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NAFTA AND ENVIRONMENTAL REGULATION IN MEXICO

*Nicholas Peters**

I. INTRODUCTION

WHEN Canada, Mexico, and the United States entered into the North American Free Trade Agreement (NAFTA) in 1994,¹ economists proclaimed the agreement to be a significant step toward shared economic prosperity in the Americas.² Simultaneously, environmental supporters feared that increased trade and reallocation of labor across borders would lead to environmental degradation in Mexico.³ Consequently, the parties to NAFTA drafted the North American Agreement on Environmental Cooperation (NAAEC)⁴ as a side agreement intended to address these environmental concerns, thus labeling NAFTA the greenest trade agreement to date.⁵

A decade after NAFTA, environmentalists and legislators must analyze the successes and failures of the NAAEC as applied to Mexico in efforts to propose more environmentally friendly legislation.⁶ In doing so, it is necessary to evaluate the state of environmental regulation in Mexico prior to NAFTA and the NAAEC, and to explore how the NAAEC and the trilateral enforcement organization it established, known as the Commission for Environmental Cooperation (CEC),⁷ serve to remedy the various environmental inadequacies of Mexican law. Ultimately, proposed

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1. North American Free Trade Agreement, Dec. 17, 1992, U.S.-Can.-Mex., Dec. 17, 1992, 32 I.L.M. 289 (1993) [hereinafter NAFTA].
2. Edie Ringel, Comment, *NAFTA and Local Governments: The Effects of Free Trade on State and Local Environmental Legislation, Part I*, 18 No. 6 NAAG NAT'L ENVTL. ENFORCEMENT J. 3 (2003).
3. See *id.*; see also Robert C. Hale, *Assessing the CEC's Impact on NAFTA*, 13 J. TRANSNAT'L L. & POL'Y 559, 561 (2004) (reviewing GREENING NAFTA: THE NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION (David L. Markell & John H. Knox eds. 2003)).
4. North American Agreement on Environmental Cooperation, Sept. 14, 1993, U.S.-Can.-Mex., 32 I.L.M. 1480 (1993) [hereinafter NAAEC].
5. Greg Block, *Trade and Environment in the Western Hemisphere: Expanding the North American Agreement on Environmental Cooperation Into the Americas*, 33 ENVTL. L. 501, 503 (2003).
6. GREENING NAFTA: THE NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION 12-13 (David L. Markell & John H. Knox eds. 2003) [hereinafter GREENING NAFTA].
7. *Id.* at 2.

amendments to Mexican law, as well as the CEC, will lead to a more beneficial blend of economic and environmental prosperity.⁸

II. MEXICO'S ENVIRONMENTAL POLICY PRIOR TO NAFTA

Mexico is relatively new at environmental regulation.⁹ Whereas the United States established the Environmental Protection Agency (EPA) in 1970,¹⁰ Mexico enacted its primary environmental statute, known as the General Law of Ecological Equilibrium and Protection of the Environment (hereinafter "Ecology Law"), in 1988.¹¹ Based largely on the strictness of U.S. environmental policy, the Ecology Law established statutes and penalties governing "air pollution, water pollution, soil degradation, toxic and hazardous wastes, and conservation."¹² In addition, the Ecology Law vested the Secretariat of Social Development (SEDESOL) with the authority to serve as the centralized environmental enforcement agency of Mexico.¹³ SEDESOL is essentially the Mexican equivalent of the EPA.¹⁴ Although Mexico's environmental laws were based heavily on U.S. legislation, the country's enforcement mechanism was inadequate due to deficiencies in its judicial system and poor funding for its various programs.¹⁵

A. SEDESOL'S ADMINISTRATIVE HEARINGS

A primary roadblock to environmental enforcement in Mexico is the structure of its civil law system.¹⁶ Because SEDESOL uses administrative hearings to interpret and enforce its laws, the judicial system is largely absent from the process.¹⁷ Unlike the common law system in the United States, where courts interpret and enforce the law through *stare decisis*, Mexican environmental enforcement is comprised of a series of administrative rulings that bear no effect on the result of future proceedings.¹⁸ Thus, subsequent administrative proceedings are not bound by a rule of law taken from a prior similar action, and as a result, there can be numerous incongruities from holding to holding.¹⁹ Another problem

8. *Id.* at 17.

9. David L. Hanna, *Third World Texas: NAFTA, State Law, and Environmental Problems Facing*, 27 *ST. MARY'S L.J.* 871, 888 (1996).

