Mexican President Vicente Fox's Proposal for Expanding NAFTA into a European Union-Style Common Market - Obstacles and Outlook

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I. Introduction
   Over seven years since its inception, the North American Free Trade Agreement (NAFTA) continues to gather both supporters and critics. Those who oppose NAFTA would like to see its demise, although that appears an unlikely possibility given its success and the commitment by parties dedicated to its progress. In contrast, those who favor NAFTA strongly support expanding the agreement, taking it one step further to illicit even more benefit from its policies. One such advocate for expanding NAFTA is Mexico's newly elected President, Vicente Fox. Although President Fox was elected on July 2, 2000, and did not take office until December 1, 2000, he immediately began making long-term plans for his country and for its role with the North American countries. The main long-term proposal that he sets forth is to expand NAFTA to a North American Common Market (Common Market) among Mexico, the United States, and Canada, resembling the style and structure of the European Union (EU).

Given all the variables and factors, the creation and development of a Common Market may prove to be a challenging and possibly futile feat for President Fox. Not only is a European-style Common Market a challenging entity to organize, implement, and
manage, but also so are the proposed intermediate policies that President Fox suggests will help the North American countries to eventually development into a Common Market.

This article is divided into five parts. After the introduction, section Two begins with an historical background of Mexico's President Fox and his role in supporting a North American Common Market. The discussion will focus on the background of NAFTA and its impact on Mexico, the United States, and Canada since its inception in 1994. A review on the creation, development, and evaluation of the European Union will follow. Section Three will discuss President Fox's new proposed policies that would support expanding NAFTA to create a Common Market. President Fox's strategies and long-term approach are detailed as well as his intermediate steps necessary to the achievement of a Common Market.

Section four discusses the advantages as well as the obstacles to the success of the proposal along with the impact the proposal has thus far on the nations, various organizations, and citizens. Section Five concludes the discussion and reiterates the difficulty in creating a Common Market fashioned after the European Union. Finally, recommendations will be made regarding measures that Mexico, the United States, and Canada can implement that will strengthen the ties created under NAFTA, even if these ties do not end with the eventual creation of a Common Market.

II. Historical Significance and Perspectives

A. MEXICAN PRESIDENT VICENTE FOX: THE MAN BEHIND THE VISION

President Vicente Fox is not your typical long-standing Mexican politician. In fact, based on his background, the fifty-eight-year-old President is more of a businessman than anything else. President Fox began his business career humbly as a soft drink deliveryman at Coca-Cola before climbing the corporate ladder to eventually serve as the Mexican and Latin American President for Coca-Cola from 1975 to 1979. After achieving success in business, President Fox decided to enter politics and in 1988 joined the "pro-business, conservative" National Action Party (PAN).

President Fox's career in Mexican politics has mirrored his business career, as he began in modest positions before working his way to the top. In 1988, President Fox was elected to represent Guanajuato in Congress and won its governorship in 1995. He made major changes and improvements that enhanced both the government and business of his state.

5. Wendy Patterson, 15 Minutes with... Vicente Fox, Bus. Mex., June 1, 2000, 2000 WL 22458723.
6. Id.
7. Scarlet Pruitt, Great Expectations, Bus. Mex., Aug. 1, 2000, 2000 WL 22458785. This article, in coordination with detailing President Fox's life as a businessman and politician, also lays down the vision behind the proposed policies along with the steps President Fox would take to achieve each one. Id.
8. Patterson, supra note 5.
10. Id.
11. Patterson, supra note 5. This article also points out that part of the success of President Fox's governorship comprised increasing the foreign investment in his state. New investment in
Upon the success of his governorship, President Fox set his eyes on the seemingly unattainable Mexican Presidency in 1997. During President Fox’s campaign, while outlining his political and social agendas, he focused simply on the need for Mexico to “change.” As a result, President Fox’s business savvy, three solid years of campaigning, and “larger-than-life personality” were enough to convince the Mexican people that change was due. So great was the change that the Mexican people elected President Fox as their new president on July 2, 2000. The Mexican population voted the Institutional Revolutionary Party (PRI) out of a seventy-one year reign, giving Mexico the chance to transform itself into a genuine democracy.

Only time will tell what influence Fox’s past experience will have on his success as Mexico’s newly elected democratic President. Although President Fox did not take office until December 1, 2000, one thing was clear from the outset: President Fox’s preparation and proposed policy making, given the Mexican peoples’ demand, was still one of change. One of President Fox’s most ambitious changes involves expanding NAFTA beyond its original purpose and his intent to create a Common Market with Mexico, the United States, and Canada.

Before examining President Fox’s proposed policies leading to the creation of a Common Market, it is necessary to understand the history and purpose behind both NAFTA and the European Union. It is through understanding the past history regarding these treaties that we can envision whether an expansion of NAFTA to a structure and form more similar to the EU is possible.

B. NAFTA: Role and Effect Since Inception

President Bill Clinton signed NAFTA, which took effect among the member nations on January 1, 1994. The treaty removed many of the trade barriers to investment

Guanajuato is expected to top 1.5 billion dollars this year alone, compared to 2.3 billion dollars total over the last five years. Exports to the state more than doubled during President Fox’s term and he is also responsible for building Mexico’s largest convention center in his state to attract business. Pruitt, supra note 7.

12. Patterson, supra note 5.
16. Front Notes, LATIN FINANCE, July–Aug. 2000, at 4, LEXIS, News Library, Magazine Stories File. Changes within the government will most likely not be swift and easy. Despite the almost immediate demand for change, one challenge will come in uniting Congress, as the legislature does not contain one dominating party. Phillips, supra note 2. There are a few things working in President Fox’s favor for improving Mexico’s position, mainly, “four straight years of growth in the GDP; inflation and unemployment record lows; and a stable peso—now backed by thirty-two billion dollars in currency reserves designed to prevent a crash.” Mexican Economy, Online News Hour, at http://www.pbs.org/newshour/bb/latin_america/july-dec00/mexico_7-12.html (July 12, 2000) [hereinafter Mexican Economy].
17. Phillips et al., supra note 2, at 30.
18. Id.
and trade between Mexico, the United States, and Canada. The move toward developing trade and investment was seen as a major step toward economic integration between these North American countries. As a direct result of NAFTA, Mexico was able to strengthen its bonds with the United States and Canada. NAFTA's main role was to eliminate all non-tariff trade barriers to agricultural trade within the United States and Mexico immediately, with additional tariffs phasing out over the next five to fifteen years.

Once NAFTA was implemented, it created the world's largest single market for goods and capital with over 368 million consumers among the three countries. NAFTA includes specific provisions for dealing with trade in services, telecommunications, transportation, motor vehicles, auto parts, textiles, apparel, energy, petrochemicals, and environmental protection. In addition, NAFTA also involves handling customs procedures, rules of origin, competition policy investment, barriers to trade, and government procurement among its parties.

Based on the structure of NAFTA, it was apparent that its originators did not intend to create a Common Market with the three nations. If the countries had wished to create such a market out of NAFTA, the market would have joined the governing bodies, policies, and procedures of each member country under one system of government. NAFTA remained mainly a trade agreement, however, with little other functioning capacity (such as separate governing institutions).

One of the most essential ideals under NAFTA is "National Treatment." Under the theory behind "National Treatment," unless stated otherwise, each member nation will accord "no less favorable" treatment to investors, goods, or services of another Party under its laws and regulations as it would under like circumstance to its own investors, investments, goods, or services.

