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**Five Public Concerns Represented by Environmental Groups in the Development of  
Regional Free Trade Agreements: A Case Study of the United States-Mexico-Canada  
Agreement (USMCA).**

**A Thesis by**

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**Wilkinson College of Arts, Humanities, and Social Sciences**

**Submitted in partial fulfillment of the requirements for the degree of  
Master of Arts in International Studies**

**May 2022**

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**April 2022**

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**by Julian Ray Rodriguez**

## **ABSTRACT**

### **Five Public Concerns Represented by Environmental Groups in the Development of Regional Free Trade Agreements: A Case Study of the United States-Mexico-Canada Agreement (USMCA).**

by Julian Ray Rodriguez

This thesis explores how the public discourse surrounding the United States-Mexico-Canada Agreement (USMCA) negotiations affected the formulation of the free trade agreement (FTA). More specifically, the project set out to determine if North American environmental groups successfully had public concerns addressed and codified in the Environment chapter of the USMCA. By analyzing official statements made in press releases by seventeen prominent Environmental groups operating in the United States, Mexico, and Canada, the thesis provides an account of the concerns related to liberalized regional trade prior to the USMCA's ratification in 2020. The analysis of organization statements regarding public health, climate change mitigation, corporate social responsibility, transparency and public participation, and enforcement finds a correlation between these concerns and their appearance in the USMCA text, however analysis of the agreement's Environment chapter finds that the public concerns included in the research are vaguely contextualized, given no framework for redress, and show little more than merely being recognized in the USMCA. While the agreement's language does reflect the salient cultural conversations around environmental affairs, and while the environmental organizations studied represented the issues well, the analysis cannot support that environmentalist groups directly affected their incorporation into the trilateral free-trade agreement.

## TABLE OF CONTENTS

ABSTRACT	IV
TABLE OF CONTENTS	V
LIST OF FIGURES	VII
LIST OF TABLES	VIII
CHAPTER 1 — Introduction	
1.1 Public Discourse, Environmentalism, and North American Free Trade Agreements	1
1.2 Environmental Non-Government Organizations: Contributions and Challenges	5
1.3 Free Trade Agreements & Public Concerns	9
CHAPTER 2 — Literature Review	
2.1 Public Health	10
2.2 Climate Change Mitigation	14
2.3 Corporate Social Responsibility	15
2.4 Transparency & Public Participation	17
2.5 Enforcement of Environmental Laws	21
CHAPTER 3 — Research Design	
3.1 Group Selection	26
3.2 Data Collection	27
3.3 Data Analysis	28
3.4 Limitations	28
3.5 Environmental Organizations	30

CHAPTER 4 — DATA	
4.1 Concerns Expressed About USMCA: Public Health	41
4.2 Concerns Expressed About USMCA: Climate Change Mitigation	45
4.3 Concerns Expressed About USMCA: Corporate Social Responsibility	52
4.4 Concerns Expressed About USMCA: Transparency & Public Participation	56
4.5 Concerns Expressed About USMCA: Enforcement	62
CHAPTER 5 — Findings	69
CHAPTER 6 — Conclusion & Recommendations	74
CHAPTER 7 — References	76

## **LIST OF FIGURES**

Figure 1. Outline conceptual framework for globalization and health	12
Figure 2. United Nations Sustainable Development Goals	16



## LIST OF TABLES

Table 4.1. Environmental organizations that published concerns about the USMCA in official statements	40
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## Chapter 1 — Introduction

### 1.1 Public Discourse, Environmentalism, and North American Free Trade Agreements

In theory, public discourse is a critical feature of democracy that works to make information available to many so they can make decisions that best improve their lives. One way it does this is by affecting representatives to shape and vote for the legislation, such as multilateral agreements, that reflect the public's realities, concerns, and ambitions. Climate change and the current climate crisis are gaining increased traction in public discourse globally. In North America, environmentalist non-government organizations in the United States, Mexico, and Canada express concerns that liberalized trade has serious adverse effects on public health and the physical environment. Given that the United States, Canada, and Mexico all have representative governments, the public opinions and dialogue surrounding the North American Free Trade Agreement (NAFTA) and its successor, the United States-Mexico-Canada Agreement (USMCA), should have made a measurable impact on their negotiations, content, and implementation of environmental provisions.

Unfortunately, many regret that they have not. The global environmentalist movement is bringing attention to free trade agreements and is sending a clear message to policy-makers: multilateral trade agreements must do more than reduce tariffs and other trade barriers. FTA writers and negotiators must recognize treaties' ability to simultaneously bolster climate change resilience and promote inclusive and sustainable economies. When the public has a platform equal to those of culturally tone-deaf technological experts, wealthy multinational corporations, and powerful political interest groups, FTAs have a better chance of being designed to combat the climate crisis and build inclusive economies that work for all stakeholders. Until then,

environmental groups like those fighting to make the USMCA better for public health and environmental protection play a critical role in representing the urgent concerns of the public.

The rationale for high levels of public participation through discourse in trade-policy making seems straightforward, it: favors free speech, promotes the circulation of public information deemed beneficial to physical and general wellbeing, connects communities internationally, and corrects personal interest by the widest publicity.<sup>1</sup> Yet, there are persistent criticisms that free trade agreements are often negotiated with inherent secrecy.<sup>2</sup> Moreover, others have found low voters' interest in trade issues in general or in engaging them in the representative process.<sup>3</sup> Given the patchwork of interests, this project asks: Do North American public opinion processes affect the outcome of free-trade legislation? Given environmentalist groups' longstanding engagement with these issues, do they play a significant role in representing the public's demands regarding trade agreements? And to what extent do the agreement writers take up their concerns?

Today, the internet and social media play a critical role in informing the public and facilitating public participation in the modern environmental movement. Internet access makes public discourse more engaging and inclusive than ever before. Non-governmental environmentalist groups concerned with the environmental impacts of multilateral free trade

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<sup>1</sup> Stiglitz, Joseph E. "On liberty, the right to know, and public discourse: the role of transparency in public life." Oxford Amnesty Lecture. Oxford, U.K. 27 Jan. 1999. <http://www.internationalbudget.org/wp-content/uploads/On-Liberty-the-Right-to-Know-and-Public-Discourse-The-Role-of-Transparency-in-Public-Life.pdf>.

<sup>2</sup> Limenta, Michelle. "Open Trade Negotiations as Opposed to Secret Trade aNegotiations: From Transparency to Public Participation." *New Zealand Yearbook of International Law*. Vol 10. 2012.

<sup>3</sup> Guisinger, Alexandra. "Determining Trade Policy: Do Voters Hold Politicians Accountable?" *International Organization*, vol. 63, no. 3, 2009, pp. 533–57.

agreements connect with a broad audience through their websites and interact with individuals through social media platforms. On their websites, these groups depict their identity through mission statements and inform their audience of policies they believe are potentially harmful or beneficial to them, allowing individuals to learn more detailed accounts of how policies affect those in their community and other communities in real-time. Groups can engage with their audience, open independent dialogues, and collect viewpoints and preferences on their social media accounts. A 2011 study shows that these internet-based forms of citizen-to-citizen political and policy discussions consequently affect online and offline participation in environmentalist activism and even sway political orientation in more extensive networks.<sup>4</sup> The one-sided voices and opinions of technological experts, political parties, and special interest groups clash with the realities and lived experiences of small communities and the general public, catalyzing participation of individuals and local organizations in online forums. A 2012 study shows that in online political discourse, “cues that signal expertise influence participation, while discussion among users also influences the decision of others to participate.”<sup>5</sup> Inclusive democratic participation of this nature is essential to achieving environmental protection goals. Policy-makers need the critical knowledge that the public provides and can access them both through formal processes that Berry et al. call formal processes, or “invited spaces,” and informal

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<sup>4</sup> Sebastián Valenzuela, Kim et al. “Social Networks that Matter: Exploring the Role of Political Discussion for Online Political Participation.” *International Journal of Public Opinion Research*, Volume 24, Issue 2, Summer 2012, pp. 163–184.

<sup>5</sup> Velasquez, Alcides. “Social Media and Online Political Discussion: The Effect of Cues and Informational Cascades on Participation in Online Political Communities.” *New Media & Society*, vol. 14, no. 8, Dec. 2012, pp. 1286–1303.

processes formed by mobilized and engaged citizens, or “created spaces.”<sup>6</sup> Policy-makers must invest in resources to facilitate meaningful and inclusive participation to reach the environmental protection goals the public needs. As the data will show, one of the major criticisms of the USMCA is that its negotiations essentially took place without any formal spaces where the trade deal negotiators or even representatives asked for stakeholder opinion. Environmentalist groups in the United States formed created spaces and campaigned to raise public awareness about NAFTA and the USMCA's environmental repercussions and created petitions and wrote letters to voice public concerns to members of congress. One critical platform that the public can collectively learn and share about ways regional trade impacts the physical environment is environmental groups’ websites and social media accounts.<sup>7</sup>

Plenty of non-government entities representing the public express concerns about several environmental and environmental justice issues related to NAFTA and USMCA.<sup>8</sup> This research explores: 1) whether or not prominent non-governmental environmentalist groups addressed five specific public concerns related to free trade and environmentalism in public discourse, and 2) determines if these made an impact, observed through inclusion of the concerns in the final composition of the USMCA’s Environment chapter (Chapter 24). The aim of the research is to add to the literature that focuses on making free trade agreements equitable and increasing the

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<sup>6</sup> Berry, Laura H., et al. “Making space: how public participation shapes environmental decision-making.” Stockholm Environment Institute. Jan 2019. <https://www.sei.org/wp-content/uploads/2019/01/making-space-how-public-participation-shapes-environmental-decision-making.pdf>. Accessed 14 Apr. 2022.

<sup>7</sup> Mallick, Rwitabrata and Shri Prakash Bajpai. "Impact of Social Media on Environmental Awareness." *Environmental Awareness and the Role of Social Media*, edited by Sumit Narula, et al., IGI Global, 2019, pp. 140-149.

<sup>8</sup> Avery, William P. “Domestic Interests in NAFTA Bargaining.” *Political Science Quarterly*, vol. 113, no. 2, [Academy of Political Science, Wiley], 1998, pp. 281–305

likelihood that regional markets are sustainable and work for the public. A holistic approach to FTA negotiations that takes public opinion into significant consideration is more likely to increase the legitimacy and efficacy of environmental laws and achieve the United Nations' Sustainable Development Goals (SDG).<sup>9</sup>

## **1.2 Environmental Non-Government Organizations: Contributions and Challenges**

Environmental groups mobilize the public around critical issues to the health of communities and advocate for bold climate action that creates millions of jobs and holds corporate polluters accountable. Mubarak and Alam of the Middle East Institute argue that environmental NGOs critically contribute to facilitate policy development, build institutional capacity, and assist independent dialogue with civil society to help people understand why it is so essential to live sustainable lifestyles.<sup>10</sup> Moreover, environmental groups offer public citizens the ability to take action and directly participate in driving environmental progress via donating, organizing, and communicating with government representatives to demand they vote for bold climate initiatives. Since 2013, the League of Conservation Voters (LCV), an environmental NGO based in the United States, has “engaged more than 55,000 volunteers who have made phone calls, knocked on doors, attended events, and advocated on behalf of climate action.”<sup>11</sup>

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<sup>9</sup> SDG 16 calls for for “responsive, inclusive, and participatory and representative decision-making at all levels.” This inclusive decision-making will increase the likelihood that all of the other SDGs will be achieved.

<sup>10</sup> Mubarak, Razan Al & Alam Tanzeed. “The Role of NGOs in Tackling Environmental Issues.” Middle East Institute. 26 Apr. 2012. <https://www.mei.edu/publications/role-ngos-tackling-environmental-issues#:~:text=Environmental%20NGOs%20can%20play%20a,people%20live%20more%20sustainable%20lifestyles>.

<sup>11</sup> “Mission.” League of Conservation Voters. Accessed 2 May. 2022. <https://www.lcv.org/mission/>

LCV's main webpage has fifteen links that allow people to demand bold investments in climate, clean energy jobs, and environmental justice by either donating, signing petitions, or sending emails to President Biden and members of Congress.<sup>12</sup>

Environmental NGOs have the critical role of providing independent views supported by scientific research that can help shift cultural attitudes and focus public consciousness on environmentally sustainable development. Their independence from special interest groups helps build public trust and, fundamentally, belief in the issues and causes in their best interest and directly against those of mass-polluting industries. Environmental groups' presence on social media exposes other social media to a diversity of views and current climate-related issues. A 2015 study by Williams et al. shows that this exposure to a diversity of views makes individuals "less likely to hold a strongly polarized position" on issues such as climate change.<sup>13</sup>

Environmental NGOs also have the freedom to focus on a specific region or community and can shape solutions that are most strategically appropriate for contextually specific climate-related issues. To this end, Amigos de Sian Ka'an and other Mexican-based NGOs focus on ecotourism and conservation of rainforests, wetlands, and marine environments in the Yucatan peninsula.<sup>14</sup>

Environmental groups are also advocates of environmental justice. They can provide resources for communities seeking compensation for environmental injustice. For example, the Canadian-based environmental organization Canadian Environmental Law Association (CELA) provides free legal services to low-income people and disadvantaged communities who's health

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<sup>12</sup>[lcv.org](https://www.lcv.org). Accessed 2 May. 2022.

<sup>13</sup> Williams, H. T. P., McMurray, J. R., Kurz, T., & Hugo Lambert, F. "Network analysis reveals open forums and echo chambers in social media discussions of climate change." (2015) *Global Environmental Change*, 32, 126–138.

<sup>14</sup> "Accomplishments." [amigosdesiankaan.org](https://www.amigosdesiankaan.org). Accessed 2 May. 2022.

is directly impacted by corporate pollution and environmental law non-compliance. CELA actively represents the Friends of the Attawapiskat River in their actions “to amplify the voice of Indigenous community members living downstream of the proposed Ring of Fire mineral development,” and successfully represented clients in Eastern Ontario to obtain the revocation of two 1998 approvals for a proposed municipal landfill in 2019.<sup>15</sup>

Sadly, it seems more and more evident that environmental organizations are the real representatives of the public’s concerns and values of environmental protection, not governments. As the severity and frequency of climate catastrophes increases, so does climate litigation. In democratic nations like the United States, Mexico, and Canada, government institutions juggle many interests, including those of lobbying multinational corporations. Unfortunately, these wealthy entities have greater resources for remedies when the public brings law suits against them for violating environmental laws and regulations. In 2015, ExxonMobil and Murphy Oil were awarded \$17.3 million in damages from Canada in a NAFTA investor-rights dispute over funding required for investment in research and training in Newfoundland and Labrador.<sup>16</sup> Critics say the investor-state dispute measures of NAFTA’s Chapter 11 gave corporations like ExxonMobil power to override government regulations enacted to benefit the public good and protect environmental goals to reduce costs.<sup>17</sup> This example of a power

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<sup>15</sup> “Profiles of CELA’s Casework.” Canadian Environmental Law Association. <https://cela.ca/casework-profiles/>. Accessed 2 May. 2022.