10. *Id.* at 886.

11. Joseph E. Sinnott, *The Classic Civil/Common Law Dichotomy and Its Effects on the Functional Equivalence of the Contemporary Environmental Law Enforcement Mechanisms of the United States and Mexico*, 8 *DICK. J. ENVTL. L. & POL'Y* 273, 285 (1999).

12. *Id.*

13. *Id.* at 287.

14. *Id.*

15. *See id.* at 274; *see also* Hanna, *supra* note 9, at 891 (Mexico's unwillingness to support its environmental policy indicates that the regulations it has put into place are little more than "political rhetoric").

16. Hanna, *supra* note 9, at 889.

17. *Id.*

18. *Id.*

19. *Id.*

with this system of relying on administrative proceedings is that there can be an "inherent bias" against private parties since SEDESOL both brings forth and adjudicates disputes.²⁰

B. THE AMPARO PROCESS

An additional barrier that the Mexican judicial system imposes on enforcement of its environmental laws comes from the inability of private parties to file class action suits. In the United States and Canada, one member of a group can have standing to sue a party on behalf of all the other members of his or her group.²¹ Therefore, individuals and non-government organizations (NGOs) can have standing to sue.²²

The Mexican judicial system, by contrast, does not provide this option.²³ Instead, Mexicans can file an amparo claim to gain direct access to the courts.²⁴ But two limitations make this process inefficient in resolving environmental matters.²⁵ First, although NGOs and environmental watch groups are better equipped to file suits because of their expertise and financial support, it is extremely difficult for these organizations to achieve standing to sue.²⁶ Because the Mexican Supreme Court narrowly construes standing so as to maintain litigation as a dispute between individual parties, a plaintiff must show harm before attaining standing.²⁷ Second, an amparo decision does not interpret the disputed law, and it is not binding on other parties.²⁸ Therefore, if a court determines that an environmental regulation is unconstitutional, the only person affected by this determination is the party to the suit.²⁹ The decision will have no bearing on how future parties interpret or abide by the law.³⁰ Consequently, although a strong environmental framework exists under the Ecology Law, Mexico's civil-law system is wholly inadequate in enforcing the law.

C. THE PROBLEM OF FUNDING

Insufficient funding also contributes to Mexico's sub-optimal enforcement of environmental laws.³¹ A study has shown that although the

20. Sinnott, *supra* note 11, at 294.

21. Dr. Lucio Cabrera Acevedo, *Past and Possible Future of the Collective Amparo Process (Amparo Colectivo)*, 6 U.S.-MEX. L.J. 35 (1998).

22. *Id.*

23. *Id.*

24. Katherine M. Bailey, Note, *Citizen Participation in Environmental Enforcement in Mexico and the United States: A Comparative Study*, 16 GEO. INT'L ENVTL. L. REV. 323, 336 (2004).

25. *Id.*

26. *Id.*

27. *Id.* at 336-37.

28. *Id.* at 337.

29. Bailey, *supra* note 24, at 337.

30. *See id.* (noting that only when the court reaches the same decision on the same constitutional question five times in a row does the rule become known as *jurisprudencia* and become binding on all lower courts).

31. *See* Hanna, *supra* note 9, at 890; *see also* Sinnott, *supra* note 11, at 295.

Ecology Law is capable of being as effective as U.S. environmental law, the country "has lacked the personnel and funding to provide for adequate enforcement."³² Research identifies a direct link between funding and enforcement.³³ From 1988 to 1990, the Mexican government conducted 5,405 inspections that resulted in three permanent plant closings and 980 partial and temporary closings.³⁴ From June 1992 to September 1993, after increased funding, SEDESOL conducted 16,386 inspections that resulted in 100 permanent plant closings and 1,161 partial plant closings.³⁵ Thus, as SEDESOL's enforcement budget increased, so did the number and effectiveness of its enforcement efforts. The problem, however, is that Mexico has very limited means of increasing its environmental budget, and to do so would entail diverting funds from other budgetary concerns.³⁶ Therefore, Mexico's capacity to adequately enforce its environmental regulations is limited by the country's inability to equip SEDESOL with the financial resources to do so.