20. Id.
22. NAFTA Facts, supra note 19.
25. Id.
26. Id.
28. Id. Part of the reason that Mexico, the United States, and Canada did not want to create a Common Market was because they did not want to give up any of their independent sovereignty by consolidating into one system. Id.
30. Skippen, supra note 24, at 100.
31. Id. This article also points out that underlying NAFTA is the "Most Favored Nation Treatment." Under this principle, each party must treat goods, services, investors, etc. of another Party no less favorably than those of another Party to NAFTA.
Overall, NAFTA was designed to:

1. reduce or completely eliminate economic barriers and promote economic integration among the United States, Mexico, and Canada;
2. promote the development of key legal frameworks needed to improve security for investments and thereby enhance investment; and
3. facilitate the free flow of goods and services by increasing the importance of trade and identifying trade opportunities for members of the three countries.32

Yet, despite these objectives, NAFTA itself does not grant any power to any decision-making institution set up specifically to govern its trade and development between member nations, unlike the European Union.33

The economic effect of NAFTA on the United States was not projected to be very large since the economy of Mexico was relatively small and since tariffs themselves were low prior to implementing NAFTA.34 Of all the countries that are party to NAFTA, Mexico appeared to have the most to gain from the agreement.35 Today, over seven years since NAFTA's inception, each participating nation has experienced both positive and negative aspects associated with such trade agreements.

1. Positive Effects of NAFTA

If any of the North American countries have reason to sing the praises of NAFTA, Mexico appears to be the front-runner.36 Mexico's exports alone have tripled since 1994, with Mexico recently displacing Japan as the second largest supplier of goods and services to the United States.37 Moreover, NAFTA's impact on trade between Mexico and the United States has been significant, comprising more than 200 billion dollars a year when compared to sixty billion dollars before NAFTA.38

Overall, trade among all three nations increased, strengthening the economic ties among the nations. Mexico has become Canada's largest trading partner as well as its

33. Fitzpatrick, supra note 29, at 7. This article presents a thorough analysis of the differences between NAFTA and the EU's structure regarding political and economic integration.
35. Id.
36. Id. This article also notes that the projections for the rise in real GDP and for the employment and wage increases were due to the assumption that NAFTA would generate increased foreign capital to Mexico. As a result, Mexico successfully obtained the increased foreign capital that it expected. Id.
eighth largest export market. In turn, Canada is now Mexico's second largest market for sales (after the United States).

Generally, business groups tended to support NAFTA due to the potential increase in the business and trade that NAFTA generated. Additionally, Canada generally recognized a stronger relationship with Mexico than it originally had before NAFTA's inception.

2. Negative Effects of NAFTA

Critics have long contended that NAFTA benefits Mexico more than the United States and Canada. Moreover, opponents to NAFTA believe that it takes U.S. jobs away in place of lower paying jobs in Mexico. Such opponents include influential groups such as the AFL-CIO, the Teamsters Union, and the American Coalition for Competitive Trade. In addition, Victor M. Godinez, professor of the Department of Economics at the University of National Autonomy in Mexico, states that the result of NAFTA was mainly an increase in employment within the maquiladoras region (rejuvenated and more prosperous business and industry region of northern Mexico), leaving many other regions with high unemployment rates. Part of the reason behind the small job growth in Mexico as a result of NAFTA was that much of the foreign capital that entered Mexico was used for current consumption rather than investment. As a result, Mexicans continued to head north of the border for higher paying employment opportunities in the United States. Although statistics vary regarding the employment effects of NAFTA, one must wonder if the negative effects on the United States are as far reaching as reported. Despite any criticism of NAFTA, President Fox, in his proposed expansion,
plans to follow the style of the European Union to create his vision of a Common Market.  

C. THE EUROPEAN UNION: BACKGROUND AND EFFECT

In order to consider the feasibility of expanding NAFTA after the style and structure of the EU, it is necessary to understand the EU’s history and current structure. The first glimpse of a European union began in 1951, when six war-ravaged states, Belgium, Italy, Germany, France, the Netherlands, and Luxembourg united to promote peace and economic progress. This unification came about because these countries’ economies were devastated following World War II and they saw the economic advantages of forming a partnership. They joined in creating the European Coal and Steel Community in 1951, the first of many treaties solidifying the partnership among the depressed nations. These European countries’ main purpose for uniting was to rejuvenate their economies.

In the decades following, a number of treaties were enacted that would further unite the European countries in the political and economic realm.

First, the 1957 Treaty of Rome established the plan for free movement of people, goods, services, and capital, yet “it would take many years to fully realize these four freedoms.” The Schengen Agreement removed the remaining visible signs of borders amid the European nations, thereby allowing citizens to freely move from one country to another. The Treaty of the European Union, which was signed in 1992 (commonly known as the Maastricht Treaty), further enhanced the process toward European integration, carrying the EU forward “to a new economic and political dimension.”

51. Id.
52. Id. Treaty Instituting the European Coal and Steel Community, Apr. 18, 1951, 261 U.N.T.S. 140. Additionally, the article mentions that by combining the six nations’ entire coal and steel production, the countries achieved their goal stronger European integration. Oehme, supra note 50, at 9–10. This goal was further reached through subsequent treaties such as the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM), whose main goal was to establish a common market and integrated economic policies. See Treaty Establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 3; Treaty Establishing the European Atomic Energy Community (EUROATOM), Mar. 25, 1957, 298 U.N.T.S. 167.
54. Id. at 10. The effect of the union was almost immediate, as trade between the member states escalated, while also reducing internal tariffs and quota restrictions. Living in Belgium: European Union—History, at http://www.living-in-belgium.com/livin_art_info_0092.htm (last visited Jan. 27, 2001) [hereinafter Living in Belgium].
55. Oehme, supra note 50, at 10.
56. Id.
57. Id.
58. Id. In 1997, the Treaty on European Union was amended by the Treat of Amsterdam, furthering strengthening the “union’s institutional structure, its voice in world affairs, the freedom
Today, the EU comprises fifteen member nations, which encompass both political and economic integration and an economic market of over 376 million people. As noted above, the integration of the EU has followed a progression from treaty to treaty while developing its own sense of political structure, its own legal system in relation to its member states, and its own pro-business trading environment.

The European Community is not a state but instead an association of sovereign, democratic countries that have set forth and agreed to abide by their founding treaties and political objectives. However, the rules under which these obligations were created are extensive enough and create a number of consequences so that they need institutions to apply these rules. These institutions comprise the Council of Ministers, the European Parliament, the Commission, the Court of Justice, and the European Central Bank. The EU's main economic achievement was the creation of a single market that is common to all Member States. Specifically, Article Two of the Treaty of the European Union states one of its main tasks:

by establishing a common market and an economic and monetary union and by implementing the common policies or activities referred to in Article 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.


59. Jackson, supra note 41, at 15. The fifteen member nations of the EU comprise Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the United Kingdom. Living in Belgium, supra note 54.

60. Oehme, supra note 50, at 10.

61. Id. This article also points out that further integration by the members of the EU will continue to cause the members to surrender some of their national sovereignty to a “supranational authority.” See Id. Similarly, President Fox’s desire to follow the EU’s path may prove to be difficult due to the differences among the three governments comprising NAFTA. Id.

62. William C. Graham, NAFTA Vis a Vis the E.U.—Similarities and Differences and Their Effects on Member Countries, 23 CAN.-U.S. L.J. 123, 126 (1997). This article also presents a comparison of the different political institutions and structures of the NAFTA member nations as opposed to the EU member nations. Despite some similarities, the author presents a number of factors, which in their totality, create distinct and arguably concrete differences that present obstacles for the NAFTA nations to follow. Id. at 125–26.

63. See generally Oehme, supra note 50. Each institution operates to assure that the policies and procedures of the EU are carried out effectively.