<sup>16</sup> Whittington, Les. “Oil giants win \$17M from Ottawa under NAFTA.” *Toronto Star*. 13 Mar. 2015. [https://www.thestar.com/news/canada/2015/03/13/oil-giants-win-17m-from-ottawa-under-nafta.html#:~:text=The%20trade%20tribunal's%20ruling%20awarding,Free%20Trade%20Agreement%20\(NAFTA\)](https://www.thestar.com/news/canada/2015/03/13/oil-giants-win-17m-from-ottawa-under-nafta.html#:~:text=The%20trade%20tribunal's%20ruling%20awarding,Free%20Trade%20Agreement%20(NAFTA).).

<sup>17</sup> Huizen, Jennifer. “Global trade 101: How NAFTA’s Chapter 11 overrides environmental laws.” *Mongabay*. 8 Nov. 2016. <https://news.mongabay.com/2016/11/global-trade-101-how-naftas-chapter-11-overrides-environmental-laws/>



imbalance between multinational corporations and the general public emphasizes the critical role environmental organizations have of providing representation and remedy for environmental injustice.

Environmental non-government organizations face many political, institutional, and structural constraints in their advocacy activities. Often, the groups compete with each other over funding and public attention for their specific issues of concern. In a 2004 study, Yang found that internal constraints that interfere with groups' mission also include legal problems, perceived pressure from funders, and lack of scientific knowledge and technical training when communicating their issues.<sup>18</sup> Of course, these NGOs face different constraints depending on the country or region they are operating. Mexican environmental groups face a variety of different obstacles than Canadian and American groups when trying to reach their audiences or impact legislation. Miraftab writes that the obstacles NGOs in Mexico face include lack of funding for development education expertise, poor relationships with donors and local government entities, and stunted ability to materialize grassroots connections.<sup>19</sup> In this regard, wealthier organizations in Canada and the United States have better resources to effectively communicate their goals with targeted audiences and make an impact on climate legislation.

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<sup>18</sup> Yang, Jung-Hye. "Constraints on Environmental News Production in the U. S.: Interviews with American Journalists." *Journal of International and Area Studies*. Volume 11, Number 2, 2004, pp. 89-105.

<sup>19</sup> Miraftab, Frank. "Flirting with the enemy: Challenges faced by NGOs in development and empowerment." *Habitat International*. Volume 21, Issue 4, December 1997, pp. 361-375.

### 1.3 Free Trade Agreements & Public Concerns

There is a plethora of literature on the harmful effects of free trade. McKenzie argues that free trade agreements are polarizing: many interest groups boast that they bring impressive benefits to people, while advocacy groups point out their threats to, among many things, public health policy.<sup>20</sup> Smith argues that as a challenge to public health, multilateral trade negotiations typically occur “without the input of those with knowledge, experience, and indeed perhaps concern, for public health.”<sup>21</sup> This deficiency of public input and participation from knowledgeable stakeholders regarding public health in free trade agreements also extends to a deficiency of climate change mitigation policy. In a 2018 study, Tol 2018 provides empirical evidence showing public concern over the greenhouse gas emissions generated in high-income countries that predominantly affect low-income countries.<sup>22</sup> As a tool, climate change mitigation provisions can be included into FTAs to build sustainable economies. Hasson et al. argues that climate change mitigation is a public good “shared by all countries and individuals” and positively affects the global economy.<sup>23</sup> Better corporate social responsibility (CSR) standards can lead to better sustainable production and consumption practices that can mitigate climate change and benefit public health. However, Romani et al. finds that most CSR initiatives focus

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<sup>20</sup> McKenzie, Francine. “Faith, Fear, and Free Trade.” *International Journal*, vol. 69, no. 2, 2014, pp. 233–45.

<sup>21</sup> Smith, Richard D. “Trade and Public Health: Facing the Challenges of Globalisation.” *Journal of Epidemiology and Community Health* (1979), vol. 60, no. 8, 2006, pp. 650–51.

<sup>22</sup> Tol, Richard S. J. “Impacts of Climate Change: A Survey.” *An Analysis of Mitigation as a Response to Climate Change*, Copenhagen Consensus Center, 2018, pp. 5–19.

<sup>23</sup> Hasson, Reviva, et al. *Climate Change in a Public Goods Game: Investment Decision in Mitigation versus Adaptation*. Environment for Development Initiative, 2009, <http://www.jstor.org/stable/resrep14920>. Accessed 5 May 2022.

on business returns and not social or environmental return.<sup>24</sup> One of the largest challenges facing FTAs are their enforcement capabilities. Cardeza-Salzann notes that enforcement mechanisms in multilateral environmental agreements have different levels of success depending on domestic enforcement capabilities, but have traditionally been notorious for lack of effectiveness.<sup>25</sup> Perhaps, it is easier to forgo enforcement when there is a lack of transparency in government procurement procedures negotiated into FTAs. Banga notes that transparency is a common concern in modern multilateral trade agreements, because it poses the risk of corruption.<sup>26</sup> Informed by the literature, the following concerns of free trade agreements are identified and selected for the study: public health, climate change mitigation, corporate social responsibility, transparency and public participation, and enforcement.

## **Chapter 2 — Literature Review**

### **2.1 Public Health**

The inclusion of environmental protection provisions aimed at promoting environmental justice is a relatively new phenomena that is reshaping how multilateral and regional trade agreements can be used to promote public wellbeing and health.<sup>27</sup> Trade policy issues have

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<sup>24</sup> Romani, Simona, et al. "Corporate Socially Responsible Initiatives and Their Effects on Consumption of Green Products." *Journal of Business Ethics*, vol. 135, no. 2, 2016, pp. 253–399.

<sup>25</sup> Cardesa-Salzmann, Antonio. "Constitutionalising Secondary Rules in Global Environmental Regimes: Non-Compliance Procedures and the Enforcement of Multilateral Environmental Agreements." *Journal of Environmental Law*, vol. 24, no. 1, 2012, pp. 103–32.

<sup>26</sup> Banga, Rashmi. "New Issues in Multilateral Trade Negotiations." *Economic and Political Weekly*, vol. 51, no. 21, 2016, pp. 28–32.

<sup>27</sup> Ruckert, Arne, et al. "Policy coherence, health and the sustainable development goals: a health impact assessment of the Trans-Pacific Partnership." *Critical Public Health* 27.1 (2017): pp. 86-96.

repercussions that can affect access to life-saving drugs and medical services, standards of occupational health, and quality of healthy and sustainable food systems. Standards of environmental laws set by free trade agreements also affect the basic levels of water and air pollution, as well as sewage and disposal needs, of communities where direct economic and industrial development occurs because of liberalized trade. Toxins created by industrialization that may be costly to dispose of properly can seep into land and water resources because of improper disposal, costing communities considerable amounts in environmental-public health related damages. Resource depletion that results from increased supply-and-demand chains associated with global trade adversely affects public health by disrupting food-systems, causing the diet and nutrition consumption of communities to transition from local, organic, and minimally processed to more readily available, processed, and unhealthy foods.<sup>28</sup> As Corinna Hawkes of the Food Consumption and Nutrition Division, International Food Policy Research Institute says, “Global economic policies concerning agriculture, trade, investment and marketing affect what the world eats. They are therefore also global food and health policies.”<sup>29</sup>

Furthermore, regional trade and multilateral free trade agreements have essentially changed local, state, and federal governments’ capabilities of measuring, promoting, and protecting public health. For example, during negotiations of the World Trade Organization’s General Agreement on Trade in Services (GATS) proposals made by public health professionals advocated for a wide range of state provided health services, health facilities, and clean water

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<sup>28</sup> Thow, A.M., Hawkes, C. The implications of trade liberalization for diet and health: a case study from Central America. *Global Health* 5, 5 (2009).

<sup>29</sup> Hawkes, C. Uneven dietary development: linking the policies and processes of globalization with the nutrition transition, obesity and diet-related chronic diseases. *Global Health* 2, 4 (2006).

and sanitation services.<sup>30</sup> Public concerns on trade agreements have the potential to require parties to establish public health agencies as well as to mandate the publications of research that shows the findings of the impact of regional and cross-border trade on public health. Political pressure can stimulate the development of international public health rules and institutions in this way. Even for nations that are not party to FTAs, globalization still makes these considerations for public health paramount. The relevant relationship framed by David Woodward in the Bulletin of the World Health Organization between globalization and health is illustrated in Fig. 1.<sup>31</sup>

Fig. 1. Outline conceptual framework for globalization and health



<sup>30</sup> Shaffer, Ellen R., et al. "Global trade and public health." American Journal of Public Health 95.1 (2005): 23-34.

<sup>31</sup> Woodward, David, et al. "Globalization and health: a framework for analysis and action." Bulletin of the World Health Organization 79 (2001): 875-881.

The economic benefits of regional and multilateral free trade agreements must also be public health benefits that are distributed equally among communities of the parties. For this to happen, writes Woodward et. al.:

This requires that economic growth be sustainable and consciously directed towards the poor, through better design of pro-poor national economic policies, and more explicit consideration of distributional effects in decisions at the global level. It also requires that the resources generated by a globalization process more favorable to developing countries are used to strengthen health systems, to ensure universal access to cost-effective interventions, and to improve other services essential to health, such as education, water and sanitation, environmental protection and effective nutrition and health safety net programmes.<sup>32</sup>

In an article published in *Globalization and Health*, the authors analyzed the full text of the USMCA and scrutinized key chapters they believed had direct and indirect implications for health. In their findings, the public health professionals concluded that:

Rather than enhancing public health protection the USMCA places new, extended, and enforceable obligations on public regulators that increase the power (voice) of corporate (investor) interests during the development of new regulations. It is not a health-enhancing template for future trade agreements that governments should emulate.<sup>33</sup>

Given the concerns of public health professionals about the quality and capability of the USMCA to regulate trade in the interest of public health, the research will closely examine the expressed concerns of non-governmental entities and environmental groups to determine whether or not their collective democratic voice impacted the Environment chapter of the agreement.

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<sup>32</sup> See Woodward, David, et al.

<sup>33</sup> Labonté, R., Crosbie, E., Gleeson, D. et al. USMCA (NAFTA 2.0): tightening the constraints on the right to regulate for public health. *Global Health* 15, 35 (2019).

## 2.2 Climate Change Mitigation

Since the middle of the 20th century, the World Trade Organization has shown that world trade has expanded “twenty-seven fold in volume terms” and that “the share of international trade in world GDP has risen from 5.5 per cent in 1950 to 20.5 per cent in 2006.”<sup>34</sup> The resulting increased output and economic activity that has resulted in such expanded global and regional trade has led to higher levels of greenhouse gas emissions. Advocates of free trade argue that sustainable practices and environmental-friendly technology which have the capability of reducing the severity of these emissions can actually spread as a result of the sharing of ideas associated with globalization and liberalized trade.<sup>35</sup> It is critical for trade frameworks to proactively address climate change in an approach that supports science-based, international climate goals. At the very least, it must become norm that free trade agreements explicitly recognize climate change in their text. When climate change is framed in such a way that compels stakeholders to take collective action in voicing concerns and holding environmental perpetrators accountable, the capability and role of the democratic voice is highlighted.<sup>36</sup> It must be emphasized that regional and multilateral trade agreements can be utilized as a vehicle for aggressive action in the fight to stop or slow planetary warming. The importance of how policy

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<sup>34</sup> “The impact of trade opening on climate change,” *World Trade Organization*. [https://www.wto.org/english/tratop\\_e/envir\\_e/climate\\_impact\\_e.htm#:~:text=How%20does%20trade%20affect%20greenhouse%20gas%20emissions%3F&text=The%20%E2%80%9Cscale%20effect%20refers%20to,activity%20and%20hence%20energy%20use](https://www.wto.org/english/tratop_e/envir_e/climate_impact_e.htm#:~:text=How%20does%20trade%20affect%20greenhouse%20gas%20emissions%3F&text=The%20%E2%80%9Cscale%20effect%20refers%20to,activity%20and%20hence%20energy%20use).

<sup>35</sup> Iida, Takeshi, and Kenji Takeuchi. “Does Free Trade Promote Environmental Technology Transfer?” *Journal of Economics*, vol. 104, no. 2, 2011, pp. 159–90.

<sup>36</sup> “Framing” here refers to how communicators use features of a message to evoke ideas and ways of thinking that audiences use to interpret that message. Armstrong, Anne K., et al. “FRAMING CLIMATE CHANGE.” *Communicating Climate Change: A Guide for Educators*, Cornell University Press, 2018, pp. 59–69.

makers and non-governmental agencies address climate change in the NAFTA and USMCA lies in how well similar goals, interests, and concerns are communicated and promoted by the two groups to ensure effective environmental protection and justice laws.

### **2.3 Corporate Social Responsibility**

Public opinion determines whether the producers of goods and services are successful in expanding business or maintaining the confidence of consumers. Firms spend significant resources to represent themselves as being socially or environmentally responsible to ensure the public that their practices are ethically agreeable and worth financially supporting. Studies show consumers want to know if and how the companies they buy goods and products from contribute to social causes and what social goals they have beyond simply building shareholder wealth.<sup>37</sup> In fact, one study by PwC found that consumers appreciate the significance of businesses that incorporate the United Nations' Sustainable Development Goals (SDGs) shown in Figure 2:<sup>38</sup>

90% believe it is important that business signs up to the SDGs and 78% of citizens said they were more likely to buy the goods and services of companies that had signed up to the SDGs.<sup>39</sup>

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<sup>37</sup> Kitzmueller, Markus, and Jay Shimshack. "Economic Perspectives on Corporate Social Responsibility." *Journal of Economic Literature*, vol. 50, no. 1, 2012, pp. 51–84.