Looking at Mexico's environmental policy prior to NAFTA and the NAAEC, it is apparent that although the essential framework was capable of being at least as effective as the environmental laws of the United States, the country was severely hampered by inefficiencies in its judicial system as well as budgetary constraints.³⁷ Because the actions of administrative proceedings are not binding and are inherently biased, they are an insufficient means of enforcement.³⁸ In addition, since NGOs are prohibited from filing amparo suits and the decisions of the courts are not enforceable against other parties, Mexico's judicial system serves as an inadequate avenue of enforcement.³⁹ Finally, Mexico's various economic and industrial needs bar allocation of much needed financial support to SEDESOL, hampering the agency's ability to enforce its laws.⁴⁰ In light of these roadblocks, pre-NAFTA Mexico was a country with the necessary environmental agenda but with no means of enforcing its legislation.

III. THE NAAEC, THE CEC, AND THE CITIZEN SUBMISSION PROCESS

Before NAFTA received congressional approval, seven large U.S. environmental groups strongly recommended making a side agreement that would essentially encompass a promise by Canada, Mexico, and the United States to enforce their current environmental legislation and establish an international enforcement regime.⁴¹ The three nations signed

32. C. O'Neal Taylor, *Fast Track, Trade Policy, and Free Trade Agreements: Why the NAFTA Turned Into a Battle*, 28 *GEO. WASH. J. INT'L L. & ECON.* 1, 103-04 (1994).

33. See Sinnot, *supra* note 11, at 295-96.

34. *Id.*

35. *Id.*

36. Hanna, *supra* note 9, at 890-91.

37. See Bailey, *supra* note 24, at 336; see also Sinnot, *supra* note 11, at 294-96.

38. Hanna, *supra* note 9, at 889.

39. Bailey, *supra* note 24, at 337.

40. Hanna, *supra* note 9, at 890-91.

41. GREENING NAFTA, *supra* note 6, at 7-9.

the NAAEC in 1993 and based it largely on the U.S. recommendations.⁴²

As previously stated, the NAAEC was promulgated to address growing fears that NAFTA would cause industry to migrate to Mexico, damaging the U.S. economy and making Mexico an environmental wasteland.⁴³ These concerns have been grouped into the following six categories: 1) "border cleanup"; 2) the threat that Mexico would degrade into a "pollution haven"; 3) "threats to domestic environmental laws"; 4) "threats to international environmental agreements"; 5) "public participation"; and 6) "environmental assessment."⁴⁴ Some environmentalists also feared that the United States would relax some of its environmental regulations in efforts to keep industry from migrating to Mexico, leading both countries into a "race for the bottom" in terms of environmental enforcement.⁴⁵ Thus, legislators realized the need to adopt a side agreement to NAFTA that would establish a new enforcement regime capable of maintaining a proper balance between trade, economic needs, and environmental protection.⁴⁶ As a result, Canada, Mexico, and the United States adopted the NAAEC in 1993 to "foster the protection and improvement of the environment in the territories of the Parties."⁴⁷ An analysis of the NAAEC, the CEC, and its citizen submission process indicates that although not perfect, the side agreement has done much in furtherance of its objective to correct the aforementioned inadequacies in Mexican environmental law.⁴⁸

A. THE STRUCTURE OF THE CEC

Part three of the NAAEC establishes the CEC to function as the "institutional framework for cooperation" in the design, promulgation, and enforcement of programs in furtherance of environmental objectives.⁴⁹ Hence, the CEC serves as a forum for communication between the three parties to the NAAEC that can recommend various courses of action, investigate violations, and levy sanctions. However, the CEC only has the authority to impose sanctions on a party "where there has been a persistent pattern of failure by the offending party to effectively enforce its environmental laws."⁵⁰

The tri-national CEC consists of the Council of Ministers, the Secreta-

42. *Id.* at 9.

43. These concerns were motivated by the Mexican *maquiladora* program. This was a policy that encouraged foreign industry to populate a region along Mexico's northern border. The program succeeded in its goals, but it simultaneously overloaded water/waste cleaning facilities and heavily polluted the Rio Grande and the surrounding water supply. *See id.* at 3.

44. *Id.* at 4-7.

45. David W. Ronald, *The Role of the CEC in Balancing Free Trade with Environmental Protection*, 12 NO. 2 NAAG NAT'L ENVTL. ENFORCEMENT J. 3, 5 (1997).

46. Jorge Diep, *Significant Developments in Mexico: New Initiatives for a New Environmental Policy*, SD66 A.L.I.-A.B.A. 261 (1999).

47. NAAEC, *supra* note 4, art. 1.

48. Ronald, *supra* note 45, at 4.

49. *Id.* at 4.

