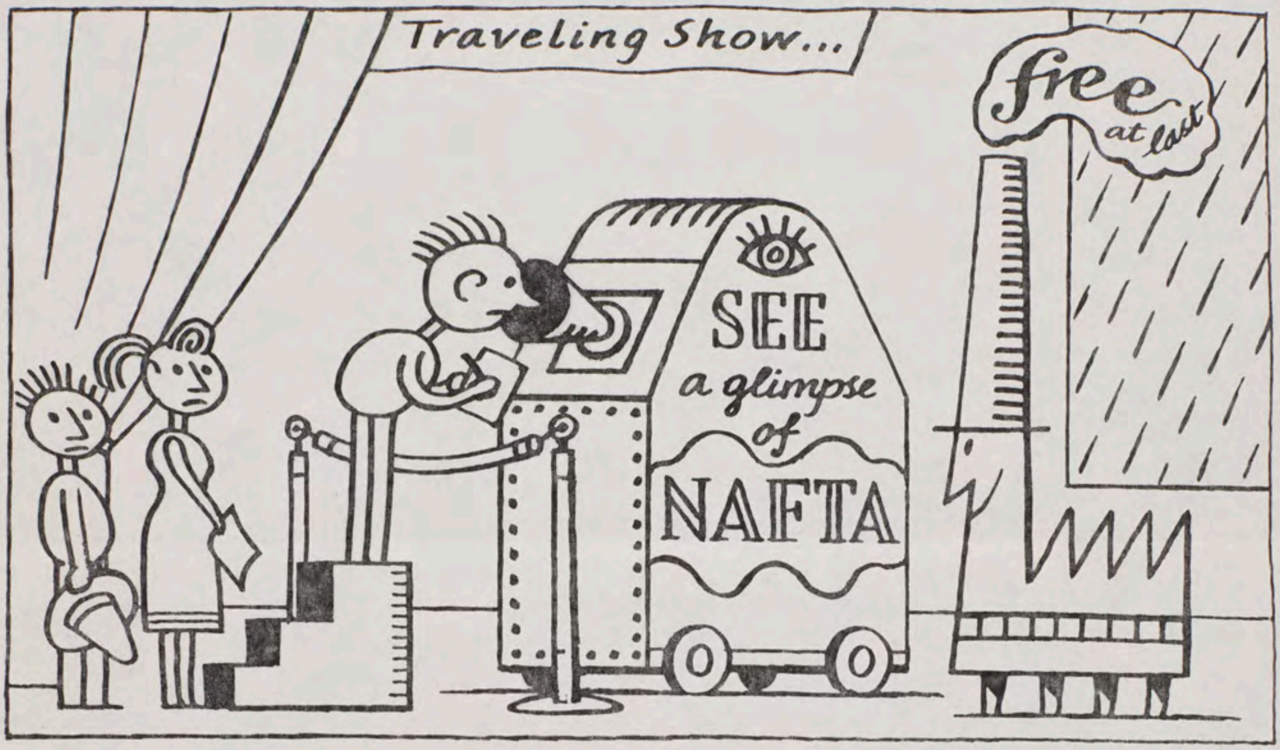
ROBERT GALE

tribunals of GATT and NAFTA, if they affect trade in any way. Any foreign nation that disagrees with a law may file a complaint against it as a "trade-distorting" policy—a policy which, in one way or another, places some trading partner at a disadvantage. Under both GATT and NAFTA, once such a complaint is filed, the accused country must face a secretive, unaccountable dispute panel of trade experts and demonstrate that the law or standard in question both addresses a legitimate end and is either non-trade-distortive or the least trade-distortive measure possible. Finding concrete evidence that a law is the "least trade-distortive" measure possible is often difficult if not impossible.

Trade agreements are already being used to attack and overturn environmental standards here and abroad.

Canada, for example, used the 1988 Free Trade Agreement (FTA) with the United States to challenge our ban on the importation, manufacture, and use of asbestos in this country—a measure the Environmental Protection Agency (EPA) estimated would save almost 1,900 lives by the end of this decade. Quebec, a province with a substantial interest in asbestos mining, led the opposition, arguing that a ban was not the least trade-distorting alternative. In October 1991, the U.S. Court of

Citizens Shut Out



ROBERT GALE

During his Presidential campaign, Bill Clinton embraced the North American Free Trade Agreement, with the stipulation that legislation be tacked on to protect the environment and aid displaced workers.

While politically astute, Clinton's proposed legislation will have no significant impact on NAFTA. Americans will still have to deal with the painful legacy of the Bush Administration's undemocratic, secretly conceived agenda for the future of this nation.