<sup>38</sup> Source of SDG Chart: United Nations, Open Working Group; Global Goals, [www.globalgoals.org](http://www.globalgoals.org)

<sup>39</sup> "Make it your business: Engaging with the Sustainable Development Goals." 2015. [www.pwc.com/sdg](https://www.pwc.com/sdg). [https://www.pwc.com/gx/en/sustainability/SDG/SDG%20Research\\_FINAL.pdf](https://www.pwc.com/gx/en/sustainability/SDG/SDG%20Research_FINAL.pdf)



Figure 2



Firms utilize social media platforms to construct an image and narrative of being socially and environmentally responsible to maximize their economic performance. Consumers can then form opinions of whether or not the businesses they support are going beyond any legal or regulatory requirements, meeting the requirements, or underperforming. With one study estimating that 58.4% of the world population uses social media and that the daily average usage of this group being 2 hours and 27 minutes, the public has an enormously overwhelming ability to pressure multinational corporations and formulate concerns that they can voice to policy makers and other stakeholders in environmental justice.<sup>40</sup>

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<sup>40</sup> Chaffey, Dave. "Global social media statistics research summary 2022." Smart Insights. <https://www.smartinsights.com/social-media-marketing/social-media-strategy/new-global-social-media-research/>

Furthermore, the current relationship between corporate social responsibility and the achievement of the United Nations' Sustainable Development Goals (SDGs) remains “unstructured and fragmented.”<sup>41</sup> Some multinational corporations practice CSR by donating to charities or choosing charities to support. Arguably, this philanthropic form of CSR mainly has short-term benefits and is not complex and systematic enough to tackle such environmental and ethical concerns as reducing carbon emissions, decreasing energy consumption, and participating in fair and sustainable trade.<sup>42</sup> It appears more needs to be done to coincide the potential capability FTAs have to ensure multinational corporations remain committed to national environmental standards and the concerns of the public. Statements made by non-governmental agencies about CSR will be collected to determine whether or not the pre-law public discourse impacted the drafting of the Corporate Social Responsibility provisions under the USMCA's Environment chapter.

## **2.4 Transparency & Public Participation**

Transparency and public participation are critical qualities that give regional multilateral free trade agreements legitimacy and efficiency as well as prevent corruption.<sup>43</sup> When

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<sup>41</sup> López-Concepción, A., Gil-Lacruz, A. I., & Saz-Gil, I. (2022). Stakeholder engagement, CSR development and SDG compliance: A systematic review from 2015 to 2021. *Corporate Social Responsibility and Environmental Management*, 29( 1), 19– 31.

<sup>42</sup> “Corporate Social Responsibility and Sustainable Development Goals: what does it all mean?” Social Good Connect. Dec 22, 2020. [https://socialgoodconnect.org/corporate-social-responsibility-sustainable-development-goals/#:~:text=Corporate%20Social%20Responsibility%20\(CSR\)%20and,while%20contributing%20to%20the%20SDGs.](https://socialgoodconnect.org/corporate-social-responsibility-sustainable-development-goals/#:~:text=Corporate%20Social%20Responsibility%20(CSR)%20and,while%20contributing%20to%20the%20SDGs.)

<sup>43</sup> Dell, Gillian, and Ádám Földes. “International Standards and Principles.” *Transparency and Participation: an Evaluation of Anti-corruption Review Mechanisms*. Transparency International, 2017, pp. 3–5.

negotiations incorporate stakeholders' concerns and input into the drafting of these laws, the synchronicity of consumers and producers on environmental and economic objectives develops. Firms are more willing to cooperate with the rules and regulations created in transparent negotiations and accept them as beneficial because they can allow them to build good relationships with economically interdependent communities.<sup>44</sup> Concerns over the failure to provide standards of transparency and avenues for public participation in formulating provisions related to social and environmental issues cause a loss of faith in the negotiating authority.<sup>45</sup> Furthermore, transparency and public participation are cost-effective:

1. They prevent further renegotiations and lawsuits that arise from provisions the public did not know about or fully comprehend.
2. Agreements shaped by the input of public participation are better suited to address the realities of the people they directly impact.
3. The public will eventually find out about any provisions formulated either without the public's knowledge or in secrecy, so it is most cost-effective to incorporate transparency to prevent future fallout and resulting damage control.

A study done by Purdue University and ESADE Business School, Universitat Ramon Llull found that transparency of information encourages citizens to align their behavior with policy goals without the need for exercised central control in two ways:

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<sup>44</sup> Jackson, Emerson Abraham & Jackson, Hudson Freddie, "The role of corporate social responsibility in improving firms' business in the directions of sustainable development, accountability and transparency," *African Journal of Economic and Sustainable Development* 2017 6:2-3, 105-118.

<sup>45</sup> Moore, Sarah. "Towards a Sociology of Institutional Transparency: Openness, Deception and the Problem of Public Trust." *Sociology*, vol. 52, no. 2, Apr. 2018, pp. 416–430.

1. Transparency reduces ambiguity and simplifies citizen alignment with policy goals.
2. Transparency fosters social learning through information sharing, which encourages citizens to be open to behavioral changes.<sup>46</sup>

These aspects of information and information sharing make them critical to globalization and regional trade that is sustainable, equitable, and beneficial for economic and environmental cohesion. Access to information and the ability of citizens and consumers to participate in the passing of trade agreements is essential to the achievement of the UN's Sustainable Development Goal 16: Peace, Justice and Strong Institutions.<sup>47</sup> In a 2014 report, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association remarked that:

With the increased interconnectedness in domestic and international affairs, and with decision-making at the international level having a significant impact in national policies and practices, it is essential that such decisions are made in a transparent, accountable and participatory manner. The Special Rapporteur wishes to emphasize the legitimacy of civic action at the international level and underscores the need for States to listen to the views and voices of their constituents, whether they are expressed at the domestic or the international level.<sup>48</sup>

Of critical importance is the ability of traditionally underrepresented communities, including communities of color, impoverished communities, and communities of indigenous people to have their opinions, questions, and concerns incorporated into the formulation of environmental rules and regulations in regional trade agreements. Major political parties and policy makers are mistaken to give indigenous affairs only rare attention beyond the “occasional

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<sup>46</sup> Sabine Brunswicker, Laia Pujol Priego, Esteve Almirall, “Transparency in policy making: A complexity view,” *Government Information Quarterly*, Volume 36, Issue 3, 2019, pp. 571-591.

<sup>47</sup> See Figure 1.3.1 for UN chart of Sustainable Development Goals

<sup>48</sup> Special Rapporteur, “Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association”, Report A/69/365 (2014), <http://freeassembly.net/reports/multilaterals/>

moral panics or the routine, grudging acknowledgement of the lack of progress in overcoming Indigenous disadvantage,” as Diana Perche writes in “Ignore Us at Your Peril, Because We Vote Too: Indigenous Policy.”<sup>49</sup> Inclusive, sustainable trade requires technocrats, scientists, and governments to proactively engage with local populations whose physical and financial well-being stands to be directly impacted by international policies liberalizing regional trade. Not only is this morally the right thing to do, it also improves the interaction and promotes trust between cultural representatives of local knowledge, practices, and traditions and leaders of national governments.<sup>50</sup> Furthermore, underrepresented groups deserve to be substantially considered and incorporated into the USMCA and future regional trade agreements between the North American states because the issues being negotiated are of existential interest to indigenous people and other marginalized groups.<sup>51</sup> There are not any groups who are not in some way affected by liberalized trade. Therefore, democracy itself, and any multilateral regional trade agreement that claims to benefit local communities and working-class people, requires that the voices of all people be heard.

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<sup>49</sup> Perche, Diana. “Ignore Us at Your Peril, Because We Vote Too’: Indigenous Policy.” *Double Disillusion: The 2016 Australian Federal Election*, edited by ANIKA GAUJA et al., ANU Press, 2018, pp. 619–40.

<sup>50</sup> Nugroho, Kharisma, et al. “Local Knowledge in Democratic Policy Making.” *Local Knowledge Matters: Power, Context and Policy Making in Indonesia*, 1st ed., Bristol University Press, 2018, pp. 43–58.

<sup>51</sup> Charters, Claire. “A Self-Determination Approach to Justifying Indigenous Peoples’ Participation in International Law and Policy Making.” *International Journal on Minority and Group Rights*, vol. 17, no. 2, 2010, pp. 215–40.

## 2.5 Enforcement of Environmental Laws

Enforcing high-quality and context-driven environmental laws is central to realizing the ambition of environmental justice work. Failure to implement well-thought-out and hard-negotiated laws further stresses communities overburdened by trade-related environmental damage and is detrimental to any relationship they have fostered with governments and multinational corporations. Long-term compliance issues diminish the public's faith in the public discourse process and can reduce rates of participation. Effective enforcement, writes Director of National Research Centre for OHS Regulation at the Australian University in Canberra, Australia, Neil Gunningham, involves two main tasks for regulators: the first is identifying the sectors which offer “the biggest bang for the regulatory buck.” The second is to develop practical strategies for inspecting organizations. Recognizing that enforcement is perennially difficult, he asks, “Should they for example, seek stringent enforcement or negotiate outcomes through advice and persuasion?”<sup>52</sup>

A considerable difficulty that multilateral, regional trade agreements face when trying to establish uniform enforcement strategies lies in the vastly different enforcement capabilities of each party. Each country party to the agreement has its own set of regulatory agencies, with quite varied degrees of public support and capacity.

For the United States, the Environment Protection Agency (EPA) ensures compliance and enforcement of all environmental laws. Many environmentalist groups find that the EPA's stated purpose, “that all Americans are protected from significant risks to human health in the

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<sup>52</sup> Gunningham, Neil. “Enforcing Environmental Regulation,” *Journal of Environmental Law*, Volume 23, Issue 2, July 2011, pp. 169–201.

environment where they live, learn, and work,” fails to be met in various regards.<sup>53</sup> In an article submitted to *Environmental Law* in 2015, EPA critic Howard A. Latin wrote about disincentives shaping the EPA's inadequate regulatory performance.” This inadequacy to meet the ambitious climate change regulatory challenges is undergirded, he contended, by a fundamental dearth of public support and financial backing.<sup>54</sup>

The Environment and Climate Change Canada (ECCC), the Canadian government’s department responsible for the coordination of environmental policies and programs and the preserving and enhancing of the natural environment and renewable resources, states its purpose is to “enforce laws that protect air, water, land and wildlife.”<sup>55</sup> Environmental laws are enacted and enforced in Canada by the federal government, ten provincial governments, and three northern territorial governments. The Canadian constitution assigns different enforcement powers and responsibilities to the federal and provincial governments, but the enforcement regimes and requirements overlap frequently.<sup>56</sup> and A 2016 study found that the Canadian public overwhelmingly believes in climate change and supports the Canadian governments climate

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<sup>53</sup> Paul, Patrick J. “Toward More Rational Environmental Enforcement.” *Natural Resources & Environment*, vol. 26, no. 4, 2012, pp. 55–57.

<sup>54</sup> Latin, Howard A. “Climate Change Regulations and EPA Disincentives.” *Environmental Law*, vol. 45, no. 1, 2015, pp. 19–73.

<sup>55</sup> Environment and Climate Change Canada, About environmental and wildlife enforcement, Government of Canada. <https://www.canada.ca/en/environment-climate-change/services/environmental-enforcement.html>

<sup>56</sup> Tidball, Acheson et al. “Environmental law and practice in Canada: overview.” *Thomas Reuters Practical Law*. 1 Apr. 2019. [https://ca.practicallaw.thomsonreuters.com/2-503-2764?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#co\\_anchor\\_a695592](https://ca.practicallaw.thomsonreuters.com/2-503-2764?transitionType=Default&contextData=(sc.Default)&firstPage=true#co_anchor_a695592).

policies.<sup>57</sup> Another study conducted by the Gerald R. Ford School of Public Policy at the University of Michigan measured support of domestic policy options for climate change mitigation and found that 47% of Canadians were in favor of enforcing carbon taxes even if it raises cost of energy by about 10%, as opposed to only 23% of Americans.<sup>58</sup>

The most considerable concern for environmental enforcement capability is in Mexico. The Secretariat of the Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales) (SEMARNAT) is the main governmental agency in charge of enacting and enforcing environmental regulation at the federal level.<sup>59</sup> A 1998 article published by Fordham Environmental Law Review argues that developing nations such as Mexico are unable to achieve idealistic goals set for them by the international environmental movement.<sup>60</sup> Even the goals set by the United Nations make states like Mexico grapple with the reality of their own economic needs and desire to be part of the global market. Like the United States and Canada, Mexico has entered into a number of multilateral and regional agreements aimed at tackling environmental issues such as:

- (a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended;
- (b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at

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<sup>57</sup>Mildenberger, Matto et al. "The Distribution of Climate Change Public Opinion in Canada." *PLoS one* vol. 11,8 e0159774. 3 Aug. 2016.

<sup>58</sup> Lachapelle, Borick et al. "Public Opinion on Climate Change and Support for Various Policy Instruments in Canada and the US." Number 11. Jun. 2013. <https://closup.umich.edu/issues-in-energy-and-environmental-policy/11/public-opinion-on-climate-change-and-support-for-various-policy-instruments-in-canada-and-the-us>.

<sup>59</sup> See Icaza, Garcia-Cuéllar et al.

<sup>60</sup> Dames, Jeanine E. "An Examination of Mexico and the Unreasonable Goals of the United Nations Conference on Environment and Development (UNCED)." *Fordham Environmental Law Journal*, vol. 10, no. 1, 1998, pp. 71–98.



- Montreal, September 16, 1987, as adjusted and amended;
- (c) the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London, February 17, 1978, as amended;
  - (d) the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar, February 2, 1971, as amended;
  - (e) the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, May 20, 1980;
  - (f) the International Convention for the Regulation of Whaling, done at Washington, December 2, 1946; and
  - (g) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington, May 31, 1949.<sup>61</sup>

There is extensive literature on the failures of Mexico's environmental performance regarding enforcement and policy implementation. A 2009 study published on behalf of the Association for Public Policy Analysis and Management that best summarizes some of the literature finds that:

In Mexico, as elsewhere, political and conceptual tensions exist between the environment sector and other sectors (e.g., agriculture, mining) and tiers of government (e.g., some state governments subsidize livestock production in federal protected areas), and even between agencies within the sector, hampering effective policy implementation.<sup>62</sup>

Another overview of environmental law and practice published by Thomas Reuters Practical Law finds that over the past twenty years Mexico's enforcement practices have improved, but there remain ongoing challenges with law enforcement in general whereby:

A crucial factor is limited resources, both human and budgetary, facing the enforcement agencies. PROFEPA's inspectors and public officers are outnumbered by the many matters requiring their attention, and the agency does not have sufficient resources to properly attend and prosecute environmental non-compliance to an acceptable level.