64. Id. at 11. The EU, when viewed as a single marketplace without any borders or trade restrictions, is viewed as more sophisticated than NAFTA. Id.

65. Treaty of Amsterdam, supra note 58, art. 2.
In order to adhere to this provision, the EU has committed itself to "harmonizing" labor standards in the areas of wages, work-week, and other factors included in the cost of labor; further increasing the economic integration among the member nations. 66

Thus, the fifteen member nations are seen as fully integrated, both politically and economically, and even more so now with the adoption of their common currency, the Euro. 67 In addition, the EU continues to change and evolve by enacting new agreements that further strengthen the member nations' ties to each other. 68 Strict standards also assure that new nations joining the EU will complement the other member nations' economies and purpose. 69

III. President Fox's Proposal and Agenda for a Common Market

In general, the American and Canadian governments initially showed enthusiasm for President Fox's interest in reform and in the changes that his proposed policies could bring to the government of Mexico, as well as the United States and Canada. Some of President Fox's proposals, in particular his desire for the creation of a Common Market coupled with a plan to eventually open the 2,000-mile border between Mexico and the United States, were received cautiously. 70 It is first necessary to understand President Fox's reasons behind a Common Market before discussing the additional policies he sets forth that are essential to its achievement.

A. President Fox's Common Market Policy

Ultimately, President Fox believes that the policies and rules governing NAFTA should be expanded beyond their original intent of simply a tripartite trade agreement. 71 His basis for expansion is modeled after the pattern of trade agreements that proceeded

66. Jackson, supra note 41, at 10. The author notes that harmonization can occur by "leveling the playing field of competition" in two ways. Harmonization can remove incentives for relocation to lower cost states, as well as remove comparative advantages brought on by various government policies. Id. at 11.


68. Id. at 53. Part of the notion of unification between the European members involves "enlargement." As noted, the objective of enlargement is "to unite a continent, to recover an enormous territory of peace and prosperity, and above all, to provide a framework for interchange among cultures that are different but historically complementary." Id.

69. Living in Belgium, supra note 54. For instance, even though there is a EU custom agreement with Turkey, full membership has been placed on hold until there is: (1) a significant improvement in human rights; (2) a lasting stable democratic government; and (3) a settlement of the Cyprus problem." Id.


71. Philips et al., supra note 2, at 30.
in Europe toward the development of the EU. Just as the trade agreements in Europe eventually resulted in the creation of the EU, President Fox proposes that NAFTA should evolve into the entire continent of North America, creating a giant Common Market with one labor market and completely open borders. In expanding NAFTA's regulations, this Common Market would comprise trade that would promote the free movement of capital, goods, services, and labor.

According to President Fox, his idea of a Common Market involves moving upwards from simply a trade agreement to a "community-of-nations agreement." As a result, this would involve a deeper level of integration within the North American countries. One area impacting Mexican trade is that NAFTA mainly supports and benefits only large businesses. The focus on expansion, however, would be to adjust NAFTA so the benefits also reach small and medium sized companies. For example, 80 percent of Mexico's current exports come from major corporations. Moreover, according to President Fox, a Common Market would be a natural progression of NAFTA and would also benefit the United States and Canada as a whole, not just business corporations within the countries. Yet, in order for all parties to benefit, the Common Market must be designed and more stringently adhered to than NAFTA.

Part of the plan for a Common Market first involves "narrowing the gap" between the North American Countries. Much of this gap has to do with narrowing the disparity between income levels in Mexico versus income levels in the United States and

73. Id. It is interesting to note that President Fox is not the first one to push the general idea of a North American Common Market. The general idea was floating about during Ronald Reagan's 1980 presidential election campaign. The idea was tabled, however, because at the time many Mexicans and Canadians believed the plans were simply a "blatant bid" on behalf of the United States for its neighbors' natural resources. Additionally, Mexico was too preoccupied at the time with its own political and economic problems to devote much energy to creating a Common Market. Peter Goodspeed, Free Trade Zone Could Include Canada, Mexico, U.S. Official Says, THE TORONTO STAR, Nov. 14, 1985, at A1, at LEXIS, Country & Region Library, Stories about Mexico File.
74. Robert A. Pastor, Leader Must Build on Neighborly Ties; Un Nuevo Mexico, ATLANTA J. & CONST., July 9, 2000, at 1D, at LEXIS, News Library, News Group File. Note that these are the four freedoms that the Treaty on European Union seeks to promote. Oehme, supra note 50, at 10.
75. Black, supra note 23.
76. Elisabeth Malkin ed., Vicente Fox on the Transition, NAFTA, Corruption, Drugs, the Economy..., BUS. WK. ONLINE, §12 (July 17, 2000), at http://www.businessweek.com/2000/00_29/b3690043.htm.
77. Id.
78. Patterson, supra note 5. Note that President Fox, when evaluating NAFTA, mainly refers to Mexico when discussing companies not yet affected by NAFTA.
79. Pastor, supra note 74, at 1D.
80. Id.
Canada. During an interview, President Fox explained: "[W]e have to narrow the gap on development; we are never going to be the best of friends and best neighbors and best partners if we don't narrow the gap where we have huge differences on income in Mexico compared to income in the United States or Canada."

One example of the gap to which President Fox is referring is evident in 1999, when based on purchasing power parities "per capita GDP in Canada was four times that of Mexico, while the United States was seven times higher." In addition, President Fox desires to deviate from the current NAFTA thinking that the countries that are party to the agreement all compete against each other. A Common Market, according to President Fox, would result in a partnership where all the parties would complement each other's economies and would "work together for a common purpose, such as with the EU."

Of course, this ambitious proposal is not one that could be formulated and implemented within even a few years. President Fox believes that if his proposal for a Common Market is to be successful, it must be viewed as a long-term process in which there are gradual transitions. This means that President Fox realizes his plan for implementing a Common Market will extend past his six-year term as President. Moreover, President Fox suggests that such a proposal would take upwards of twenty to thirty years to fully implement and that there are many intermediate steps that are needed along the way.

In order to narrow the gap between Mexico, the United States, and Canada, President Fox proposes to create fully open borders that allow the free movement of labor among the three countries, as well as to increase the development aid for Mexico's economy. The reality and implementation of these measures is currently grounded in the development stages. If President Fox implemented and achieved his Common Market proposal, the market itself would currently be an economic colossus with more than 400 million people and a nominal GDP of almost 9,000 billion dollars. One of the first measures by which President Fox hopes to realize a Common Market will be to open the borders for free movement of labor between Mexico and the United States.

1. The Proposal for Open Borders between Mexico and the United States

As noted above, part of the purpose behind a Common Market is to decrease the disparities among the member countries' incomes. President Fox contends that one of

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82. Id.
83. Id.
85. Id.
86. Id.
87. Id.
88. Id.
89. Id. Although President Fox's economic policies play a more important role in the development of a Common Market, it is interesting to note that an additional reform that President Fox proposes is an increased commitment to developing creative multilateral approaches to ceasing the illegal drug trafficking. Id.
90. Black, supra note 23.
91. Supra note 23.
92. Id.
the biggest opportunities to decrease the disparity of incomes among the NAFTA nations would be to open the borders between Mexico and the United States.\footnote{Id.} To emphasize his point, President Fox explains, "A worker on the Mexican side will make five dollars a day; in the [United States], the same work would make sixty dollars a day. What we have to really worry about at the end is reducing that gap and eliminating those differences."\footnote{Mexican Economy, supra note 16.}

Reducing this gap, however, could prove to be a tough feat for President Fox given the current income level of the North American countries. For example, even though real wages have been rising since last year, GDP per head in Mexico is approximately $5,500 a year compared to $36,000 in the United States.\footnote{Breaking Foreign Policy Taboos, ECONOMIST, Aug. 26, 2000, LEXIS, News Library, Magazine Stories File.}