50. *Id.* (internal quotations omitted).

riat, and the Joint Public Advisory.⁵¹ The Council of Ministers is the CEC's governing body and is made up of representatives from Canada, Mexico, and the United States.⁵² The Council essentially has open-ended authority to seek advice from private environmental groups with regard to the implementation of environmental agendas.⁵³ In addition, the Council has the power to make a factual record developed by the Secretariat public upon a two-thirds vote.⁵⁴ Although the Council performs many other functions, it should be noted that articles 34 and 36 allow the Council to determine if a party's conduct constitutes a persistent pattern of failures to abide by its environmental regulations and impose sanctions where necessary.⁵⁵

The Secretariat is headed by an executive director chosen by the Council for a three-year term, and the executive director has the authority to appoint the staff of the Secretariat at will.⁵⁶ Although one of the objectives of the Secretariat is to provide the Council with "technical, administrative and operational support,"⁵⁷ perhaps the greatest responsibility of the Secretariat is its involvement in the citizen submission process and its ability to prepare factual reports for the Council.⁵⁸ Article 14, one of the enforcement provisions of the NAAEC, gives the Secretariat the power to review submissions from any person or NGO who alleges a party is failing to enforce its environmental laws.⁵⁹ Based on its findings in this review, the Secretariat can file a factual report to the Council, which, as previously stated, has the power to publicize it subsequent to a two-thirds vote.⁶⁰ Furthermore, the Secretariat may develop a factual report on any issue relevant to the CEC if it chooses to do so.⁶¹

Finally, the Joint Public Advisory Committee consists of fifteen members who have the authority to advise the Council and the Secretariat on matters that fall under the umbrella of the NAAEC.⁶² In addition, the Committee provides the Council and Secretariat with public opinion from citizens of the party countries.⁶³ Thus, the Joint Public Advisory Committee serves as the Council and the Secretariat's direct link to NGOs and individual citizens of each party to the agreement.

51. See NAAEC, *supra* note 4, arts. 8-14; see also Kal Raustiala, *The Political Implications of the Enforcement Provisions of the NAFTA Environmental Side Agreement: The CEC as a Model for Future Accords*, 25 ENVTL. L. 31, 40 (1995).

52. NAAEC, *supra* note 4, art. 9.

53. Raustiala, *supra* note 51, at 40.

54. *Id.*

55. See NAAEC, *supra* note 4, arts. 34 & 36; see also Ronald, *supra*, note 45, at 4. Note that the typical sanctions imposed are suspension of benefits a party is to receive under NAFTA.

56. NAAEC, *supra* note 4, art. 11.

57. *Id.*

58. Ronald, *supra* note 45, at 4.

59. NAAEC, *supra* note 4, art. 14.

60. Ronald, *supra* note 45, at 4.

61. *Id.*

62. NAAEC, *supra* note 4, art. 16.

63. See *id.*; see also Ronald, *supra* note 45, at 3-4.

B. THE CITIZEN SUBMISSION PROCESS

Any NGO or individual citizen that resides in Canada, Mexico, or the United States may submit a form of complaint to the CEC alleging that one of the parties has failed to enforce its own environmental laws.⁶⁴ This is how the citizen participation process is initiated. Once this NGO or individual files its submission with the Secretariat, the Secretariat reviews the case and determines whether an investigation would further the objectives of the NAAEC, whether any action has been pursued under the party's environmental laws, and, similar to standing, whether the person or group has been harmed by the party's actions.⁶⁵ Depending on what the Secretariat determines from this review, it may request a response from the party complained of in the submission.⁶⁶

Assuming the Secretariat elicits a response, it then reviews the response and the submission to determine whether to inform the Council that the Secretariat will make a factual record on the matter.⁶⁷ At this point, the Council determines by a two-thirds vote whether to have the Secretariat go through with the factual record.⁶⁸ If the Council votes against the factual record, the submission essentially dies there. But if the Council approves the factual record, then the Secretariat has the authority to prepare one based on any facts or data submitted by NGOs, citizens, or the Public Advisory Committee.⁶⁹ Finally, after compiling the factual record, the Council votes to determine whether to make the factual record public.⁷⁰ Public disclosure requires, as before, a two-thirds vote.⁷¹

The findings of a factual record are known as "soft international law."⁷² In other words, the CEC has no real means of enforcing its findings or proposals. For the most part, countries do not choose, and have not chosen, to abide by the CEC's recommendations.⁷³ The parties to the NAAEC seem reluctant to give the CEC any real teeth.⁷⁴ Yet some suggest that the true power of this soft law is that it creates a certain amount of transparency among North American governments.⁷⁵ Publicizing the

64. Bailey, *supra* note 24, at 354-55.

65. *See id.*; *see also* NAAEC, *supra* note 4, art. 14(1).