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<sup>61</sup> See Article 24.8.4 of United States-Mexico-Canada Agreement (USMCA)

<sup>62</sup> Challenger, Antony, et al. "Opportunities and Obstacles to Socioecosystem-Based Environmental Policy in Mexico: Expert Opinion at the Science-Policy Interface." *Ecology and Society*, vol. 23, no. 2, 2018.

Relatively limited knowledge and involvement from the judiciary in environmental matters is also a key factor. Historically, environmental issues have been kept at a certain distance from courts and judges. Consequently, there are a relatively small number of decisions to shed light on environmental laws and regulations, and their interpretation by judicial authorities.<sup>63</sup>

Given this context, Mexico's environmental performance capabilities have been expected to be below that of the United States and Canada since the inception of the NAFTA. In fact, the Yale Center for Environmental Law and Policy ranks Mexico 51, the United States 24, and Canada 20 out of 180 in its Environmental Performance Index.<sup>64</sup>

Besides each party's environmental enforcement capabilities, there is extreme concern over inequitable enforcement in areas with high levels of minority and low-income communities in each North American country. A 2009 study published in the *Journal of Policy Analysis and Management* found that there is enough empirical evidence to support claims of these types of inequities with regards to the concentrated locations of mass-polluting facilities and levels of pollutant exposure to the public.<sup>65</sup> Consider the high-levels of pollution in the United States-Mexico border region and the historically inadequate environmental infrastructure there.<sup>66</sup> A 1994 article published by the American Bar Association highlighted the correlation between poverty and the subpar development of wastewater collection and treatment facilities, solid waste

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<sup>63</sup> Icaza, Garcia-Cuellar et al. "Environmental law and practice in Mexico: overview." *Thomas Reuters Practical Law*. 1 Jan. 2021. [https://content.next.westlaw.com/7-508-8956?lrTS=20201218001341901&transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://content.next.westlaw.com/7-508-8956?lrTS=20201218001341901&transitionType=Default&contextData=(sc.Default)&firstPage=true).

<sup>64</sup> Environmental Performance Index. Accessed 12 Apr. 2022. <https://epi.yale.edu/epi-results/2020/country/usa>

<sup>65</sup> Konisky, David M. "Inequities in Enforcement? Environmental Justice and Government Performance." *Journal of Policy Analysis and Management*, vol. 28, no. 1, 2009, pp. 102–21.

<sup>66</sup> See "NAFTA's Impact on Mexico." Sierra Club. <https://vault.sierraclub.org/trade/downloads/nafta-and-mexico.pdf>.

management facilities, and air pollution control measures along the 1,2000 miles of the U.S./ Mexico border.<sup>67</sup> The United States government has even recognized the impact climate change has on indigenous communities. In a press release given April 11, 2022, Secretary of the Interior Deb Haaland stated:

As the effects of climate change continue to intensify, Indigenous communities are facing unique climate-related challenges that pose existential threats to Tribal economies, infrastructure, lives and livelihoods. Coastal communities are facing flooding, erosion, permafrost subsidence, sea level rise, and storm surges, while inland communities are facing worsening drought and extreme heat.<sup>68</sup>

The unequal resource allocation that accompanies the disproportionate levels of polluting facilities near impoverished communities, communities of people of color, and other groups such as indigenous people shows that current and future trade regimes must work aggressively to replace historically racist and discriminatory enforcement and implementation policies to successfully address environmental justice.<sup>69</sup>

## **Chapter 3 — Research Design**

### **3.1 Group Selection**

Environmental groups with considerable online presence are selected as the data source for the study because they serve as hosts for public discourse on their social media platforms,

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<sup>67</sup> Wynne, Buck J. “The Impact of NAFTA on the U.S./Mexico Border Environment.” *The Urban Lawyer*, vol. 26, no. 1, 1994, pp. 11–30.

<sup>68</sup> “Biden-Harris Administration Announces Bipartisan Infrastructure Law Funding to Build Climate Resilience in Tribal Communities.” U.S. Department of the Interior. 11 Apr. 2022. <https://www.doi.gov/pressreleases/biden-harris-administration-announces-bipartisan-infrastructure-law-funding-build>.

<sup>69</sup> Krakoff, Sarah. “Environmental Injustice and the Limits of Possibilities for Environmental Law.” *Environmental Law*, vol. 49, no. 1, 2019, pp. 229–47.

where community members and leaders alike can have inclusive and open conversations about the environmental consequences of free trade. The groups were primarily chosen by the basis of their identity: they must address climate change, environmental justice, or at least one of the specific topics listed in the methods section in their mission statement or “About Us” page on their official website. The next selection criteria was following size, because it reflects participant engagement and notoriety. Groups with at least 20 thousand cumulative followers and subscribers between Instagram, Twitter, and YouTube were considered for the study. This resulted in a dataset of seventeen organizations.

The groups included for the study are: 350.org, Center for Biological Diversity, Center for International Environmental Law, Earthjustice, Food & Water Watch, Friends of the Earth, Green for All, GreenLatinos, Greenpeace USA, Hip Hop Caucus, League of Conservation Voters, Oil Change International, People’s Action, Power Shift Network, Sierra Club, Extinction Rebellion and Sunrise Movement. Each group’s mission statement is summarized and listed to indicate their specific issues of interest and advocacy strategies and denotes why they may only have statements about some of the concerns, if not all, included in the research.

### **3.2 Data Collection**

The essay includes a description of each group before the data set to inform the reader of their unique areas of climate-related concerns, achievements, and contributions to the contemporary climate movement. The data that are being evaluated are the environmental organization concerns related to the North American treaty’s liberalized trade. This included a database of direct quotations speaking to USMCA drawn from the organizations’ web

publications. The web publications included press release archives on each of the 17 group's websites.

### **3.3 Data Analysis**

I developed a thematic scheme by which to sort and later analyze the media studied. Informed by the literature and the UN's SDGs (3, 8, 11, 12, 13, 16) these concerns have overlapping applications with many environmental organizations' aims. These include five sub-topics: public health, climate change mitigation, corporate social responsibility, transparency and public participation, and enforcement of environmental laws. I used qualitative coding techniques which allowed me to sort by contextual cues to situate them in categories. Afterward, the statements made by these organizations about the USMCA were compared to the final text of the USMCA Environment chapter to judge whether or not the environmental groups' public discourse made an impact on the composition of the Environmental chapter in the USMCA. The final stage of this iterative process was exploring secondary data published after the ratification of the USMCA. Throughout the process I set aside any analyses drawing causal linkages, and subsequently analyzed alongside the initial analysis, to support any conclusion as to whether public discourse made a substantive impact on the drafting of the Environment chapter in the USMCA.

### **3.4 Limitations**

One challenge of the study was a natural consequence of studying an internet phenomenon: because internet users may be anywhere in the world, it was difficult to capture

data which illuminated the internet conversations at other units of analysis. The majority of the groups selected operate and are headquartered in the United States, however the audience and participants could be and oftentimes were elsewhere. Nevertheless, it was not possible to robustly evaluate the data at the national unit of analysis, and was therefore impossible to compare the different impacts environmental groups on social media between the three nation-states.

The analysis had another challenge of representation. Since sample selection was based on social media presence and prominence, many groups—such as those from indigenous, impoverished places or those without electricity or internet access—were not included in this analysis. Future research could explore the types of trade agreement discourses among them.

Likewise, Instagram, Twitter, and YouTube are the only social media platforms to verify follower count and online presence. There may be organizations that are more popular with populations concerned with the topic that are not using these internet platforms.

The increase in environmentalist groups and NGOs since the NAFTA indicates an interesting trend that may be directly correlated with the severity of the climate crisis.<sup>70</sup> Also, the widespread access to and availability of the internet has made information surrounding climate change and climate science more commonplace but has also made it more susceptible to widespread misinformation and disinformation.<sup>71</sup> Further research regarding the role information systems play in shaping public attitudes around climate change should be conducted.

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<sup>70</sup> A 2018 study done by the National Center for Charitable Statistics found that environmental groups are among the fastest-growing non-profit sectors.

<sup>71</sup> Flynn, Erin. "Climate change disinformation poses increasing threat, says WMU history professor." Western Michigan University. WMU News. 24 Jan. 2022. <https://wmich.edu/news/2022/01/66880>

### **3.5 Environmental Organizations**

#### **a. 350.org**

350.org is a 501(c)3 non-profit organization registered in the United States. They have 97.6 thousand followers on Instagram and 393 thousand on Twitter.<sup>72</sup> On their official website, [350.org](https://350.org) says that they are an environmental non-government organization focused on building a global climate movement and fighting for a fossil fuel free future.<sup>73</sup> O'Brien et al. classifies [350.org](https://350.org) as a formal organization.<sup>74</sup> On October 24, 2010, the NGO led 5,200 events worldwide to “capture the world’s attention leading up to the Copenhagen climate conference.”<sup>75</sup>

#### **b. Center for Biological Diversity**

The Center for Biological Diversity is a 501(c)(3) registered charitable organization. They have 42.6 thousand followers on Instagram and 131.6 thousand followers on Twitter.<sup>76</sup> On their official website, they state they are focused on using science, law and creative media to protect the lands, waters and climate that diverse species need to survive.<sup>77</sup> Recently, they have

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<sup>72</sup> Followers as of 15 Apr. 2022.

<sup>73</sup> <https://350.org/about/>

<sup>74</sup> O'Brien, Karen, et al. “Exploring Youth Activism on Climate Change: Dutiful, Disruptive, and Dangerous Dissent.” *Ecology and Society*, vol. 23, no. 3, 2018.

<sup>75</sup> “Around the World with 350.Org.” *Alternatives Journal*, vol. 36, no. 1, 2010, pp. 6–6.

<sup>76</sup> Followers as of 15 Apr. 2022.

<sup>77</sup> <https://www.biologicaldiversity.org/about/>

brought cases against the Environmental Protection Agency (EPA) in 2017<sup>78</sup> and in 2020,<sup>79</sup> and the Department of Fish and Wildlife in 2017.<sup>80</sup>

### **c. Center for International Environmental Law**

The Center for International Environmental Law (CIEL) is a team of attorneys and policy provides legal counsel and advocacy, policy research, and capacity building across three areas of focus: Climate & Energy, Environmental Health, and People, Land, & Resources.<sup>81</sup> CIEL has offices in Washington, DC, and Geneva, Switzerland and 16 thousand followers on Twitter.<sup>82</sup> They regularly contribute to peer-reviewed journals and were a member to a panel discussing the role of international courts and tribunals in the development in environmental law in 2015.<sup>83</sup> CIEL was commissioned by the United Nations Environment Programme (UNEP) to evaluate the trade related provisions of several multilateral environmental agreements for consistency with the General Agreement on Tariffs and Trade (GATT).<sup>84</sup>

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<sup>78</sup> Taylor, Andrew. "Center for Biological Diversity v. EPA: The D.C. Circuit Deftly Skirts Lujan in Pesticide Challenge." *Tulane Environmental Law Journal*, vol. 31, no. 1, 2017, pp. 135–47.

<sup>79</sup> Frederick, Thomas. "Center for Biological Diversity v. EPA: Fifth Circuit Marooned in Uncharted Waters in CWA Standing Dismissal." *Tulane Environmental Law Journal*, vol. 33, no. 1/2, 2020, pp. 207–19.

<sup>80</sup> Bai, Danqing. "Center for Biological Diversity v. Department of Fish & Wildlife and the Uncertainties in Project-Level Greenhouse Gas Emissions Analysis." *Ecology Law Quarterly*, vol. 44, no. 2, 2017, pp. 521–26.

<sup>81</sup> <https://www.ciel.org/about-us/our-mission/>

<sup>82</sup> Followers As of 15 Apr. 2022.

<sup>83</sup> Gautier, Philippe. "The Role of International Courts and Tribunals in the Development of Environmental Law." *Proceedings of the Annual Meeting (American Society of International Law)*, vol. 109, 2015, pp. 190–93.

<sup>84</sup> Wold, Chris. "Multilateral Environmental Agreements and the GATT: Conflict and Resolution?" *Environmental Law*, vol. 26, no. 3, 1996, pp. 841–921.



#### **d. Earthjustice**

Earthjustice is a 501(c)3 non-profit organization registered in the United States. They have 67.7 thousand followers on Instagram and 213.1 thousand followers on Twitter.<sup>85</sup> Their focus is to use legal means and remedies to protect people's health, preserve magnificent places and wildlife, advance clean energy, and combat climate change.<sup>86</sup> In 2020, they opposed the Trump administration's proposed revisions to the National Environmental Policy Act (NEPA), which they claimed would "disempower communities, obscure decision making from the public, and potentially endanger public health."<sup>87</sup>

#### **e. Extinction Rebellion**

Extinction Rebellion (ER) is an international organization that published annual reports on environmental performances and uses non-violence and civil disobedience to promote policies focused on preventing global climate and ecological disasters. They have 677 thousand followers on Instagram, 394.5 thousand followers on Twitter, and 73.1 thousand subscribers on Youtube.<sup>88</sup> On their official website, they state their goal is to "persuade governments to act justly on the Climate and Ecological Emergency."<sup>89</sup> They are a relatively new organization, founded in the UK in 2018, but have quickly built a considerable following among Millennials and Generation Z. In a 2019 interview, environmentalist author and film director Josh Tickell

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<sup>85</sup> Followers as of 15 Apr. 2022.

<sup>86</sup> <https://earthjustice.org/about>

<sup>87</sup> MacKinney, Taryn, et al. "Public Participation in Rulemaking at Federal Agencies." Union of Concerned Scientists, 2020. <http://www.jstor.org/stable/resrep26334>. Accessed 4 May 2022.

<sup>88</sup> Followers and subscribers as of 15 Apr. 2022.