Opening the borders between Mexico and the United States would allow for the free flow of labor between both countries, and could eventually have the effect of reducing the income gap.\footnote{Id. at 431.} Such a policy is not as easy as it seems because there are many issues to contend with, such as the potential overflow of workers from one country to another. In time, opening the borders could actually keep Mexicans from migrating to the United States in search of higher wages.\footnote{Martin, supra note 34, at 431. See this article for a detailed discussion on the comparison and connection between migration and economic integration with Mexico and the United States. The article points out that the most effective way to reduce migration in the long run is to further integrate the economies of Mexico and the United States.} President Fox states one example to support his proposal for open borders by analogizing to the situation that was present among European nations years ago.\footnote{Vicente Fox, supra note 81.} President Fox states:

Twenty-five years ago Spaniards used to go to work illegally in Germany, England, and France, and they worked a holistic approach and long-term process, and today they don't have the migration problem anymore. Why? Because Spaniards have their own country opportunities, good wages, and they don't have to go out [of Spain]. This is basically again the challenge we have in Mexico, but if we can work it out together, for instance, reinforcing, reinventing [NAD Bank] the North American Development Bank—that could be a tool for development, and of course, we are not going to open the borders before have reach those levels of integration, those levels of equity—as long as we don't narrow this gap, [there is] no way that the border should be open.\footnote{Id. This article also points out that if there are jobs within Mexico that give hope of a better future then a reduction of the current wage gap (ten or twelve to one) to four or five to one should reduce unwanted migration. This reduction in migration would occur well before wages between the nations are equal. Id. at 432.}

The growth that President Fox is proposing that would help to narrow the gap involves an increase in the growth of Mexico's economy up to 7 percent, an increase from
4 to 5 percent,\textsuperscript{100} and to make sure that 1,350,000 jobs are created in Mexico.\textsuperscript{101} President Fox's open border proposal is very different from the current regulations under NAFTA, which authorize each member nation to "restrict immigration from other member nations into its territory and to take whatever steps necessary to ensure border security."\textsuperscript{102}

2. Proposal to Increase Development Aid as a Means of Narrowing the Gap to Achieve a Common Market

In addition to opening borders for the free trade of labor between the United States and Mexico, President Fox believes that another means of narrowing the gap should come in the form of development aid to the North American countries with the most need.\textsuperscript{103} One such means to increase the aid would be to create a development bank that would involve the three North American countries contributing funds to the bank, with an emphasis on contributions from the United States.\textsuperscript{104} This fund would be similar to the fund created for European development that helped raise living standards for Ireland, Spain, and Portugal upon joining the European Union.\textsuperscript{105}

President Fox suggested, however, that all three countries could contribute according to the proportion of each countries economy and that the funds would be used for the development of all of North America.\textsuperscript{106} For example, President Fox proposed that the funds could be used for highways to connect the three countries as well as be used to build up jobs in rural communities in Mexico.\textsuperscript{107} President Fox's main point is that the funds could be used in any of the three countries, as long as the purpose is to promote the development where needed and to decrease the current disparity among the countries.\textsuperscript{108}

As evident by the North American countries' economies, however, Mexico appears to have the most to gain for the least investment in terms of contributing to a development bank. As a country in the most need, it is only logical that a majority of the development aid would go directly to Mexico. President Fox's proposed development aid goal of securing approximately twenty billion dollars is a substantial increase to the eleven billion dollars Mexico already receives annually as direct foreign investment.\textsuperscript{109}

One additional measure in which President Fox plans to decrease the disparity between the countries would be to use some of the development funds to double the education budget, in turn raising the skills and competence of Mexico's youth to create greater opportunities for jobs.\textsuperscript{110} This is the similar effect that President Fox would like

\textsuperscript{100} Mexican Economy, supra note 16.
\textsuperscript{101} Vicente Fox, Online News Hour, \textit{at} http://www.pbs.org/newshour/bb/latin_america/jan-june00/fox_3-21.html (Mar. 21, 2000) [hereinafter Online News Hour].
\textsuperscript{103} Vicente Fox, supra note 81.
\textsuperscript{104} Id.
\textsuperscript{105} Fox Seeks Investors to Boost Mexican Growth, supra note 84.
\textsuperscript{106} Vicente Fox, supra note 81.
\textsuperscript{107} Id.
\textsuperscript{108} Id.
\textsuperscript{109} Smith & Malkin, supra note 37, at 38.
\textsuperscript{110} Id.
to have regarding his open border policy. The main objective in both the open border policy and increasing the development aid among the NAFTA countries would be to narrow the gap of income and living standards so that a Common Market would be achievable. Yet, these policies, in addition to a Common Market itself, pose both benefits and obstacles to its realization. For instance, one may wonder what good will result by spending money to educate laborers if they in turn have not equally invested in additional improvements in work facilities and trade specialties. These concerns are not easily answered.

IV. Advantages and Obstacles to Achieving a Common Market

A. Advantages of Open Borders Between Mexico and the United States as a Means of Moving Toward a Common Market

Not only does Mexico view an open border policy as a way to equalize the incomes between the countries party to NAFTA but also as a way to reduce the human cost involved in the migration. Undoubtedly, opening the borders and taking down the barriers to immigration will most likely spare human lives. According to U.S. Border Patrol, 310 Hispanics alone have died during the year 2000 attempting to cross borders over into the United States.

As noted earlier, most Mexicans cross the border into the United States in order to earn higher wages. As a result, the United States has sought to increase border patrol as a means of slowing the illegal migration. Efforts are progressively more frustrating when the Mexicans seeking to enter the United States do so with multiple attempts, increasing the cost of controlling such immigration even more. However, there are those who contend that the United States needs Mexican labor and wish to gain the support of political agencies to create economic aid agencies, modeled after the EU, that could help Mexico close the gap on current living standards.

From a political standpoint, if the United States reduced its control of the border, it could use the money that it has been spending to decrease illegal immigration on developing the economy of Mexico by encouraging Mexicans to stay in Mexico to work.

111. Vicente Fox, supra note 81.
112. Analysis: U.S. Officials View Mexican President Vicente Fox's Ideas with Caution (NPR: Morning Edition radio broadcast, Aug. 24, 2000), at 2000 WL 214181363 [hereinafter NPR Morning Edition]. This article also discusses the criticism that the United States receives for its mistreatment of Hispanics that cross the border for work. Part of the support for increasing investment in Mexico would be to alleviate the problems arising from border problems due to Mexico's current economy. Id.
113. Id.
114. Martin, supra note 34, at 422.
115. Id.
116. Id. at 423.
118. Id. Note that some officers of the United States Border Patrol report that part of the reason for the fast but low inflation rate growth in the United States is due to illegal immigration by Mexican immigrants. Id.
The United States Border Patrol has arrested approximately two million people attempting to cross the border into the United States each year and estimates that this comprises only two-thirds of all those attempting to enter the United States. Instead of spending money to catch those that attempt to cross, the United States should be spending this money to promote growth in Mexico so that other migrants who are not as motivated do not even attempt to cross because there are other opportunities within their own country.

Allowing for open borders may seem to increase immigration in the short run, but such immigration may not continue if President Fox's other policies of moving toward a Common Market are successful. Based on the success of President Fox's policies, increasing aid to Mexico so that there are job opportunities that pay higher salaries may possibly decrease immigration in the long run by keeping "less motivated potential migrants" from attempting to cross the border.