66. Bailey, *supra* note 24, at 355.

67. *Id.* (explaining that "the NAAEC offers no criteria on how the Secretariat makes this decision, except to disqualify a submission if the matter is the subject of a pending judicial or administrative proceeding").

68. *Id.*

69. *Id.*

70. *Id.* at 355-56.

71. Bailey, *supra* note 24, at 355-56.

72. Paul Stanton Kibel, *The Paper Tiger Awakens: North American Environmental Law After the Cosumel Reef Case*, 39 COLUM. J. TRANSNAT'L L. 395, 472 (2001) (internal quotations omitted).

73. *Id.*

74. *Id.* It appears that Canada, Mexico, and the United States are reluctant to amend the NAAEC so as to give the CEC's factual records force because of the potential costs of being forced to come into compliance.

75. Bailey, *supra* note 24, at 356.

factual record allows each nation and, in turn, the public to know which party is failing to enforce its own environmental regulations. Experts feel this could help stimulate public participation and ultimately lead to increased accountability.⁷⁶

IV. DOES THE CITIZEN SUBMISSION PROCESS OF THE NAAEC BENEFIT MEXICO?

A. BENEFITS

In the eleven years since the NAAEC was signed, the actions of the CEC have had a positive impact on environmental regulation in Mexico.⁷⁷ The CEC indicates that since 1995, there have been forty-seven submissions made to the Secretariat.⁷⁸ Of these submissions, twenty-seven involved Mexico and resulted in four factual records.⁷⁹ Several other positive outcomes are apparent and are described below.

1. *Transparency*

First, the citizen submission process has helped increase the transparency of the Mexican government.⁸⁰ Mexican citizens are aware of the CEC's powers to access important "policies, decision making records . . . and public Council sessions," and have grown to expect the same manner of openness in other government agencies.⁸¹

2. *Standing*

Second, the process serves as a means for NGOs and certain individuals to circumvent the standing problem addressed above. Because a submission can be made by anyone in the three member parties,⁸² an NGO or individual does not need to allege harm to have standing.

3. *Positive Externalities*

The CEC and the citizen submission process can also be credited with guiding Mexican environmental regulation in a few areas.⁸³ For instance, the CEC was pivotal in leading Mexico to adopt a "national pollutant

76. *Id.*

77. Block, *supra* note 5, at 516.

78. NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION, CITIZEN SUBMISSIONS ON ENFORCEMENT MATTERS: CURRENT STATUS OF FILED SUBMISSIONS (October 5, 2004), <http://www.cec.org/citizen/status/index.cfm?varlan=English>.

79. *Id.*

80. See Block, *supra* note 5, at 516; see also Bailey, *supra* note 24, at 356.

81. Block, *supra* note 5, at 516.

82. See Bailey, *supra* note 24, at 356; see also David L. Markell, *The Commission For Environmental Cooperation's Citizen Submission Process*, 12 GEO. INTL. ENVTL. L. REV. 545, 560-61 (2000) (discussing a Cozumel, Mexico submission where the Secretariat found that the submission was within the objectives of the NAAEC despite the fact that the party failed to allege that there was actual harm normally needed for legal standing in a civil suit).

83. Block, *supra* note 5, at 516-17.

release and transfer registry” that was on par with similar regulations in the United States.⁸⁴ Furthermore, the CEC set into motion a process that eventually led to prohibiting the use of such toxic substances as DDT and chlordane in Mexico.⁸⁵ Consider the fact that the CEC has been able to make these positive impacts with minimal funding and without much legal clout.⁸⁶

B. SHORTCOMINGS

1. *The CEC Lacks Teeth*

Despite the modest advancements the CEC has made, the agency and the citizen submission process are still plagued with setbacks. As previously mentioned, one of the main shortcomings of the CEC is that its findings do not hold significant power.⁸⁷ The commission’s recommendations are rarely given credence, and its authority to impose sanctions is hampered in several ways. Monetary penalties or the suspension of NAFTA benefits are only enforced when a party is found to have failed to enforce its environmental laws.⁸⁸ Such a finding requires a two-thirds vote by the Council and is highly unlikely to occur.⁸⁹ Moreover, any such fine is capped at .007 percent of the “total trade in goods between the parties” and must be allocated to the offending nation’s environmental regulations fund.⁹⁰ Finally, should any party refuse to pay the fine, it can drop out of the NAAEC without forfeiting its status as a member of NAFTA.⁹¹

2. *Time*

Another problem with the process stems from the amount of time it takes to get from the submission stage all the way to a factual record.⁹² On average, the process takes up to five years.⁹³ Some feel this is too lengthy and arduous a process to justify the relatively uneventful and non-binding resolution that is the factual record.⁹⁴ In addition, there is little data suggesting the impact of factual records to date.⁹⁵

84. *Id.* at 516.