<sup>89</sup> <https://rebellion.global/about-us/>

said ER is partly responsible for shaping the narrative popular among people under 24 that identifies the “climate crisis” as an “emergency requiring immediate action.”<sup>90</sup>

#### **f. Food & Water Watch**

Food & Water Watch is a 501(c)3 non-profit organization that is headquartered in Washington, D.C. They have 8,073 followers on Instagram and 75.5 thousand followers on Twitter.<sup>91</sup> They work to protect people’s health, communities, and democracy from the growing destructive power of the most powerful economic interests.<sup>92</sup> They actively oppose privatizing water systems and work with the National Family Farm Coalition to challenge factory farms.<sup>93</sup>

#### **g. Friends of the Earth**

Friends of the Earth (FOE) is a grassroots, non-governmental organization with 4,372 followers on Instagram and 228.2 thousand followers on Twitter.<sup>94</sup> On their website, they state that they:

work to protect public health from attacks by corporate polluters, fight against trade deals that undermine democracy and expand the power of international business, promote clean energy solutions that are community-controlled, and push public institutions—both bilateral and multilateral—to improve the lives, livelihoods, and environments of people throughout the world.<sup>95</sup>

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<sup>90</sup> Tickell, Josh. “The Future of Energy: Creating Lasting Change.” *Journal of International Affairs*, vol. 73, no. 1, 2019, pp. 279–84.

<sup>91</sup> Followers as of 15 Apr. 2022.

<sup>92</sup> <https://www.foodandwaterwatch.org/who-we-are/>

<sup>93</sup> “Public Citizen Spins Off New Consumer Group—Food & Water Watch.” *Inside Washington’s FDA Week*, vol. 11, no. 47, 2005, pp. 12–12.

<sup>94</sup> Followers as of 15 Apr. 2022.

<sup>95</sup> <https://foe.org/about-us/>

FOE and Sierra Club filed a suit in U.S. district court to conduct an assessment of NAFTA, which led to another case, *Public Citizen v. Office of the U.S. Trade Representative*, which initially ruled against Environmental Impact Assessments (EIA) being required for trade agreements but were later required by President Clinton’s Executive Order 13,141, in 1999.<sup>96</sup>

#### **h. Green for All**

Green for All is a program run under the non-governmental organization, Dream Corps. They have 14.1 thousand followers on Instagram and 65.8 thousand followers on Twitter.<sup>97</sup> On their official website, they state that they “work at the intersection of the environmental, economic, and racial justice movements to advance solutions to poverty and pollution.”<sup>98</sup> Green for All argues for infrastructure spending, particularly for wastewater and stormwater, to create jobs and stimulate the economy.<sup>99</sup>

#### **i. GreenLatinos**

GreenLatinos is a 501(c)3 non-profit organization headquartered in Boulder, Colorado. They have 7,331 followers on Instagram and 9,064 followers on Twitter.<sup>100</sup> They work in an inclusive manner to improve the environment, protect and promote conservation of land and other natural resources, and amplify the voices of low-income and tribal communities.<sup>101</sup> In

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<sup>96</sup> Cima, Elena. “The Evolution of the Nexus: The Quest for Balance.” From Exception to Promotion: Re-Thinking the Relationship between International Trade and Environmental Law, Brill, 2022, pp. 148–211.

<sup>97</sup> Followers as of 15 Apr. 2022.

<sup>98</sup> <https://www.thedreamcorps.org/our-programs/green-for-all/>

<sup>99</sup> Landers, Jay. “Making the Case for Infrastructure Spending.” Water Environment & Technology, vol. 24, no. 4, 2012, pp. 15–18

<sup>100</sup> Followers as of 15 Apr. 2022.

<sup>101</sup> <https://www.greenlatinos.org/vision-values>

2021, GreenLatinos conducted a study with other NGOs to examine how communities of color think about climate change. One key finding of their study was that policymakers and advocates need to do a better job of engaging with Black and Latino communities on climate policy and how a “clean energy transition can positively impact their lives.”<sup>102</sup>

#### **j. Greenpeace USA**

Greenpeace USA is the United States affiliate of Greenpeace, an international environmental nonprofit organization. They have 328 thousand followers on Instagram, 217.9 thousand followers on Twitter, and 28 thousand subscribers on Youtube.<sup>103</sup> They use “peaceful protest and creative communication to expose global environmental problems and promote solutions that are essential to a green and peaceful future.”<sup>104</sup> Hochschild and Einstein claim that Greenpeace is one of the most prominent advocacy groups exhorting Americans to demand a federal response to global warming.<sup>105</sup>

#### **k. Hip Hop Caucus**

Hip Hop Caucus is a national, non-profit and non-partisan organization that connects the Hip Hop community to the civic process to build power and create positive change. They have 12.5 thousand followers on Instagram and 29.5 thousand followers on Twitter. In addition, they

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<sup>102</sup> DeWese, Jared, et al. Third Way/WE ACT for Environmental Justice/GreenLatinos Polling: Black and Latino Communities’ Sentiment on Climate Change and the Clean Energy Transition. Third Way, 2021, <http://www.jstor.org/stable/resrep39376>. Accessed 4 May 2022.

<sup>103</sup> Followers as of 15 Apr 2022.

<sup>104</sup> <https://www.greenpeace.org/usa/about/>

<sup>105</sup> Hochschild, Jennifer, and Katherine Levine Einstein. “It Isn’t What We Don’t Know That Gives Us Trouble, It’s What We Know That Ain’t So’: Misinformation and Democratic Politics.” *British Journal of Political Science*, vol. 45, no. 3, 2015, pp. 467–75.

have a podcast, “The Coolest Show.”<sup>106</sup> On their official website, Hip Hop Caucus states that they center their work in communities of color and “set local agendas and shape local strategies to engage people in their cities through culture.”<sup>107</sup> Pope et al. finds that Hip Hop Caucus’s exemplary use of “culturally appropriate messaging to get the word out on the green and clean movement in the Black community” is very effective.<sup>108</sup>

### **I. League of Conservation Voters**

The League of Conservation Voters is an American environmental advocacy group headquartered in Washington, D.C. They have 30.5 thousand followers on Instagram and 36.2 thousand followers on Twitter.<sup>109</sup> On their official website, they state that the action they take to fight climate change “presents tremendous environmental, social, economic, and community benefits that we are committed to ensuring benefit everyone.”<sup>110</sup> Reeves writes that the League has proven very critical of the Trump administration’s infrastructure proposals, which would have effectively streamlined environmental reviews and diminished the role of the EPA, calling them “scams that would destroy our environment, privatize our public works, increase taxes on the middle class, and bulldoze communities’ ability to have a say in the projects happening in their own backyard.”<sup>111</sup>

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<sup>106</sup> See <https://thecoolestshow.com/>

<sup>107</sup> <https://hiphopcaucus.org/about-us/>

<sup>108</sup> Pope, Blaine D., et al. “Booker T. and the New Green Collar Workforce: An Earth-Based Reassessment of the Philosophy of Booker T. Washington.” *Journal of Black Studies*, vol. 42, no. 4, 2011, pp. 507–29.

<sup>109</sup> Followers as of 15 Apr. 2022.

<sup>110</sup> <https://www.lcv.org/mission/>

<sup>111</sup> Reeves, Dawn. “Trump Infrastructure Proposal Would Require Air, Water Law Amendments.” *Inside EPA’s Water Policy Report*, vol. 27, no. 4, 2018, pp. 3–4.

### **m. Oil Change International**

Oil Change International (OCI) is a 501(c)3 non-profit organization that is headquartered in Washington, D.C. They have 997 followers on Instagram and 19.2 thousand followers on Twitter.<sup>112</sup> On their official website, they state that they are a “research, communications, and advocacy organization focused on exposing the true costs of fossil fuels and facilitating the ongoing transition to clean energy.”<sup>113</sup> Maltais et al. notes that OCI reviews many oil and gas companies that claim to adopt climate pledges.<sup>114</sup>

### **n. People’s Action**

People's Action is a national progressive advocacy and political organization in the United States made up of 40 organizations in 30 states. They have 4,935 followers on Instagram, 32.5 thousand followers on Twitter, and 815 subscribers on YouTube.<sup>115</sup> They state that they work to bring progressive climate action through issue campaigns and elections and are “pushing for cross-government climate solutions and utilizing deep federal investments for local governance.”<sup>116</sup>

### **o. Power Shift Network**

The Power Shift Network is a network of diverse organizations that are focused on “promoting bottom-up governance based on trust, accountability, and transparency, and taking

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<sup>112</sup> Followers as of 15 Apr. 2022.

<sup>113</sup> <https://priceofoil.org/about/>

<sup>114</sup> Maltais, Aaron, et al. “Oil and Gas.” What Does It Take to Achieve Net Zero?: Opportunities and Barriers in the Steel, Cement, Agriculture, and Oil and Gas Sectors, Stockholm Environment Institute, 2021, pp. 24–29.

<sup>115</sup> Followers and subscribers as of 15 Apr. 2022.

<sup>116</sup> <https://peoplesaction.org/people-planet-first/>

action as the essential expression of making decisions.”<sup>117</sup> They have 5,292 followers on Instagram and 40.6 thousand followers on Twitter.<sup>118</sup> They state they “mobilize the collective power of young people to mitigate climate change and create a just, clean energy future and resilient, thriving communities for all.”<sup>119</sup>

#### **p. Sierra Club**

The Sierra Club is an environmental organization with chapters in all 50 United States, Washington D.C., and Puerto Rico and is headquartered in Oakland, California. They have 365 thousand followers on Instagram, 385.6 thousand followers on Twitter, and 9.57 thousand subscribers on YouTube.<sup>120</sup> On their official website, they state they work to build a diverse, inclusive movement around environmental issues that represents today’s American public.<sup>121</sup> Proffitt remarks that the Sierra Club has been committed to the environmental movement for over a century and has a long list of achievements.<sup>122</sup>

#### **q. Sunrise Movement**

Sunrise Movement is a non-governmental organization focused on mobilizing youth groups interested in fighting climate change and promoting climate justice. They have 233 thousand followers on Instagram, 288.9 thousand followers on Twitter and 5.41 thousand

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<sup>117</sup><https://www.powershift.org/about>

<sup>118</sup> Followers as of 15 Apr. 2022.

<sup>119</sup> See <https://www.powershift.org/about>

<sup>120</sup> Followers and subscribers as of 15 Apr. 2022.

<sup>121</sup> <https://www.sierraclub.org/about-sierra-club>

<sup>122</sup> Proffitt, Merrilee. “The Sierra Club and Environmental History: A Selected Bibliography.” *California History*, vol. 71, no. 2, 1992, pp. 270–75.

subscribers on Youtube.<sup>123</sup> They work to make climate change an urgent priority across America, end the corrupting influence of fossil fuel executives on politics, and elect leaders who stand up for the health and wellbeing of all people.<sup>124</sup> Obergassel et al. writes that Sunrise Movement worked to make climate change an urgent priority in the 2020 elections.<sup>125</sup>

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<sup>123</sup> Followers and subscribers as of 15 Apr. 2022.

<sup>124</sup> <https://www.sunrisemovement.org/about/>

<sup>125</sup> Obergassel, Wolfgang, et al. "Paris Agreement: Ship Moves Out of the Drydock An Assessment of COP24 in Katowice." *Carbon & Climate Law Review*, vol. 13, no. 1, 2019, pp. 3–18.



**Table 4.1 Environmental organizations that published concerns about the USMCA in official statements**

Concerns about the United-States-Mexico Canada Agreement (USMCA)	Public Health	Climate Change Mitigation	Corporate Social Responsibility	Transparency & Public Participation	Enforcement of Environmental Laws
<b>Environmental Organization</b>					
Center for Biological Diversity	X	X			X
Center for International Environmental Law	X	X	X	X	X
Earthjustice		X		X	X
Extinction Rebellion					
Food & Water Watch		X			X
Friends of the Earth	X	X		X	X
Green for All		X			X
GreenLatinos		X			X
Greenpeace USA		X	X	X	X
Hip Hop Caucus		X			X
League of Conservation Voters		X			X
Oil Change International		X			X
People's Actop		X			X
Power Shift Network		X			X
Sierra Club	X	X		X	X
Sunrise Movement		X			X
350.org		X	X	X	X

## Chapter 4 — Data

### 4.1 Concerns Expressed During the USMCA Negotiations: Public Health

#### **350.org:**

350.org has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

#### **Center for Biological Diversity:**

The Center for Biological Diversity has published press releases expressing concern about the adverse affects to public health due to liberalized regional trade. In 2014, a formal petition was sent to the Commission for Environmental Cooperation by chiefs and representatives from the Union of British Columbia Indian Chiefs, Kwikwasu'tinuxw Haxwa'mis First Nation, Neskonlith Indian Band, Xaxli'p, Cayoose Creek Indian Band, Nak'azdli Whut'en, Splantsin First Nation, Xat'sull (Soda Creek) First Nation, Spuzzum First Nation, Cheam Indian Band, Bridge River Indian Band, Kwikwetlem First Nation and Musgamagw Dzawda'enuxw Tribal Council, along with 16 Canadian and U.S. salmon-protection groups alleging the Canadian government failed to protect wild salmon from disease and parasites from industrial fish farms in British Columbia.<sup>126</sup> In the same press release, CBD argues liberalized regional trade exposes the public's clean water resources and valuable salmon runs to “epidemics of disease, parasites, toxic chemicals and concentrated waste.”

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<sup>126</sup> Chamberlin, Bob & Miller, Jeff. “Indian Nations Call for NAFTA Investigation on Harm to Wild Salmon From Industrial Fish Farms in British Columbia.” Center for Biological Diversity. 28 Oct. 2014. [https://www.biologicaldiversity.org/news/press\\_releases/2014/fish-farms-10-28-2014.html](https://www.biologicaldiversity.org/news/press_releases/2014/fish-farms-10-28-2014.html).

### **Center for International Environmental Law:**

The Center for International Environmental Law has one published press release directly expressing concerns about “Public Health” in the USMCA negotiations:

Despite calls from across the continent for a NAFTA that is better for the environment, workers, and public health, negotiators seem intent on keeping one of its worst provisions: investor-state dispute settlement (ISDS). [...] This means that if corporate executives decide US, Mexico, or Canada’s laws and policies that protect public health or the environment are violating their investor rights under NAFTA, they can sue the governments and potentially be awarded unlimited sums by corporate lawyers who usually oversee these secretive tribunals.<sup>127</sup>

### **Earthjustice:**

Earthjustice has no published statements explicitly expressing concerns about “Public Health” and the USMCA negotiations.

### **Extinction Rebellion:**

Extinction Rebellion has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

### **Food & Water Watch:**

Food & Water Watch has no published statements explicitly expressing concerns about “Public Health” and the USMCA negotiations.