Such immigration may likely stabilize over the long term so that there would not be any excess in immigration warranting the United States' concern. Thus, open borders between the United States and Mexico would most probably decrease the deaths that occur each year of those attempting to cross the borders. This action could allow the United States to divert the funds used for patrolling the borders to labor development in Mexico, and in turn move the countries further toward establishing economic integration similar to the integration of the EU.

B. Obstacles Regarding Open Borders between Mexico and the United States

1. The Policy Would Have the Effect of Opening the Floodgates for Immigration

While President Fox's proposed policy of open borders is a noble one, the policy is not one likely to be supported by U.S. politicians in either party. It is likely there would be little if any support for allowing Mexican workers to freely "pour" over the border into this country. In addition, enforcement of the border spans beyond the

119. Id. This article also notes that some migrant scholars contend that the most efficient way to reduce Mexico-U.S. migration in the long run is to integrate the economies of Mexico and the United States while promoting faster economic and job growth in Mexico to keep Mexicans at home. However, this has been the opposite role of the United States thus far. Instead of developing further job growth in Mexico, the United States has increased budget allocations for border controls to almost 4.2 billion dollars. Martin, supra note 34, at 432.

120. See Fox to Turn NAFTA into a Customs Union?, supra note 117, at 1.

121. See generally Martin, supra note 34. This article additionally covers the analysis of open border policies and their affects on economic systems of countries with open border policies. Based on this analysis and assumption of President Fox's success with his other policies, increased migration should not be a concern in the long run.

122. Fox to Turn NAFTA into a Customs Union?, supra note 117, at 1.

123. Martin, supra note 34, at 431.

124. Fox to Turn NAFTA into a Customs Union?, supra note 117, at 1.


126. Id.
scope of merely guarding the border for trade issues. For instance, much of the border patrol is also used to slow the illegal flow of drugs entering the United States.\textsuperscript{128} Moreover, Peter Morici, senior fellow at the Economic Strategy Institute, commented, "Given Mexico's five million unemployed workers and our law that anyone born in the U.S. qualifies for American citizenship, you'd basically be inviting open immigration."\textsuperscript{129} Some point to the idea that this would increase concerns in border states, especially in California, Arizona, and Texas.\textsuperscript{130} Labor groups generally fear, as they did regarding NAFTA's inception, that open borders would take away U.S. jobs.\textsuperscript{131}

Additionally, if there were a strong influx of Hispanics crossing the border northward, some fear that Mexico's tax base may be severely hit, placing a strain on social tensions in the United States.\textsuperscript{132} If Mexico's tax base were negatively impacted, it would place a severe strain on Mexico to generate revenue as well as disrupt social tensions in the United States.\textsuperscript{133}

Overall, this may result in the same problem Mexico has experienced in the past that actually encouraged Mexicans to cross the border for higher paying wages. This is because Mexico would have to spend revenues on current consumption rather than invest the revenues in job development and education training to raise the standards among the Mexican workforce.

In order to counter those that believe that an open border policy would essentially open the floodgates of immigration, one must understand why people enter America to begin with.\textsuperscript{134} The basic idea is that Mexicans do not necessarily enjoy entering into a strange country where their native language is not spoken and the cultures are inherently different.\textsuperscript{135} Instead, Mexicans cross the border into the United States because living conditions are so poor in Mexico that even work as a day laborer may be an improvement in their standard of living.\textsuperscript{136}

\textsuperscript{127} See generally NPR Morning Edition, \textit{supra} note 112.
\textsuperscript{128} Id. This article points out that there are additional border problems regarding drug trafficking between both countries. For instance, about 60 percent of cocaine entering the United States crosses the border through Mexico.
\textsuperscript{130} Online News Hour, \textit{supra} note 101. In response to the concerns from border states (Texas, California, and Arizona), President Fox referenced similar concerns that were alleviated among the EU countries regarding migration and differences in incomes.
\textsuperscript{131} Cargill Bulletin, \textit{supra} note 42.
\textsuperscript{132} Black, \textit{supra} note 23.
\textsuperscript{133} Id.
\textsuperscript{134} Fox Scares the Chicken Littles, \textit{Los Angeles Bus. J.}, Jul. 17, 2000, at 50, LEXIS, News Library, Magazine Stories File. This article discusses the reasons why President Fox's election was considered a step in the right direction by the U.S. business world. In addition, the article reevaluates the arguments that arose when NAFTA was being implemented as the same arguments that are being made for President Fox's major reforms. \textit{Id}.
\textsuperscript{135} \textit{Id}.
\textsuperscript{136} \textit{Id}.
Earning higher wages in the United States allows Mexicans to send their wages home to Mexico to support their families. Thus, according to President Fox, allowing the free movement of labor between the United States and Mexico will improve the Mexican economy, actually giving Mexicans less reason to migrate north for work.

2. Little Support from the United States and Canada from the Outset

One of the first chances of success for President Fox's proposed Common Market came when President-elect Fox spent two days visiting with politicians in the United States and Canada in late August 2000. The idea of bringing President Fox's proposal to reality depended on the U.S. presidential elections, as well as the congressional elections in November 2000. One reason for paying attention to the seats in the House and Senate was that the Republicans had previously won a majority in Congress, and they continually denied Clinton any “fast-track” authority to further negotiate trade proposals. That meant that future action for NAFTA was put on hold until at least the American people voted. After the elections, it is still unclear the degree of support that newly elected President George W. Bush will have from an almost equally divided House and Senate.

a. United States' Response to President Fox's Policies

President Clinton reacted to the open border policy with extreme caution, careful not to reveal too much regarding his feelings about the proposal. In response to the proposal, President Clinton stated, “Obviously we have borders and we have laws that apply to them, and we have to apply them. And so do the Mexicans. But I think over the long run, our countries will become more interdependent.” This guarded statement has two implications. First, at the time of his statement, President Clinton was not committed one way or another and did not provide guidance for the two presidential candidates, Vice-President Al Gore and Texas Governor George W. Bush, to follow. Secondly, Clinton did not indicate that the open border policy, as a means to achieve a Common Market, is a preferred method that we need to follow in order for our countries to become more interdependent. President Clinton's statement is more elusive and open ended than it is tied to the vision of an open border policy or Common Market.

137. Martin, supra note 34, at 427. Also note another factor influencing the desire for Mexicans to cross the border involved the devaluation of the peso. The devaluation increased the gap between dollar and peso wages, giving workers a greater incentive to earn dollar wages to send back to their families. Id.
138. Fox Scares the Chicken Littles, supra note 134, at 50.
139. Fox Pitches Open-Border Proposal to Clinton, supra note 70.
141. Fox Pitches Open-Border Proposal to Clinton, supra note 70.
142. Id.
Thus, from the beginning, President Fox's meeting with President Clinton did not do much to bolster enthusiasm or momentum for the proposed policies. There remained the fact that President Clinton, however, would not be the ultimate authority since his departure from the White House was shortly after President Fox took office. Yet, President Clinton's opinion has been known to carry weight within the American public at large and may influence the newly elected president.

President George W. Bush sits a little closer to home as the past governor of the largest state bordering Mexico and has stressed the importance of a partnership between the United States and Mexico. Yet, despite President Bush's support for improving the relationship between Mexico and the United States, he expressed reservations regarding opening the border between the two countries. Bush also expressed concern that President Fox had not fully explained his open border policy in detail, and believes that the United States should continue to enforce its 2,000-mile border under law.