Clinton said he wants to use NAFTA to "advance the interest of ordinary Americans." But ordinary Americans are the ones who will suffer, regardless of implementing legislation, if NAFTA is ratified by Congress. A few hundred multinational corporations will reap the benefits of the agreement, at the expense of workers, communities, and the environment.

For instance, under NAFTA, if a Mexican corporation decided to "bootleg" Madonna's new video, the American video company could use trade sanctions against the bootlegger. But if Pillsbury decided to free some of its industrial waste in the Mexican town of Matamoros, the citizens in that community would have no such mechanism for dispute resolution. This inequality has led one critic to dub NAFTA a "corporate bill of rights." Bill Clinton has proposed measures to "fill in the gaps" in this agreement, but no amount of putty can correct this intentionally gaping discrepancy.

NAFTA is the result of what one member of Congress called "fifteen months of the most secretive trade negotiations I've ever monitored." From the beginning, negotiations were conducted clandestinely, documents classified, and statements veiled, all because, according to Administration officials, NAFTA was far too complex, too dense for the average member of Congress.

Now that the text has been completed, it is hard to imagine how Congress, which is supposedly so obtuse, will be able to make an intelligent decision in the allotted ninety days. Is this enough time to understand the accord and inform constituents? Not if NAFTA stands to be as far-reaching and profound as both proponents and critics expect.

Since the NAFTA negotiations began, citizens' groups representing labor, environmental, and religious concerns have tried hard to get a peek at the details. A fortunate few managed to obtain a leaked copy of the first complete draft of the text, which was finished in a Dallas hotel room last February. Others had to rely on the business pages to provide them with clues. Luckily for NAFTA proponents, few people read the business pages.

When NAFTA was completed on September 8, the U.S. trade representative's office began allowing interested citizens to view the 2,000-page document—for one hour. If this wasn't a sufficient amount of time, you could purchase a copy from Kinko's for $115. Those who cannot afford the document may be unpleasantly surprised when NAFTA comes to their town.

Because of NAFTA's structural problems, even a great amount of reform will be woefully inadequate. Clinton may have garnered a few extra votes by calling for legislation to care for workers displaced by NAFTA, and he has moved in the right direction with his call for implementing legislation, but his plan does not go far enough. Global firms will continue to set up environmentally unsound factories in Mexico to gain unfair advantage in the U.S. market until trade sanctions are included in the text of the agreement.

Clinton should be thinking of preventive measures for job loss, unsafe working conditions, and environmental catastrophes, not dubious remedies after the fact.

—JEREMY WEINTRAUB

(Jeremy Weintraub is a researcher for the Global Economy Project at the Institute for Policy Studies in Washington, D.C.)

Appeals upheld the Canadian objection because the EPA had rejected alternatives that were "less burdensome to industry."

The secrecy of the dispute panels and the lack of a formal appeals process exacerbate the undemocratic nature of the "free trade" system. If a law or regulation is found in violation of GATT or any other free-trade agreement, the defending country is obliged to change it or run the risk of incurring trade sanctions. The new GATT proposal even calls for a mandatory review of all existing national, state, and local laws and regulations to ensure their accordance with GATT provisions. In other words, GATT would be given preeminence over every existing law. Given that many of the United States' most important environmental laws achieve their ends by regulating in some way the manufacture, sale, or purchase of goods, it is doubtful whether any major environmental measure in the country would be beyond GATT's reach.

As a result of pressure put on the Bush Administration by U.S. environmental groups and many members of Congress, the text of NAFTA includes some provisions to protect the environment. For instance, Annex 104 of the agreement cites five international environmental conventions which "shall prevail" over NAFTA in cases of "inconsistency." But with this notable exception, most of NAFTA's environmental provisions are weakly worded and open to broad interpretation. An article citing lax enforcement of environmental laws as an "inappropriate" way to encourage investment contains no effective provision for restricting such behavior.

Another article reserves to parties the right to take measures "necessary for the protection of human, animal, or plant life, or health." However, hearings on a similar provision in GATT have repeatedly demonstrated how difficult it is to prove the "necessity" of an environmental measure to a panel of trade specialists.

Under NAFTA, as law professor David Wirth, formerly of the National Resources Defense Council, has warned, "what is given with one hand . . . will be taken away by the other."

Moreover, state and local environmental and food safety laws are still required to comply with national standards, which in turn are strongly "encouraged" to comply with the international norms of Codex Alimentarius. And while NAFTA does place the burden of proof in a dispute on the complainant, it also gives the complainant the right to choose GATT's dispute procedures if it prefers—except for disputes over the *facts* of an environmental, health, or safety standard. Even if NAFTA's environmental provisions were strengthened, all three NAFTA nations would still be subject to GATT's more damaging standards in their trade with the rest of the world.