### **Friends of the Earth:**

Friends of the Earth references public health concerns in three different articles posted on their official website’s blog:

NAFTA threatens deregulation of chemical safety standards. NAFTA renegotiation could result in a the roll back of effective regulations, put in place in California and other

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<sup>127</sup> “Negotiators should eliminate NAFTA’s corporate power grab.” Center for International Environmental Law. 6 Sep. 2017. <https://www.ciel.org/negotiators-eliminate-naftas-corporate-power-grab/>

jurisdictions, related to chemicals associated with breast cancer, infertility and other illnesses. It also could block future reforms at the national level.<sup>128</sup>

In the second article:

Donald Trump’s plan to renegotiate the North American Free Trade Agreement is a threat to efforts to create a sustainable, healthy, equitable and humane food system for all. [...] Trump is responding to global corporations that have called for a rollback of environmental and public health regulations in a new NAFTA deal. Dozens of powerful corporate lobby groups ranging from the American Farm Bureau and the Corn Growers Association to DuPont Chemical and the Business Roundtable have filed public comments with the U.S. Trade Representative demanding a rollback of key public health, environmental, and other public interest regulations.<sup>129</sup>

In the same article, FOE states that the USMCA is harmful to public health because it threatens:

chemical safeguards, pesticide safeguards, food labeling, food safety safeguards and biotechnology safeguards.

In the third article:

This administration is hell bent on destroying essential protections that safeguard our public health and protect our planet for future generations. Coal companies are now free to pilfer our public lands, power plants can release countless toxins into the air, and Big Oil is giddy at the thought of drilling in the Atlantic, Pacific and Gulf of Mexico. The water we drink, the air we breathe, and our sacred public spaces and lands are more threatened than they ever have been. Impacts on public health are already being felt, particularly by frontline neighborhoods and communities of color.<sup>130</sup>

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<sup>128</sup> See Waren’s “10 ways that Trump’s new NAFTA threatens people and the planet”

<sup>129</sup> “7 ways Trump’s NAFTA threatens our health, family farmers, animal welfare and the environment.” Friends of the Earth: Blog. 13 Oct. 2017. <https://foe.org/blog/ways-trump-nafta-threatens/>.

<sup>130</sup> See Waren’s “Trump’s NAFTA renegotiation is a cynical ploy”

**Green for All:**

Green for All has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**GreenLatinos:**

GreenLatinos has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**Greenpeace USA:**

Greenpeace USA has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**Hip Hop Caucus:**

Hip Hop Caucus has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**League of Conservation Voters:**

The League of Conservation Voters has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**Oil Change International:**

Oil Change International has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**People’s Action:**

People’s Action has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**Power Shift Network:**

Power Shift Network has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**Sierra Club:**

The Sierra Club has an abundance of published articles regarding its concerns about NAFTA, the USMCA and its detrimental effects to the physical environment. Several of their articles address the public health related concerns for workers in Mexico’s manufacturing sector, often referencing the exposure to hazardous materials and toxic pollutants.<sup>131</sup>

**Sunrise Movement:**

Sunrise Movement has no published statements explicitly expressing concerns about “Public Health” in the USMCA negotiations.

**4.2 Expressed Concerns During the USMCA Negotiations: Climate Change Mitigation****350.org:**

In a joint press release, 350.org argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>132</sup>

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<sup>131</sup> “NAFTA’s Impact on Mexico.” [sierraclub.org. https://vault.sierraclub.org/trade/downloads/nafta-and-mexico.pdf](https://vault.sierraclub.org/trade/downloads/nafta-and-mexico.pdf)

<sup>132</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

### **Center for Biological Diversity:**

In a joint press release, the Center for Biological Diversity argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>133</sup>

### **Center for International Environmental Law:**

The Center for International Environmental Law published a joint press release directly addressing concerns over a renegotiated NAFTA’s failure to address climate change:

[USMCA] fails to even mention climate change, despite our consistent calls for binding climate standards. This climate denialism would let corporations dodge the clean energy policies of US states by moving to Mexico, reinforcing the US’s status as the world’s largest outsourcer of climate pollution.<sup>134</sup>

One other press release addresses climate change in relation to energy reform:<sup>135</sup>

The environmental risks that come with deep-water drilling, fracking, and other oil infrastructure are associated with long-term, often irreversible impacts on ecosystems.

Over the long term, the global community will suffer the consequences of climate impacts.

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<sup>133</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>134</sup> “New NAFTA Deal Threatens Our Air, Water, and Climate Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria.” *Center for International Environmental Law*. 26 Nov. 2018. <https://www.ciel.org/news/new-nafta-threatens-air-water-climate/>.

<sup>135</sup> Alford-Jones, Kelsey. “Reforms Open Mexico’s Oil and Gas to Investor Rush... and here comes NAFTA.” *Center for International Environmental Law*. 28 Jun. 2017. <https://www.ciel.org/reforms-open-mexicos-oil-gas-investor-rush-comes-nafta/>.

### **Earthjustice:**

In a joint press release, Earthjustice argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>136</sup>

### **Extinction Rebellion:**

Extinction Rebellion has no published statements explicitly expressing concerns about “Climate Change Mitigation” in the USMCA negotiations.

### **Food & Water Watch:**

In a joint press release, Food & Water Watch argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>137</sup>

### **Friends of the Earth:**

Friends of the Earth references concerns about climate change in the USMCA negotiations in three different articles published on their official blog:

In the first article:

NAFTA threatens sound climate policy. A new deal on NAFTA will likely ramp up global warming by increasing coal, oil and gas exports . Such “free trade” in dirty energy products would accelerate climate change across North America and around the world.<sup>138</sup>

In the second article:

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<sup>136</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>137</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>138</sup> See Waren’s “10 ways that Trump’s new NAFTA threatens people and the planet”



Efforts to save the Paris Climate Accord and to save the planet from melting down: all these would be violations of [USMCA]. Remember that Trump is the man who scandalized the whole world by pulling out of the Paris Climate Accord. He is bringing that same “war on the planet” attitude to negotiating these agreements.<sup>139</sup>

In the third article:

The Administration’s stated NAFTA negotiating objectives reinforce concerns that Trump plans to use a new NAFTA to hamstring effective environmental regulation across the board. [...] This process presents a threat to sensible environmental and climate policies. [...] That’s because the entire Trump Administration is determined to gut environmental protections and hand our lands and waters over to corporate polluters.<sup>140</sup>

**Green for All:**

In a joint press release, Green For All argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>141</sup>

**GreenLatinos:**

In a joint press release, GreenLatinos argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>142</sup>

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<sup>139</sup> See “Bill Waren on Trump’s renegotiation of NAFTA”

<sup>140</sup> Waren, William. “Trump’s NAFTA renegotiation is a cynical ploy.” Friends of the Earth: Blog. 20 Jul. 2018. <https://foe.org/blog/trumps-nafta-renegotiation-cynical-ploy/>.

<sup>141</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>142</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

### **Greenpeace USA:**

In a joint press release, Greenpeace USA argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>143</sup> In another article published on the official Greenpeace website, Greenpeace USA Political and Business Strategist Charlie Cray stated concerns about USMCA’s impact on climate change and renewable energy:

Trump’s United States-Mexico-Canada (USMCA) trade agreement is the latest in his long line of policies designed to empower the oil and gas industry at the expense of American workers and climate-impacted communities. The deal retains the industry’s leverage over regulatory restrictions and expands its ability to dig up and export more carbon pollution. It fails to support the growing renewable energy economy or create economic security in regions of the country ravaged by NAFTA’s job-killing, climate-wrecking legacy. Every day now, we see communities across the continent suffering the fallout of climate-fueled wildfires, hurricanes, flooding, and drought. In the face of the climate crisis, the USMCA undermines the security and the economy of the entire region by slowing down the just transition to renewable energy we need.<sup>144</sup>

### **Hip Hop Caucus:**

In a joint press release, Hip Hop Caucus argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>145</sup>

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<sup>143</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>144</sup> Schleeter, Ryan. “Trump’s USMCA Is a Disaster for People and the Environment.” *Greenpeace*. 29 Jan. 2020. <https://www.greenpeace.org/usa/news/trumps-usmca-is-a-disaster-for-people-and-the-environment/>.

<sup>145</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

### **League of Conservation Voters:**

The League of Conservation Voters said that “Climate change ought to be prioritized in any renegotiated NAFTA agreement” and that “binding climate standards and a commitment to remain in the Paris Climate Agreement” should be included as well in their September 20, 2019 newsletter.<sup>146</sup> In the December newsletter, they state:

Despite repeated calls for fundamental fixes on the environmental provisions, the final deal didn’t even mention the climate crisis, let alone take the actions necessary to address the relationship between trade and climate. Because the final deal fails to protect our communities and the environment, LCV, along with nine other environmental organizations, sent a letter to the House declaring our opposition, along with a clause that LCV will consider scoring the vote in our 2019 National Environmental Scorecard.<sup>147</sup>

Also, in a joint press release the League of Conservation Voters argues that Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>148</sup>

### **Oil Change International:**

In a joint press release, Oil Change International argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>149</sup>

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<sup>146</sup> “This Week in Climate (In)Action – September 20, 2019.” [lcv.org](https://www.lcv.org/article/week-climate-inaction-september-20-2019/). 20 Sept. 2019. <https://www.lcv.org/article/week-climate-inaction-september-20-2019/>

<sup>147</sup> “This Week in Climate (In)Action – December 13, 2019.” [lcv.org](https://www.lcv.org/article/week-climate-inaction-december-13-2019/). 13 Dec. 2019. <https://www.lcv.org/article/week-climate-inaction-december-13-2019/>

<sup>148</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>149</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

### **People’s Action:**

In a joint press release, People’s Action argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>150</sup>

### **Power Shift Network:**

In a joint press release, Power Shift Network argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>151</sup>

### **Sierra Club:**

In a joint press release, Sierra Club argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>152</sup> In a 2018 article, writer Heather Smith of Sierra Club’s magazine *Sierra* states the environmental goals of the agreement are “far too vague.”<sup>153</sup> The Sierra Club has extensive literature explaining how the USMCA perpetuates NAFTA’s contribution to the climate crisis.<sup>154</sup>

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<sup>150</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>151</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>152</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>153</sup> Smith, Heather. “Should We Fear a New NAFTA? Spoiler: Yes, it could be terrible for the climate.” *Sierra*. 20 Apr. 2018. <https://www.sierraclub.org/sierra/should-we-fear-new-nafta>

<sup>154</sup> Carr, Cindy. “Trump’s Climate-Denying NAFTA Proposal Would Perpetuate Outsourcing of Pollution and Jobs.” [sierraclub.org](https://www.sierraclub.org/press-releases/2018/10/trump-s-climate-denying-nafta-proposal-would-perpetuate-outsourcing-pollution). 1 Oct. 2018. <https://www.sierraclub.org/press-releases/2018/10/trump-s-climate-denying-nafta-proposal-would-perpetuate-outsourcing-pollution>

### **Sunrise Movement:**

In a joint press release, Sunrise Movement argues that the Environmental Chapter of the USMCA is “weak” because it “fails to even mention climate change” despite calls for uniform climate standards.<sup>155</sup>

### **4.3 Expressed Concerns During the USMCA Negotiations: Corporate Social Responsibility**

#### **350.org:**

350.org indirectly addresses Corporate Social Responsibility in a press release addressing a lawsuit TransCanada filed under a NAFTA mechanism in response to the Obama Administration’s rejection of the Keystone XL pipeline in 2016. In the statement, Jason Kowalski, 350.org Policy Director said:

The suit is a reminder that we shouldn’t be signing new trade agreements like the Trans Pacific Partnership that allow corporations to sue governments that try and keep fossil fuels in the ground.<sup>156</sup>

No further concerns regarding CSR were expressed in any of 350.org’s other official statements.

#### **Center for Biological Diversity:**

The Center for Biological Diversity has no published statements explicitly expressing concerns about Corporate Social Responsibility in the USMCA.

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<sup>155</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>156</sup> “350.org Responds to TransCanada’s NAFTA Lawsuit over Keystone XL.” 350.org. 6 Jan. 2016. <https://350.org/press-release/350-org-responds-to-transcanadas-nafta-lawsuit-over-keystone-xl/>.

### **Center for International Environmental Law:**

The Center for International Environmental Law has one published press release directly expressing concerns about “Public Health” in the USMCA negotiations:

Despite calls from across the continent for a NAFTA that is better for the environment, workers, and public health, negotiators seem intent on keeping one of its worst provisions: investor-state dispute settlement (ISDS). ISDS gives multinational corporations the power to sue governments in front of a panel of three arbiters, usually corporate lawyers. These lawyers can order governments to pay the corporations unlimited sums of money, including for the loss of expected future profits. Not only do corporations get a special system of “justice” outside our courts, but it’s rigged in their favor. This means that if corporate executives decide US, Mexico, or Canada’s laws and policies that protect public health or the environment are violating their investor rights under NAFTA, they can sue the governments and potentially be awarded unlimited sums by corporate lawyers who usually oversee these secretive tribunals.<sup>157</sup>

Taxpayers from the three NAFTA countries have already paid hundreds of millions of dollars to corporations following democratic regulations to limit toxic exposure, environmental and public health policies, and more.

### **Earthjustice:**

Earthjustice has no published statements explicitly expressing concerns about “Corporate Social Responsibility” and the USMCA negotiations.

### **Extinction Rebellion:**

Extinction Rebellion has no published statements explicitly expressing concerns about “Corporate Social Responsibility” and the USMCA negotiations.

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<sup>157</sup> See “Negotiators should eliminate NAFTA’s corporate power grab.”

**Food & Water Watch:**

Food & Water Watch has no published statements explicitly expressing concerns about “Corporate Social Responsibility” and the USMCA negotiations.

**Friends of the Earth:**

Friends of the Earth has no published statements explicitly expressing concerns about Corporate Social Responsibility in the USMCA.

**Green for All:**

Green for All has no published statements explicitly expressing concerns about “Corporate Social Responsibility” and the USMCA negotiations.

**GreenLatinos:**

GreenLatinos has no published statements explicitly expressing concerns about “Corporate Social Responsibility” and the USMCA negotiations.

**Greenpeace USA:**

In a press release published on the Greenpeace website, senior research specialist at Greenpeace USA Charlie Cray states:

It comes down to this — NAFTA is not about free trade. That’s the lie. In reality, it’s a grandly-designed corporate power grab, riddled with industry-specific favors and Trojan horses that well-paid lawyers invented to help corporations elude constitutional accountability and undermine the regulations that protect people and the planet.<sup>158</sup>

**Hip Hop Caucus:**

Hip Hop Caucus has no published statements explicitly expressing concerns about “Corporate Social Responsibility” and the USMCA negotiations.