While campaigning, George W. Bush charged that the Clinton administration failed to obtain "fast-track authority" from Congress, even though every President over the past twenty-five years has had such authority. He stressed his commitment to the United States' relationship to Mexico by proposing a summit with Mexico after the November election. With George W. Bush as President, one may wonder whether his commitment to Mexico will decrease the criticism he received during his campaign regarding his lack of experience in international policy.

b. Canada's Response to President Fox's Policies

Not only does President Fox have to persuade the United States that his long-term policy of a Common Market is worth pursuing, but he must also persuade Canada. It appears that Canada is in a less likely position to look favorably at President Fox's proposals. In August 2000, President Fox and Canadian Prime Minister Jean Chretien met in Ottawa to talk about the possibility of expanding NAFTA into a Common Market. Chretien commented, "I don't think we can adopt the European model in the years to come... NAFTA is working very well for now," and also claimed that political union would be impossible given the strength of the United States in relation to Canada and Mexico.

There are a number of possibilities for Canada's stance against a Common Market. For instance, although Canada is currently in a good trading position with the United States, there is skepticism that a Common Market could eventually develop into a union

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143. Bush Meets Fox, supra note 140.
144. Id.
145. Id.
146. Id. It is interesting to note that George W. Bush focused not only on Mexico, but also on the remaining countries of North America when campaigning for Presidency.
147. Id.
148. Id.
150. Id.
151. Id.
with a common currency (most likely adopting the U.S. dollar). An additional reason for the reluctance of a Common Market on behalf of Canada lies in the threat that Mexico could adopt the U.S. dollar as a parallel currency. If President Fox can deliver on his promise of allowing Mexico's growth to rise to 7 percent by the fourth year of his term, Mexico's rich northern states could become as productive as the United States. This could create a threat for Canada because the lower wages and currency stability in Mexico may mean competing for investment coming into North America.

c. Response from Labor Groups and Other Organizations

There is also a belief that popular opinion is not in favor of NAFTA for reasons that include harming U.S. employment, while in turn benefiting employment in Mexico. Much of this concern comes from citizens, corporations, and especially labor unions. For example, labor unions are concerned that the open border policy in particular would result in pitting Mexican workers against U.S. workers in an already tight labor market. Despite economists claiming that the “robust” economy has created fifteen million jobs, opponents of NAFTA say that NAFTA alone has cost over 200,000 U.S. jobs.

On the other hand, there are supporters that say that people focusing on the number of jobs lost to NAFTA are not taking into account the number of U.S. jobs that were created as a result of NAFTA. If there is discernment for NAFTA as it stands now, what are the realistic chances that NAFTA could be expanded further to completely open up borders between the United States and Mexico? Indeed, this is an issue that remains both complicated and unresolved.

152. Phillips et al., supra note 2, at 30. This article also points out International Trade Minister Pierre Pettigrew's concerns that Canada would not prefer to switch to the U.S. dollar because then Canada would no longer be able to adjust domestic interest rates if necessary. Id. Trade Minister Pettigrew added that Canada's economy might be penalized as a result of operating under such a monetary union. Id.
153. Id.
154. Id.
155. Id.
156. Id.
157. Cox, supra note 129, at 1B.
159. Cox, supra note 129, at 1B.
160. Fox Scares the Chicken Littles, supra note 134, at 50.
161. See Cargill Bulletin, supra note 42. This article also presents an example of such discernment, which has come in the form of measuring NAFTA's performance against its promises. Id. To measure NAFTA's performance, representatives introduced a bill called the NAFTA Accountability Act. Id. The bill argues that the government passed NAFTA based on promises such as increasing the standard of living in both Mexico and the United States, as well as reducing illegal immigration. It appears as though the United States will be hesitant to pursue the expansion of NAFTA if it has the effect of benefiting one country at the expense of the other. Id.
d. Labor and Wage Comparisons

Although President Fox used Spain as an example of a country that has benefited from the policies of the EU with regard to open borders and the opportunity to work across country borders,\(^\text{162}\) he has not yet recognized the disparities between the EU member nations. While the members of the EU have open borders and are generally viewed as fully developed and integrated, there are still significant differences in terms of comparisons of labor markets.\(^\text{163}\) In fact, due to the pressure of high unemployment and increasing welfare costs, some European countries may choose to move toward deregulated labor markets.\(^\text{164}\) Despite the integration and open borders of the EU, the European labor market remains fragmented due to “linguistic and cultural barriers” that cannot be solved very easily.\(^\text{165}\) Thus, the EU does contain disparities regarding earnings and wages among its member nations, so the argument that open borders helped to eliminate this difference may be premature.

C. Criticism for Increasing the Development Aid Among the North American Countries

1. In Order to Narrow the Gap in Relation to the United States and Canada, Mexico Must First Narrow the Gap between Regions in Its Own Country

Before Mexico can focus in on closing the gap between other North American countries, it may prefer to focus in on closing the widening gap between some of its own regions containing economic and income disparity. Forbes Chairman, Caspar W. Weinburger, witnessed evidence of Mexico’s regional disparity, noting:

Roughly everything north of an east-west line through Mexico City is experiencing a rapid economic recovery. As one of the happy results of the \([\text{NAFTA}], \ldots\) this part of Mexico has many thriving enterprises. The other Mexico lies south of this dividing line, all the way down to Chiapas, long the symbol of Mexico’s poverty and its educational infrastructure inadequacies.\(^\text{166}\)

With respect to the differences between the regions, the northern half of Mexico appears to be the main participant in NAFTA, while the southern half of Mexico appears to be more in line with the less developed Latin American countries.\(^\text{167}\)

With an emphasis on equalizing the regions of Mexico, there is a concern that Mexico could be neglecting its relationships with other Latin American countries.\(^\text{168}\)

\(^{162}\) Vicente Fox, supra note 81.


\(^{164}\) Id.

\(^{165}\) Id.


\(^{167}\) Id.

\(^{168}\) \textit{Breaking Foreign Policy Taboos}, supra note 95.
Sensing the possible upset among those countries, President Fox has "sought to reassure the rest of Latin America that any deepening of Mexico's privileged relationship with the United States will not lead it to neglect the rest of the region." In fact, there is talk among the Latin American countries regarding the creation of a Latin American Common Market. Among President Fox's new plans is the proposal to also create a Common Market of the South (MERCOSUR), comprising partnerships with Argentina, Chile, and Brazil. One must wonder how President Fox will manage to support Mexico being a party to both a North American Common Market as well as a Latin American Common Market, given the huge disparities among the countries themselves.

2. Increasing the Development Aid May Be Significantly More Expensive Than Anticipated

An additional concern is exactly how expensive it will be to bring Mexican incomes and living standards more in line with those of the United States and Canada. Undoubtedly, a substantial increase in foreign investment is necessary to implement such a proposal. According to an estimation by Raul Hinojosa, a NAFTA specialist at the University of California at Los Angeles, it would "take subsidies or investments of $240 billion over 10 years for labor training and other programs to reduce the wage differential between the [United States] and Mexico from 8 to 1 to 5 to 1—a level at which immigration pressures would ease." Whether or not the United States or Canada is willing to partake in contributing to a development fund for the increase of what is likely to be Mexico's economy is debatable. The United States and Canada could likely contend that they do not have any vested interest in sending aid over and above what they already contribute to Mexico, since their returns are not likely to be direct and accountable. However, President Fox suggests that investing in Mexico to increase its development could help increase education and training opportunities in Mexico, allowing for less immigration to the United States for those Mexicans seeking higher wages. While President Fox may be able to increase foreign investment in Mexico, as he did for the state of Guanajuato (in the wealthier northern region of Mexico) when he was governor, it is debatable whether the North

169. Id.
171. Id. President Fox plans to discuss the issue of a Latin American Common Market with Presidents Fernando de la Rua of Argentina, Fernando Henrique Cardoso of Brazil, and Ricardo Lagos of Chile. Id. Not only does President Fox's plan incorporate a political relationship among the Latin American countries, but it is also a means to exchange views on trade. See Id.
173. Vicente Fox, supra note 81. President Fox seeks a commitment of at least twenty billion dollars a year from the United States alone, which is almost double the U.S. foreign aid budget for the entire world. Id.
174. Smith & Magnusson, supra note 172, at 56.
175. Vicente Fox, supra note 81.
American countries will commit to sending foreign investment to Mexico through the creation of a central development bank.