Existing trade agreements are already being used to attack and overturn environmental standards here and abroad. Much like the asbestos case between Canada and the United States, a Thai ban on the import of tobacco products was overruled by GATT on the grounds that it was not the least trade-restrictive option. The GATT panel in that case declared that no country may use trade restrictions of any kind to enforce public-health laws unless that country can prove its policy was the least trade-restrictive possible. The European Court of Justice struck down a Danish law requiring approved deposit-and-return beverage bottles, arguing that even though the Danish system "guarantees a maximum percentage of reuse and therefore gives considerable protection to the environment . . . limiting the quantity of products which can be marketed by importers is disproportionate to the objective."

In a precedent-setting case that put environmentalists worldwide on alert, a GATT dispute panel, acting on a complaint brought by Mexico, overturned provisions of the U.S. Marine Mammal Protection Act authorizing a ban on the importation of tuna caught in purse-seine nets. The ban was implemented to protect endangered dolphins, tens of thousands of which are "incidentally" killed each year in purse-seine tuna-fishing operations. After hearing arguments in a session closed to the public, the three-member panel ruled that the ban represented an extraterritorial application of U.S. environmental standards, and that nations may not differentiate between goods on the basis of how they are processed or manufactured.

What that means, in practice, is that no country can use trade sanctions to enforce international environmental norms. Moreover, countries are barred under GATT from prohibiting the import of goods manufactured in unhealthy or environmentally unsound ways. Consumer campaigns to regulate imports of tropical timber or rainforest beef could be considered trade-illegal. NAFTA codifies this ruling, placing a clear territorial limitation on environmental action. This logic could easily compromise the Endangered Species Act, the Migratory Bird Act, the Clean Air Act, and a host of other U.S. laws that seek to control imports. There can be little doubt that the GATT tribunals could also prohibit trade actions taken for other reasons of social conscience, such as those employed against South Africa under apartheid or against China following the Tiananmen Square massacre.

Both the GATT and NAFTA proposals may come before the U.S. Congress this spring. Under "fast-track" legislation that expires on May 31, Congress will have only a short time to review either agreement and then must vote "yes" or "no" without recommendations or amendments. The NAFTA text, already signed by U.S. trade representative Carla Hills and scheduled for signature by President Bush on December 17, is due for a ratification vote by mid-1993. And if disagreements between the United States and the European Community over agricultural policy are resolved, a new GATT text may be presented soon.

However, the unanimous vote on August 6 in the U.S. House of Representatives put the world on notice that Congress would not approve any trade agreement which "jeopardizes United States health, safety, labor, or environmental laws." This resolution further urges the President to renegotiate the GATT agreement to make it compatible with U.S. environmental safeguards.

There is a great deal of speculation regarding the role that President-elect Bill Clinton and Vice President-elect Al Gore may play in reforming U.S. trade policy. Clinton has already endorsed NAFTA, albeit contingent upon several "unilateral steps [and] supplemental agreements . . . to achieve an acceptable package." To address environmental concerns, Clinton would seek "strict application" of U.S. pesticide standards, "environmental cleanup and infrastructure investments," and legislation to provide for "public participation in crafting our position in ongoing disputes and to give citizens the right to challenge objectionable environmental practices" of NAFTA members. Clinton would also seek to negotiate a trilateral "environmental-protection commission . . . with substantial powers and resources" for prevention, cleanup, enforcement, and public participation.

Clinton and Gore have made promises that sound good, but they have also said they do not plan to renegotiate Bush's NAFTA [See Page 21]. Without reworking large sections of NAFTA, it is unlikely that they will meet either their expressed goals or those of Congress. Given that prominent Clinton campaign advisers were almost uniformly free-trade purists, and that Paula Stern, a spokesperson for the campaign, has said that Clinton wants a rapid conclusion to the current GATT talks, substantial revisions seem unlikely.

The current proposals for GATT and NAFTA violate not only the principles of national sovereignty, but also those of personal choice: They rob us of our most basic rights to choose for ourselves the kind of food we eat, the kind of products we buy, the kind of policies we support, the kind of town we live in—all in pursuit of an illusory "level playing field."

We must ask ourselves, as Margaret Atwood has asked, "Do we really want a country? A level playing field, after all, is one from which all distinguishing features have been removed." ■

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Port St. Lucie, FL 34983

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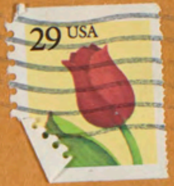

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