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<sup>158</sup> Cray, Charlie. “Not Paying Attention to Trump’s NAFTA Negotiations? Here’s Why You Should Be.” *Greenpeace USA*. 9 Aug. 2017. <https://www.greenpeace.org/usa/not-paying-attention-trumps-nafta-negotiations-heres/>.

**League of Conservation Voters:**

The League of Conservation Voters has no published statements explicitly expressing concerns about Corporate Social Responsibility in the USMCA.

**Oil Change International:**

Oil Change International has no published statements explicitly expressing concerns about Corporate Social Responsibility in the USMCA. However, they do express concern in a blog post over fossil fuel companies' ability to sue governments in non-judicial tribunals over the right to continue to extract and burn fossil fuels.<sup>159</sup>

**People's Action:**

People's Action has no published statements explicitly expressing concerns about "Corporate Social Responsibility" and the USMCA negotiations.

**Power Shift Network:**

Power Shift Network has no published statements explicitly expressing concerns about "Corporate Social Responsibility" and the USMCA negotiations.

**Sierra Club:**

Sierra Club does not explicitly refer to Corporate Social Responsibility in any of its press releases I could find, but they do express concern over corporations' abilities to sue Mexico in private tribunals if new environmental policies undercut their government contracts for offshore drilling, fracking, oil and gas pipelines, refineries, or other polluting activities.<sup>160</sup> In the same

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<sup>159</sup> Rees, Collin. "Democratic Platform must back up words with actions." [priceofoil.org](https://priceofoil.org). 5 Jul. 2016. <https://priceofoil.org/2016/07/05/democratic-platform-must-back-up-words-with-actions/>

<sup>160</sup> "Trumps NAFTA 2.0: An Environmental Failure." [sierraclub.org](https://www.sierraclub.org). <https://www.sierraclub.org/sites/www.sierraclub.org/files/Trump-NAFTA-Environment-Failure.pdf>



article, Sierra Club references a new “rule of origin” in the USMCA that acts as a handout to corporate polluters allowing them to promote national reliance on fossil fuel, weaken process of reregulation, and dodge hard-fought clean energy policies.

**Sunrise Movement:**

Sunrise Movement has no published statements explicitly expressing concerns about Corporate Social Responsibility in the USMCA.

**4.4 Expressed Concerns During the USMCA Negotiations: Transparency & Public**

**Participation**

**350.org:**

350.org co-founder and environmentalist Bill McKibben said in a 2016 press release that free trade agreements are “fundamentally anti-democratic,” after Canadian oil company TransCanada filed a lawsuit against the United States under the NAFTA in response to the Obama Administration’s rejection of the Keystone XL pipeline.<sup>161</sup> Of the limits of transparency and limited capability of public participation, he stated in the same press release:

That it can be overturned by three guys no one ever heard of or voted for, sitting in a room all by themselves, tells you everything you need to know about the fundamentally anti-democratic nature of these agreements.

350.org also made a joint press release with Center for Biological Diversity, Center for International Environmental Law, Earthjustice, Food & Water Watch, Friends of the Earth, Green

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<sup>161</sup> “350.org’s Bill McKibben responds to TransCanada’s NAFTA lawsuit over Keystone XL rejection.” 350.org. 27 Jun. 2016. <https://350.org/press-release/350-orgs-bill-mckibben-responds-to-transcanadas-nafta-lawsuit-over-keystone-xl-rejection/>.

for All, GreenLatinos, Greenpeace USA, Hip Hop Caucus, League of Conservation Voters, Oil Change International, People’s Action, Power Shift Network, Sierra Club, and Sunrise Movement that addressed the renegotiations of NAFTA as “closed-door talks between the U.S., Canada, and Mexico” which did not allow for all of their environmental objectives to be properly addressed.<sup>162</sup>

**Center for Biological Diversity:**

The Center for Biological Diversity has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Center for International Environmental Law:**

The Center for International Environmental Law published four press releases directly concerned with transparency and public participation. The first release gave a list of concerns, followed by:

But none of these objectives can be achieved without a trade system that is transparent, democratic and informed by an engaged, informed public. Accordingly, policymakers should insist that NAFTA negotiations be conducted with dramatically greater transparency and public participation than past agreements.<sup>163</sup>

The second release, “As NAFTA Negotiations Open, Doors Close on Transparency,” was published in August, 2017:

Today, negotiations for NAFTA begin. This comes amid an unfortunate, but now predictable, lack of transparency and public participation around trade negotiations, which threatens to sacrifice the public interest for corporate advantage. True

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<sup>162</sup> “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria.” <https://www.sierraclub.org/sites/www.sierraclub.org/files/NAFTA-environment-statement.pdf>. Accessed 20 Apr. 2022.

<sup>163</sup> “NAFTA 2.0? What does a renegotiated NAFTA mean, and what can we do about it?” *Center for International Environmental Law*. 18 May. 2017. <https://www.ciel.org/nafta-2-0-renegotiated-nafta-mean-can/>.

transparency during negotiations means publishing draft versions of US proposals for all sections of the trade agreement before the text is consolidated, incorporating public comment on the proposals, and allowing for meaningful public participation in the negotiations. Promoting human rights, increasing economic equality, safeguarding the climate and protecting the environment should be integral objectives for the NAFTA parties. CIEL joins social movements, trade unions, farmers, migrants, and indigenous peoples in calling for an agreement that protects the environment, promotes economic equality, and respects human rights, and in opposing any agreement that advances corporate interests at the expense of people and the environment.<sup>164</sup>

The third release published in October, 2017 titled “Little Transparency After Three Rounds of NAFTA Renegotiations”<sup>165</sup>:

The first three rounds of negotiations of the North American Free Trade Agreement (NAFTA) lacked transparency, as countries have kept trade positions secret and excluded civil society participation. Although Canada proposed including stakeholder negotiation days, the US and Mexico opposed this inclusion. CIEL has demanded that transparency, public participation in negotiations, and stronger environmental regulations be prioritized in the new NAFTA. [...] Government briefings about these negotiations are generally limited to cleared advisors — people who disproportionately represent industry interests. This all but guarantees that civil society will be excluded from meaningful involvement in any stage of these negotiations, while giving big business a seat at the table. This sets NAFTA up to pander to corporate interests at the expense of people, planet, climate, health, and human rights. [...] How negotiators engage with these issues will determine if a new NAFTA makes any substantive steps towards not just free but better trade within North America. Without access to information and the opportunity for public input, these negotiations bode poorly for an improved NAFTA that promotes trade that protects people and the planet – and may instead worsen the treaty.

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<sup>164</sup> “As NAFTA Negotiations Open, Doors Close on Transparency.” *Center for International Environment Law*. 16 Aug. 2017. <https://www.ciel.org/news/nafta-negotiations-open-doors-close-transparency/>

<sup>165</sup> Bridge, Maddie. “Little Transparency After Three Rounds of NAFTA Renegotiations.” *Center for International Environmental Law*. 2 Oct. 2017. <https://www.ciel.org/little-transparency-three-rounds-nafta-renegotiations/>.

The fourth press release demands:

NAFTA must include binding environmental protections and transparent mechanisms for public input, monitoring, and enforcement.<sup>166</sup>

**Earthjustice:**

Earthjustice has one article in its database in which it is referenced for showing concern about the lack of transparency in one of its enforcement policies:

the ISDS process “essentially gives private corporations the status of nations under international law and the incredibly powerful and very secretive tribunal,” says Martin Wagner, the managing attorney of Earthjustice’s International Program.<sup>167</sup>

**Extinction Rebellion:**

Extinction Rebellion has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Food & Water Watch:**

Food & Water Watch has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Friends of the Earth:**

Friends of the Earth expresses concerns about the USMCA’s lack of transparency in one article published in their official blog:

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<sup>166</sup> See Alford-Jones, Kelsey. “Reforms Open Mexico’s Oil and Gas to Investor Rush... and here comes NAFTA.”

<sup>167</sup> Hao, Karen. “One Thing Environmentalists and Trump Actually Agree On.” *MotherJones*. 14 Mar. 2017. <https://www.motherjones.com/environment/2017/03/trump-nafta-renegotiation-environment-trade/>.

NAFTA investment tribunals threaten environmental and climate safeguards across the board. Like the TPP, the new NAFTA is almost certain to allow global corporations to turn to secretive international investment tribunals to sue governments for millions or billions of dollars if environmental or other public interest regulations interfere with corporations' expected future profits. These secret tribunals discourage government action like restricting oil and gas drilling, imposing pollution controls, and limiting the use of fracking (hydraulic fracturing).<sup>168</sup>

**Green for All:**

Green for All has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**GreenLatinos:**

GreenLatinos has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Greenpeace USA:**

In a press release published on the official Greenpeace USA website, senior research specialist at Greenpeace USA Charlie Cray states:

Trump's administration is about to start secretly negotiating a pro-polluter agreement that is just as bad for workers and the environment as the current NAFTA — or worse. [Transparency] will only get worse as corporate lobbyists ghost-write most of it behind closed doors.<sup>169</sup>

**Hip Hop Caucus:**

Hip Hop Caucus has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

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<sup>168</sup> Waren, William. "10 ways that Trump's new NAFTA threatens people and the planet." Friends of the Earth: Blog. 16 Aug. 2017. <https://foe.org/blog/10-ways-trumps-new-nafta-threatens-people-planet/>.

<sup>169</sup> See Cray's "Not Paying Attention to Trump's NAFTA Negotiations? Here's Why You Should Be" (2017)

**League of Conservation Voters:**

The League of Conservation Voters has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Oil Change International:**

Oil Change International has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**People's Action:**

People's Action has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Power Shift Network:**

Power Shift Network has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

**Sierra Club:**

In an article titled, "Trump's NAFTA 2.0: An Environmental Failure," Sierra Club states concern about the private tribunals and their ability to trump new environmental laws enacted after the treaty's ratification:

The revised deal would allow corporate polluters to sue Mexico in private tribunals if new environmental policies undercut their government contracts for offshore drilling, fracking, oil and gas pipelines, refineries, or other polluting activities.<sup>170</sup>

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<sup>170</sup> See "Trump's NAFTA 2.0: An Environmental Failure."

## **Sunrise Movement:**

Sunrise Movement has no published statements explicitly expressing concerns about transparency and public participation in the USMCA.

## **4.5 Expressed Concerns During the USMCA Negotiations: Enforcement**

### **350.org:**

In a joint press release with other environmentalist groups, [350.org](https://www.350.org) expresses concerns over environmental law enforcement and states:

We have called for a “new, independent enforcement system” in a rewritten NAFTA to ensure swift and certain enforcement of environmental, labor, and human rights standards. Instead, the NAFTA 2.0 deal largely replicates the same failed enforcement mechanism from past U.S. trade agreements. Not once has the U.S. used this mechanism in past trade deals to bring a case against a U.S. trade partner for environmental abuses, despite widely documented violations. This track record of zero hardly inspires confidence that the environmental terms of this deal, even if they were strong, would be enforced. In fact, the NAFTA 2.0 deal manages to further weaken the enforcement mechanism of past trade deals by allowing a government that is committing environmental abuses to block a case from advancing.<sup>171</sup>

### **Center for Biological Diversity:**

The Center for Biological Diversity has published several press releases throughout the lifespan of the NAFTA and during its renegotiations with concerns about the enforcement of environmental laws in Mexico and Canada. In Mexico, the Center concerns itself with ChevronTexaco’s construction of liquified natural gas (LNG) facilities in Baja, California that

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<sup>171</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

are within close proximity to the Coronado Islands. Brendan Cummings, Marine Program

Director for the Center for Biological Diversity said in one 2005 press release<sup>172</sup>:

ChevronTexaco could not have picked a worse location. The Coronado Islands are a biodiversity hotspot, with ten species of plants and animals found nowhere else in the world. Six threatened or endangered bird species nest there, and the islands also include the largest nesting area for the rare Xantus's murrelet.

In the same joint press release with Greenpeace, Arturo Moreno, Energy and Climate Change Program Coordinator of Greenpeace Mexico, stated ChevronTexaco was intentionally avoiding U.S. environmental laws, and Alfonso Aguirre, a conservation leader in Baja California expressed the concern that the Mexican government was not conducting the environmental assessment necessary to grant ChevronTexaco permits for the project.

In Canada, the Center concerns itself with the government's failure to enforce environmental laws designed to protect polar bears "despite the grave threats posed by climate change."<sup>173</sup> In 2013 the CBD also submitted a petition to The Commission for Environmental Cooperation, the entity established under the NAFTA, alleging the Canadian government violated its own Fisheries Act. In a press release coinciding the petition, the Center stated that the initial response from the NAFTA environmental commission was encouraging, but that "they need help moving toward immediate action."<sup>174</sup>

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<sup>172</sup> Cummings, Wolf et al. "U.S. and Mexican Groups Turn to NAFTA to Save Endangered Seabirds from "Energy Maquiladora: Dangerous Gas Terminal Proposed Next To Island Biodiversity Hotspot on California Border." 3 May. 2005. [https://www.biologicaldiversity.org/news/press\\_releases/seabird5-3-05.html](https://www.biologicaldiversity.org/news/press_releases/seabird5-3-05.html).

<sup>173</sup> "NAFTA: Investigate Canada's failure to protect polar bears." The Ecologist. 20 Nov. 2013. <https://www.biologicaldiversity.org/news/center/articles/2013/ecologist-11-20-2013.html>.

<sup>174</sup> Morton, Chamberlin et al. "NAFTA Commission: Canada Must Respond to Citizen Concerns That Industrial Fish Farms Hurt Wild Salmon." 13 Sep. 2013. [https://www.biologicaldiversity.org/news/press\\_releases/2013/fish-farms-09-13-2013.html](https://www.biologicaldiversity.org/news/press_releases/2013/fish-farms-09-13-2013.html)



## **Center for International Environmental Law:**

The Center for International Environmental Law published three press releases directly addressing concerns over a renegotiated NAFTA's enforcement shortcomings. The first is a joint press release:

We have called for a “new, independent enforcement system” in a rewritten NAFTA to ensure swift and certain enforcement of environmental, labor, and human rights standards. Instead, the NAFTA 2.0 deal largely replicates the same failed enforcement mechanism from past US trade agreements. Not once has the US used this mechanism in past trade deals to bring a case against a US trade partner for environmental abuses, despite widely documented violations. This track record of zero hardly inspires confidence that the environmental terms of this deal, even if they were strong, would be enforced. In fact, the NAFTA 2.0 deal manages to further weaken the enforcement mechanism of past trade deals by allowing a government that is committing environmental abuses to block a case from advancing.<sup>175</sup>

The second press release demands that NAFTA “eliminates the current investor-state dispute settlement system; and creates an effective and fully independent dispute resolution system.”<sup>176</sup>

The third release demands:

NAFTA must include binding environmental protections and transparent mechanisms for public input, monitoring, and enforcement.<sup>177</sup>

## **Earthjustice:**

One Earthjustice member expresses concern in one article posted on Earthjustice's online library about the lack of transparency in a NAFTA enforcement policy:

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<sup>175</sup> See “New NAFTA Deal Threatens Our Air, Water, and Climate Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria.”