D. **The European Union-Style of Trade Cannot Be Ideally Recreated with the North American Countries Due to Their Inherent Differences**

Experts say that President Fox’s idea of a Common Market is possible without the EU-style integration he discussed.\(^{176}\) For instance, the fifteen nations comprising the EU all share a parliament and bureaucracy, while eleven of the fifteen nations share a common currency.\(^{177}\) However, part of the success of the EU is due to the fact that the EU itself has governing institutions that take care of all aspects of the member nations’ economic and political issues.\(^{178}\)

One may argue that the nations comprising the EU are much more similar in economic, political, and social settings than the United States, Canada, and Mexico. For instance, some 40 percent of Mexicans still live in poverty, a far cry above the poverty rates of either the United States or Canada.\(^{179}\) This statistic alone presents a challenge for President Fox to contend with, in narrowing the gap between the countries’ disparities.

1. **The EU Was Formed under Completely Different Circumstances Than NAFTA**

Although President Fox may wish to expand NAFTA patterning the integration of the EU, one must remember that both NAFTA and the EU were created with completely different objectives and functions.\(^{180}\) One main difference in the formation of the EU and NAFTA is that the founding members of the EU united to build each other back up from the ravages of World War II.\(^{181}\) Their economies were wrecked, and in turn, each contributing nation found strength in partnership with each other.\(^{182}\) This partnership was also a natural progression, moving from one treaty to another, until the countries achieved the desired integration.\(^{183}\)

In contrast, Mexico, the United States, and Canada were in very different positions when NAFTA was formed.\(^{184}\) None of these countries were seeking to rebuild their economies or, more importantly, seeking political integration.\(^{185}\) Instead, these countries united to seek the advantages a trade block would bring each other.\(^{186}\) The advantages were purely economic.\(^{187}\) In addition, when NAFTA was signed the United States and

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176. Cox, *supra* note 129, at 1B.
177. *Id.*
178. Graham, *supra* note 62, at 126. The governing bodies are legislative in nature. *Id.*
180. See generally Graham, *supra* note 62. This article also points out the major differences that make comparing NAFTA and the EU difficult.
182. *Id.* at 10.
183. *Id.*
185. *Id.*
186. *Id.* at 16.
187. *Id.*
Canada were on different levels than Mexico, unlike the European countries, whose economies were all war-ravaged.\textsuperscript{188}

2. \textbf{Political Factors Affecting a Common Market}

The founding members of the EU were interested in much more than economic integration.\textsuperscript{189} The European nations were also concerned with surrendering some of their independent sovereignties to further political integration.\textsuperscript{190} This political integration, along with economic integration, could also be viewed as providing strength and protection in case any threat of war were to occur on European lands in the future.\textsuperscript{191} Accordingly, economic integration was to be the first step toward this political integration in Europe.\textsuperscript{192}

Europe's plan for eventual political integration is very different from the context under which NAFTA was planned.\textsuperscript{193} The main difference is that NAFTA did not anticipate or plan for political integration.\textsuperscript{194} In fact, during the negotiations the possibility of such integration was expressly rejected.\textsuperscript{195} Unlike the EU member nations who desired to lose some of their national sovereignty to form political integration, the members of NAFTA had no desire to surrender any of their national sovereignty.\textsuperscript{196}

With the distinct differences concerning the political integration between NAFTA and the EU, one must wonder whether these differences also in turn affect the economic integration between the member nations. Does the tight political integration of the EU affect its success in economic integration? Will a lack of political integration among NAFTA members impair President Fox's desire for a European-style Common Market?

The answers to these questions remain debatable, but given the circumstances and differences among the NAFTA nations, it is likely that political integration is a necessary component to the success of a Common Market. Moreover, despite Mexico, the United States, and Canada rejecting any notion of incorporating political integration into NAFTA, there is no reason to conclude that such integration could not develop in the future, however unlikely it may seem today. Based on the current opinions and reservations of the United States and Canadian governments, however, political integration is most likely not even forethought with regard to the expansion of NAFTA.

3. \textbf{Economic Factors Affecting a Common Market}

There is also an issue of whether the North American countries can reach the degree of economic integration that the countries of the EU have achieved through their union.

\begin{itemize}
\item \textsuperscript{188} Oehme, \textit{supra} note 50, at 9.
\item \textsuperscript{189} \textit{Id.} at 9.
\item \textsuperscript{190} Fitzpatrick, \textit{supra} note 29, at 15. This article additionally points out that the contracting parties to NAFTA expressed clear unwillingness to surrender their individual sovereignties such as the lack of an accession provision for new members and the express exclusion of the idea of a free movement of persons. Thus, the article stresses that the differences are so great that comparison in this regard between NAFTA and the EU is not productive.
\item \textsuperscript{191} Oehme, \textit{supra} note 50, at 9.
\item \textsuperscript{192} Fitzpatrick, \textit{supra} note 29, at 11.
\item \textsuperscript{193} \textit{Id.} at 12.
\item \textsuperscript{194} \textit{Id.}
\item \textsuperscript{195} \textit{Id.}
\item \textsuperscript{196} \textit{Id.} at 13.
\end{itemize}
The EU was created as a free trade agreement and a customs union; however, NAFTA is distinguishable because it was only designed as a free trade agreement. Nevertheless, NAFTA has a certain degree of sophistication and is viewed as more than a simple free trade agreement. For instance, NAFTA and its Side Agreements regarding labor and environmental issues comprise more than simple trade provisions. However, NAFTA's level of sophistication in terms of labor and defining the Member States' economic relationship can be compared to the earlier stages of the treaties leading to the EU. President Fox would need to implement a plan of action to increase economic integration between Mexico, the United States, and Canada, which will be difficult given each country's distinct political and economic structures.

A spokesman at the State Department in Washington, D.C., commented that President Fox's vision is good, but the large economic gaps between the countries will keep them operating separately until Mexico becomes a first-world nation. As a result, this lack of similarity, when coupled with the other differences, does not appear to support the North American countries following a EU model. Canada and the United States have similar GDPs per capita, but this growth has slowed since 1985, with Canada experiencing a decrease in its economic growth and a relatively fast population growth in comparison with the United States. Mexico, however, has experienced the same average real per capita Gross National Product (GNP) growth rate of 1.1 percent per year since 1985, but its population has grown at twice the U.S. rate. Thus, the per capita income gap has widened significantly between the United States and Mexico during this time. In general, each country's markets have also widened over the past few years. In the United States, "information" is becoming a primary focus, while Mexico appears to remain a "nuts and bolts" manufacturing nation.

Although President Fox plans to increase Mexico's earning capacity and living standards through his open border policy and investment aid, this may not give rise to the level of economic integration characteristic of the EU. Economic integration, such as that comprising the EU, is achieved "under a regional trade regime by the elimination of legal, administrative, and political obstacles to economic flows within the integrating economic area, and where necessary, by joint regulation through common institutions." Opening the border and increasing development aid are attempts in the right direction, but President Fox must also do more than narrow the gap if he is to realize his vision for a Common Market. President Fox may need to initiate and enforce good faith measures to ensure that Mexico pro-actively does its part.