85. *Id.* at 517.

86. *Id.*

87. Kibel, *supra* note 72, at 472.

88. Ronald, *supra* note 45, at 4-5.

89. *Id.* at 5.

90. *Id.*

91. *Id.*

92. Bailey, *supra* note 24, at 356-57.

93. *Id.* at 357.

94. *Id.* at 356-57.

95. Bailey discusses the Metales y Derivados Factual Record concerning the removal of waste that had made its way into Mexico. Although some foresaw that the factual record would inform the public and lead it to demand changes in the behavior of companies, the effects will take years to be realized as “new policies and practices slowly come to light.” *See id.* at 357.

3. *Net Effect*

The positive effects of the CEC and the citizen submission process, thus far, may be summarized as considerable in theory but nominal in practice. That being said, the process leaves Mexico no worse off than it would be without the framework imposed by the NAAEC.⁹⁶ After eleven years of existence, the CEC and its processes are better employed as a public forum for the dissemination of ideas concerning the implementation of environmental regulations as well as the promotion of more eco-friendly trade.⁹⁷ The commission is limited, however, by the paucity of power given to it in the NAAEC.

V. CONCLUSION

Although Mexico has put into place an environmental regulatory scheme capable of being as effective as the framework in the United States,⁹⁸ it is severely inhibited by its judicial system⁹⁹ as well as a lack of funding.¹⁰⁰ Perhaps expanding the amparo process to give NGOs and individuals a cause of action similar to a class action lawsuit would enhance the ability of environmental watchdog groups to initiate more stringent environmental enforcement.¹⁰¹ Nevertheless, the civil-law system in Mexico is still inadequate due to a lack of *stare decisis* among the courts,¹⁰² and the Ecology Law is at a serious detriment with regards to funding.¹⁰³ Without addressing these issues, the Mexican government will not have a reasonable chance of truly living up to the spirit of the NAAEC.

The NAAEC, however, reconciles the issue of standing.¹⁰⁴ Any citizen or NGO can file a submission, meaning that the environmental watchdog groups mentioned above are assured of some forum to bring their disputes through the use of the citizen submission process.¹⁰⁵ In addition, over the last eleven years, the CEC has evolved into a forum for the communication of ideas, concerns, and suggestions for the development of environmental regulations between the member nations.¹⁰⁶ By essentially placing a delinquent party in the spotlight, the CEC simultaneously encourages reform by that party as well as any others who may be failing

96. *Id.*

97. Ronald, *supra* note 45, at 5.

98. See Bailey, *supra* note 24, at 336.

99. *Id.* at 337.

100. Hanna, *supra* note 9, at 890-91.

101. Some advocate the adoption of a colectivo amparo process that is similar in concept to a class action lawsuit. Dr. Acevedo argues that the adoption of this process is supported by the international need for Mexico to comply with NAFTA, as well as the democratic need for some adequate form of judicial review. The colectivo amparo would ensure human rights by allowing NGO's and individuals to file class action suits. See generally Acevedo, *supra* note 21.

102. Bailey, *supra* note 24, at 337.

103. Hanna, *supra* note 9, at 890-91.

104. See generally NAAEC, *supra* note 4.

105. See Bailey, *supra* note 24, at 356; see also Markell, *supra* note 82, at 560-61.

106. Ronald, *supra* note 45, at 5.

to enforce their own environmental laws. Even so, it is apparent that the NAAEC is not a perfectly green agreement and could use some fine-tuning.¹⁰⁷ Should the parties choose to reform the accord, significant consideration must be given to broadening the CEC's authority. Without question, a CEC with more bite will ultimately lead to greener trade between Canada, Mexico, and the United States. The challenge will come in doing so without encouraging the race for the bottom that environmentalists feared in the formation of NAFTA.

107. *Id.* at 4-5; *see also* Bailey, *supra* note 24, at 356-57.