<sup>176</sup> See “NAFTA 2.0? What does a renegotiated NAFTA mean, and what can we do about it?”

<sup>177</sup> See Alford-Jones, Kelsey. “Reforms Open Mexico’s Oil and Gas to Investor Rush... and here comes NAFTA.”

The ISDS process “essentially gives private corporations the status of nations under international law and the incredibly powerful and very secretive tribunal,” says Martin Wagner, the managing attorney of Earthjustice’s International Program.<sup>178</sup>

**Extinction Rebellion:**

Extinction Rebellion has no published concerns about the enforcement of the USMCA in their archives.

**Food & Water Watch:**

Food & Water Watch published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>179</sup>

**Friends of the Earth:**

Friends of the Earth expresses concern about the nature of enforcement in one article published in their official blog:

[T]hese so-called trade deals can be effectively enforced through a system of arbitration that can trump the decisions of a democratically-elected Congress, the Supreme Court, or the President or similar institutions in other countries. These [arbitration tribunals] can enforce their decisions with retaliatory trade sanctions like punitive tariffs on a country’s exports or withdrawing international property rights like patent protections. And, in the case of investment tribunals—they can levy unlimited money damages—sometimes in the billions of dollars—that can break a country’s public budget.<sup>180</sup>

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<sup>178</sup> See Hao’s “One Thing Environmentalists and Trump Actually Agree On”

<sup>179</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>180</sup> “Bill Waren on Trump’s renegotiation of NAFTA.” Friends of the Earth: Blog. 21 Sep. 2017. <https://foe.org/blog/bill-waren-trumps-renegotiation-nafta/>.

**Green for All:**

Green for all published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>181</sup>

**GreenLatinos:**

GreenLatinos published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>182</sup>

**Greenpeace USA:**

In a joint press release, Greenpeace USA states:

We have called for a “new, independent enforcement system” in a rewritten NAFTA to ensure swift and certain enforcement of environmental, labor, and human rights standards. Instead, the NAFTA 2.0 deal largely replicates the same failed enforcement mechanism from past US trade agreements. Not once has the US used this mechanism in past trade deals to bring a case against a US trade partner for environmental abuses, despite widely documented violations. This track record of zero hardly inspires confidence that the environmental terms of this deal, even if they were strong, would be enforced. In fact, the NAFTA 2.0 deal manages to further weaken the enforcement mechanism of past trade deals by allowing a government that is committing environmental abuses to block a case from advancing.<sup>183</sup>

**Hip Hop Caucus:**

Hip Hop Caucus published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>184</sup>

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<sup>181</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>182</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>183</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

<sup>184</sup> See “Trump’s NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria”

**League of Conservation Voters:**

In a joint press release with other environmentalist groups, the League of Conservation Voters expresses concerns over environmental law enforcement.<sup>185</sup>

**Oil Change International:**

In a joint press release with other environmentalist groups, Oil Change International expresses concerns over environmental law enforcement.<sup>186</sup>

**People's Action:**

People's Action published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>187</sup>

**Power Shift Network:**

Power Shift Network published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>188</sup>

**Sierra Club:**

Sierra Club published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>189</sup> In a 2018 article, writer Heather Smith of Sierra Club's magazine *Sierra* states:

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<sup>185</sup> See "Trump's NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria"

<sup>186</sup> See "Trump's NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria"

<sup>187</sup> See "Trump's NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria"

<sup>188</sup> See "Trump's NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria"

<sup>189</sup> See "Trump's NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria"

If you look at the NAFTA renegotiation objectives drawn up by the Trump administration, you'll see that the environmental goals are far too vague to ever be enforced. It's unrealistic to expect NAFTA to police the environment anyway—that's not what trade agreements are designed for.<sup>190</sup>

In an article titled, "Trump's NAFTA 2.0: An Environmental Failure," Sierra Club expresses further concerns of the enforcement mechanisms of USMCA:

Instead of including an independent and binding enforcement system for environmental terms, the 2018 deal largely replicated the same, weak enforcement mechanisms of past trade deals that have consistently failed to curb environmental abuses. The 2019 revision repeats this failure, as it does not create an independent body to investigate and initiate cases against environmental abuses. Instead, the implementing legislation for NAFTA 2.0 creates an "interagency committee" that is not independent and that has virtually no power to correct environmental abuses. The committee can only write non-binding reports and in rare instances issue non-binding recommendations. The committee is chaired by the U.S. Trade Representative, an agency whose clear conflict of interest has consistently inhibited environmental enforcement in U.S. trade deals to date. Due to this copy and paste of a failed enforcement system, the environmental terms of NAFTA 2.0, even if they were strong, are unlikely to be enforced.<sup>191</sup>

### **Sunrise Movement:**

Sunrise Movement published an official statement referencing concerns about the enforcement of the USMCA in a joint press release.<sup>192</sup>

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<sup>190</sup> See Smith, Heather. "Should We Fear a New NAFTA? Spoiler: Yes, it could be terrible for the climate."

<sup>191</sup> See "Trumps NAFTA 2.0: An Environmental Failure."

<sup>192</sup> See "Trump's NAFTA Deal Threatens Our Air, Water, and Climate: Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria"

## Chapter 5 — FINDINGS

The final text of the USMCA’s Chapter 24<sup>193</sup> contains the following Environmental provisions regarding public health, climate change mitigation, corporate social responsibility, transparency and public participation, and enforcement of environmental laws:

### 5.1 Public Health:

In defining environmental law at the beginning of the chapter, the treaty writers acknowledge that its primary purpose is to protect the environment and prevent “danger to human life or health.” However, they write that environmental law does not include any statutes or regulations “directly related to worker safety or health.” The deliberate categorizing of environmental law not to include worker health is a missed opportunity to coincide any economic and social aspirations the free trade agreement might have inspired.

Article 24.9 states that the parties recognize that ozone depletion caused by the emission of certain substances is “likely to result in adverse effects on human health.” The language is soft and general. It requires each party make information about ozone depletion available and cooperate with each other to exchange information and experience “concerning the protection of the ozone layer.”

Article 24.11 states that the parties recognize the impact air pollution has on public health and requires they make air quality data and information available to the public. In addition, this information must be “easily accessible and understandable to the public.” Most of the language

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<sup>193</sup> *United States-Mexico-Canada Agreement*. Office of the United States Trade Representative. 1 Jul. 2020. <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between>

in this article is general and noncommittal, stating that parties acknowledge the importance of “reducing both domestic and transboundary air pollution.”

The language of Article 24.12 is soft and noncommittal. It merely states that the parties recognize “the importance of taking action to prevent and reduce marine litter, including plastic litter and microplastics, in order to preserve human health.” The article gives no direction or requirements as to how each party should prevent and reduce marine litter in order to “preserve human health.”

Article 24.16 states that the parties recognize that cross-border movement of terrestrial and aquatic species adversely affects “human health” and that “prevention, detection, control and, when possible, eradication” are necessary to prevent and manage any adverse impact to human health. Again, the language indicates a suggestion, but does nothing to require or recommend measures to enhance efforts that prevent risks to human health.

## **5.2 Climate Change Mitigation**

The terms “climate change,” “climate crisis,” and “global warming” are never mentioned in the Environment chapter of the USMCA. Although there are references to “green growth,” environmental protection, conservation, and sustainability, the blatant omission of these critical topics makes the successful performance of any climate change mitigation goals or ambitions related to or stemming from the USMCA doubtful.

### **5.3 Corporate Social Responsibility:**

The Environment chapter of the USMCA has one brief 74-word article on corporate social responsibility. Article 24.13 states that each party recognizes its importance and should “encourage” corporations operating in their territory to adopt and implement “voluntary” practices “to strengthen the coherence between economic and environmental objectives.” The language is weak and noncommittal. The article gives no meaningful indications, suggestions, or recommendations as to how the parties should “encourage” corporations to practice social responsibility related to environmental protection or sustainability. Nor can encouragement directly result in meaningful CSR policies that focus on social returns. The article does not expand on how the performance of “voluntary” practices—should multinational corporations choose to implement them—can be evaluated for efficiency or meaningful impact.

### **5.4 Transparency and Public Participation**

Transparency of environmental performance is established in vague terms. Article 24.5 directs each party to “promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.” There are no guidelines or requirements stated as to how each party designs how its public is informed. Public participation is limited to “written questions or comments.” The article requires each party to ‘receive’ and ‘consider’ the written questions from any person and consult with persons of relevant experience in business and environmental matters about the implementation of the Environment chapter. Article 24.6 states that any person interested can “request that the Party’s competent authorities investigate alleged violations of its environmental



laws” and that the competent authorities give the request ‘due consideration.’ The article also finds that any hearings in the proceedings for the enforcement of a Party’s environmental laws be open to the public and that any final decisions also be made public. The chapter recognizes the importance of public participation in the development and implementation of environmental protection measures in several instances (Articles 24.7 24.9, 24.10, 24.11, 24.15) but does little to establish or require any mechanisms for direct participation that goes beyond ‘receipt for consideration.’

### **5.5 Enforcement of Environmental Laws**

One of the stated objectives of the Environment chapter is to promote effective enforcement of environmental laws (Article 24.2). Article 24.3 states that each Party has the right to determine its own decisions regarding: investigatory, prosecutorial, regulatory, and compliance matters; and the allocation of environmental enforcement resources. Parties do not have the power to undertake enforcement procedures in the territory of another party. The article also states that each Party recognizes it is “inappropriate” to weaken the enforcement of its own environmental laws to encourage trade or investment with another Party. Each party also agrees to ensure that relevant information about its environmental enforcement is made available to the public.

### **5.6 Environmental Group Impact**

The 17 environmental groups were able to get public health, corporate social responsibility, transparency and public participation, and enforcement of environmental laws

concerns addressed, signaling that these are popular cultural interests by social media users across North America. Surprisingly, public health was the least expressed concern in the groups' official statements, and only one group, Extinction Rebellion, did not have a published statement referencing any of the selected concerns for the study. This lack of data from the Extinction Rebellion could be caused by their relatively young archive, which has its first press release dated December 2019, just as the USMCA was signed. Climate change mitigation and enforcement of environmental laws are tied for the public concerns most addressed in the USMCA, with 16 of the 17 groups referencing both in official statements. Transparency and public participation are second, and corporate social responsibility is the third most expressed public concern that appeared in the USMCA.

After analyzing the official statements made by the 17 environmental groups, the final text of the USMCA addresses most of the public health, corporate social responsibility, transparency and public participation, and enforcement of environmental laws concerns in the Environment chapter. However, the environmental goals are vaguely contextualized, given no framework, and as a result, show little promise of effective compliance. The 17 organizations spoke. They sent letters to congress and mobilized the general public to sign petitions to make the USMCA value people over corporate profits. The treaty writers listened but the content that materialized in the treaty was minimal. There are articles "recognizing" the importance of all of the concerns the environmental organizations and their followers expressed throughout the text. However, the treaty begins and stops at recognizing and considering their concerns.

## Chapter 6 — Conclusion & Recommendations

The treaty writers easily incorporated the public concerns represented by environmentalist groups without including any specific framework, requirements, or direction for compliance and achievement of environmental goals into the USMCA. The writers only include soft compliance recommendations that primarily ask shareholders to share information and experience related to coinciding economic and environmental goals. Impactful cohesion of these goals would require the recognition of climate change, at the very least. However, climate change mitigation was the only concern not explicitly addressed in the text, perhaps because it would require more specific policies to reduce greenhouse gas emissions, proving costly to multinational corporations and time-consuming for negotiations. Although the USMCA does address four of the five public concerns represented by environmental groups, I find that they do not address them in a meaningful way. Furthermore, there is a correlation between the concerns voiced by environmentalist groups and what appears in the USMCA, but the data selection does not support any claims that environmentalist groups directly affected the outcome of the trilateral free-trade agreement.

Another critical factor that requires serious consideration is public awareness and understanding of the North American Free Trade Agreement and its successor, the United States-Mexico-Canada Agreement, and its social and environmental impacts. As mentioned in the limitations section, the sample is relevant to social media users and, more generally, people with internet access. More people needed to know about it for more of the population to have their concerns meaningfully addressed in binding terms in the USMCA. More essentially, however, to understand the implications of the USMCA, there needs to be increased coherence and

uniformity in public belief in climate change, which requires a cultural shift in attitude and understanding. Suppose any hope is to be salvaged from the weak Environment chapter. In that case, the parties outperform mere recognition of the importance of public awareness and participation, and they strengthen existing frameworks or create new ones that effectively make climate-related trade issues central to forming a healthy North American economy.

Free trade agreements must be comprehensive and need to take into account far more than simply reducing tariffs and other trade barriers. Block argues that NAFTA's effects on natural resources and the environment demonstrates the range of issues that now expand into the realm of FTAs: public health measures, corporate social responsibility, climate change mitigation, labor rights, and institutional means for assessing environmental and health benchmarks.<sup>194</sup> To help them address these issues, FTA writers can look to the United Nations' sustainable development goals (SDGs) to make agreements that actively pursue sustainable economic development and mitigate climate change. Some relevant SDGs to consider when designing policy that addresses public concerns and ambitions include: SDG 3: Good Health and Wellbeing, SDG 8: Decent Work and Economic Growth, SDG 11: Sustainable Cities and Communities, SDG 12: Responsible Consumption and Production, SDG 13: Climate Action, and SDG: 16: Peace, Justice and Strong Institutions.<sup>195</sup>

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<sup>194</sup> Block, Greg. "Trade and Environment in the Western Hemisphere: Expanding the North American Agreement on Environmental Cooperation into the Americas." *Environmental Law*, vol. 33, no. 3, 2003, pp. 501–45.

<sup>195</sup> See <https://sdgs.un.org/goals> for list of SDGs, targets and publications.

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