197. Id. at 16.
199. Id. at 17.
200. Id.
201. Black, supra note 23. Not only is Washington skeptical about NAFTA expanding into an EU-style agreement during Fox's presidency, but also those on Wall Street who warn of "major macro-economic imbalances." Id.
202. Martin, supra note 34, at 425.
203. Id.
204. Fitzpatrick, supra note 29, at 19.
4. Legal Factors Affecting a Common Market

An additional factor that affects the success of President Fox's proposed Common Market is the legal structure of Mexico, the United States, and Canada. Undoubtedly, legal structures impact the countries’ economic outcomes. The apparent disparities between the legal systems of Mexico, Canada, and the United States, as well as different interpretations of legal issues affect the economic flows between the countries. The EU member nations, however, have similar legal systems and the EU has an institutional system that accounts for the structural differences between the EU and NAFTA. It is unlikely, even with the recent move of Mexico toward democracy, that Mexico, Canada, and the United States will be willing to restructure their legal systems. An international economic organization, such as NAFTA, without the authority to develop a thorough and comprehensive legal system capable of dealing with regional economic issues, nor the power to enforce compliance with regional law, will be unable to integrate fully the economies of the Member States. Thus, a Common Market similar to the EU is unlikely due to the differences in the legal structures of Mexico, the United States, and Canada, which in turn, may directly affect the success of the economic integration.

5. Structural Factors Affecting a Common Market

One of the main differences between NAFTA and the EU is that NAFTA lacks its own governing institutions. Although such institutions were developed under the EU on political aspirations, it is evident that these governing institutions have contributed to the goals of promoting trade among the Western European countries. NAFTA was created to promote economic integration, yet did not elect to have any governing body enforce and promote it. NAFTA has a commission, however, but it is absent of any permanent court and, in turn, lacks a "core." An additional obstacle falls within the NAFTA treaty

205. Id. at 6.
206. Id.
207. Id. This article also noted that in general, experience has shown that “an international economic organization with neither the authority to develop and modernize a comprehensive and harmonized legal regime relating to regional economic issues, nor the power to enforce compliance with regional law, will be incapable of integrating the economies of the member states.” Id.
208. Id. at 17. This article also notes that it is "undeniable that these institutions have furthered the goals concerning free trade in Western Europe." Id. at 18. In addition, the powers that these institutions have acquired over the years have helped to explain the political goals of the member countries. Id.
210. Id. at 7.
211. Id. at 17.
212. Id. at 16.
213. Graham, supra note 62, at 128. William Graham is the Chairman of the House of Commons Standing Committee on Foreign Affairs in Ottawa, Ontario, Canada. Graham noted that although NAFTA has a commission, it is a far cry from those comprising the EU. Also, the NAFTA commission consists of three trade ministers, who are usually far too busy to meet very often. Id.
itself. NAFTA expressly bars any expansion, such as expansion to a Common Market for fifteen years after its application.214

V. Recommendations and Conclusion

A. Recommendations

1. Mexico Should Focus on Decreasing the Disparities within Its Own Regions

Mexico may first want to focus on decreasing the disparities within its own country by increasing the development in southern Mexico. One suggestion would be for Mexico to redefine its goals with the United States and Canada rather than focusing on a broad and expansive Common Market.215 In addition, President Fox is likely to gain more support from the U.S. and Canadian governments once they have seen that he indeed contributes to the success of helping to narrow the gap within his own country.

2. The Member Nations Could Also Form a Commission to Further Integrate NAFTA's Policies

The countries should also establish a North American Commission that would strive to facilitate "legitimate integration and [the prevention of] illegal movements of people, drugs, and arms."216 Although this may sound similar to the European Commissions now in operation, the North American Commission would be different from its European counterpart in that it would contain a small staff and the principal goal would be to prepare agendas for meetings among the three nations.217 The North American governments could form the commission so that each country does not have to surrender any of their national sovereignty. Thus, even setting up a small NAFTA commission could do much to foster and unite the countries to a tighter trade relationship.

B. Conclusion

The idea of expanding NAFTA to form a Common Market similar to the EU will continue to be an item of debate and discussion in the near future as President Fox takes the stage as Mexico's new president and as changes are made in the U.S. and Canadian governments. President Fox's long-term vision of expanding NAFTA involves his hope to "narrow the gap" among the economies of Mexico, the United States, and Canada and to eventually form a partnership fashioned after the EU.218 This proposed Common Market would combine a deeper economic and political partnership with the goal of promoting free movement of capital, goods, services, and labor.219

Aside from the general idea of a Common Market, there are those who oppose the other proposals that President Fox wishes to implement, such as opening the U.S.-Mexico border to allow for the free flow of citizens. Those concerned believe that an open-border policy would involve a flood of immigrants "pouring" into the United States.220

214. Black, supra note 23.
215. Pastor, supra note 74, at 1D.
216. Id.
217. Id.
218. Vicente Fox, supra note 81.
219. Pastor, supra note 74, at 1D.
ative effect this would have on Mexico could be to erode its tax base.\textsuperscript{221} Although former President Clinton and President George W. Bush expressed the importance of strengthening the Mexico-U.S. partnership, each leader also expressed reservations regarding President Fox's proposal for eventually opening the borders.

According to President Fox, increasing development aid to Mexico would help to narrow the gap among the countries' economies, moving them closer to the reality of establishing a Common Market.\textsuperscript{222} With each country contributing to the development bank, each has a vested interest in how the funds are spent and would be more likely to make certain that the funds are being spent in the most effective manner. By supervising where the funds are spent, each country would also have more knowledge of the policies and procedures for development among the other countries. It is likely that the countries would need to contribute far more than the amount that President Fox is suggesting to make a significant difference.\textsuperscript{223}

Both of these areas affect the possibility of successfully expanding NAFTA to a structure similar to the EU. The EU grew throughout the past few decades by the creation and natural expansion of treaties that sought to further integrate the countries' governments and economies.\textsuperscript{224} NAFTA, on the other hand, was created mainly so that the North American countries could benefit from economic advantages of creating a trade agreement.\textsuperscript{225} Thus, there was no belief that the countries would integrate politically since most of the countries were not willing to surrender any of their sovereignty for the sake of expanding the agreement.\textsuperscript{226} In addition, it would be unlikely that such an integration could take place even if it was desired by the member nations, given the inherent differences among the three nations' political structures and styles of government.

It is apparent with the EU that the degree of political integration does affect the degree of economic integration.\textsuperscript{227} Since the North American countries are likely to remain politically independent, it is likely that they will not be able to achieve the degree of economic integration that the EU has achieved.

The EU's structure is also inherently different than the structure comprising NAFTA. NAFTA does not have any governing institutions that support and promote trade and NAFTA's policies.\textsuperscript{228} Despite the attractive idea of expanding NAFTA to create such governing bodies among the North American countries—like the issue with political integration—it is unlikely given the differences in the legal systems and the political structures among the member nations.

In conclusion, it is unlikely that NAFTA will expand into a Common Market modeled after the EU. President Fox, however, has made a good step at uniting Mexico, the United States, and Canada to form a tighter trade relationship. Only time will tell how President Fox's policies will develop since there are a number of factors that impact and affect the success of these proposals.

\textsuperscript{221} Black, supra note 23.
\textsuperscript{222} Vicente Fox, supra note 81.
\textsuperscript{223} Smith & Magnusson, supra note 172, at 56.
\textsuperscript{224} Oehme, supra note 50, at 10.
\textsuperscript{225} Fitzpatrick, supra note 29, at 16.
\textsuperscript{226} Id. at 12.
\textsuperscript{227} Id. at 17.
\textsuperscript{228} Id. at 7.