

Getting it Right:

A people's guide to renegotiating NAFTA



How NAFTA puts our water at risk

U.S. President Donald Trump has made it clear that he thinks the North American Free Trade Agreement (NAFTA) has been a bad deal for the United States. He has called Canada and Mexico to the table to renegotiate the deal. President Trump wants to put “America First” in NAFTA, or walk away from the deal.

For years, we have seen the ravages of NAFTA – the Chapter 11 corporate lawsuits that have cost Canada millions of dollars and eroded our environmental and public policy, hollowed out manufacturing towns and put hundreds of thousands of people out of work, and created greater inequality in Canada, the U.S. and Mexico.

The Council of Canadians is calling for three major things to make NAFTA a fairer deal:

- **Eliminate Chapter 11, the investor-state dispute settlement (ISDS) process.** ISDS provisions give corporations the right to sue the Canadian government, often for millions – even billions – of dollars, if any public policy or government action denies them investment or profit opportunities.
- **Remove all references to water as a good, service or investment.** Canada is vulnerable to bulk water exports and increased water privatization with this NAFTA rule.
- **Eliminate NAFTA's energy proportionality rule.** This rule requires Canada to export a locked-in percentage of our energy production to the U.S. This means more production in the environmentally destructive tar sands, which will stop us from meeting our climate commitments.

A growing water crisis

Water is life. Without it, we cannot live. In 2010, the United Nations recognized the human right to water and sanitation, acknowledging that clean drinking water and sanitation are essential to the realization of all human rights.

Water, which was once thought to exist in abundance, is now facing pressure from misuse, over-extraction and relentless pollution. The world's water sources are finite and world-wide demands are increasing. We are facing a global water crisis of unprecedented proportions. The UN reports that the demand for water will increase by 55 per cent over the next 15 years. By that time, global water resources will meet only 60 per cent of the world's demand. The water crisis could affect as many as 7 billion people by 2075.

Trade agreements like NAFTA put water at even more risk by defining it as a commodity that can be bought and sold.

Water is a tradeable good in NAFTA

In NAFTA, water is defined as a “tradeable good.” It is also referenced as a “service” or “investment.” As Council of Canadians Honorary Chairperson Maude Barlow points out in her book *Boiling Point*, “included in the annex [of NAFTA] that lists all the goods to be covered by the agreements are ‘waters, including natural or artificial mineral waters, and aerated waters not containing added sugar or other sweetening matter nor flavouring; ice and snow.’”



NAFTA dramatically limits the federal government's ability to stop provinces from selling water. If a provincial government decides to sell water to parched U.S. states, the federal government would be powerless to turn off the tap. And NAFTA's proportionality clause would mean the province couldn't cut back on the amount of water it was sending to the U.S. even in times of drought.

The global annual market for water will be worth just under \$300 billion by 2020

Removing all references to water as a good from NAFTA would end the debate on whether the federal and provincial bans on water exports are sufficient, as it would remove any potential for a NAFTA challenge. At the same time, NAFTA's ISDS provisions, which allow corporations to sue governments over new laws or regulations that might restrict their profits, must also be removed.

Water as an investment

Removing water as an "investment" and excluding NAFTA's ISDS provisions would make it much harder for foreign corporations to use trade treaties to fight domestic or international rules that protect water. Canada has already been sued for laws protecting water including:

- American water giant Sunbelt Inc. challenged British Columbia's water protection legislation, along with its moratorium on bulk water exports from the province, demanding \$50 million.
- V.G. Gallo, a Canadian company that planned to dump Toronto's municipal waste in an artificial lake in northern Ontario sued the Canadian government for \$105 million when the Ontario government passed legislation blocking the project.
- The American corporation Bilcon proposed to build a massive quarry and marine terminal on the Digby Neck peninsula in southwestern Nova Scotia. When a joint panel said no to the application, Bilcon sued under NAFTA's ISDS provisions for more than \$100 million.

Take action!

Many corporations see water as a marketable good. The global annual market for water will be worth just under \$300 billion by 2020, making it very profitable for companies to buy and sell water. You can take action by calling on the Canadian government to strengthen water protections in NAFTA and stop companies from profiting from our water. Water must be removed as a tradeable good, service or investment in any renegotiated NAFTA deal. Instead, water should be protected as a human right, available to people and communities who need it.

For more information about the Council of Canadians' campaign for a better and fairer NAFTA, visit canadians.org/NAFTA or call us toll-free at 1-800-387-7177.

Water as a service

Removing water as a "service" would help protect water as an essential public service. When services are provided by private corporations, NAFTA provisions limit the involvement of the public sector. NAFTA's negative list approach means that unless a service is specifically exempted, it must be opened up to the private sector. Examples around the world have shown the impacts privatization has on water services, including increased rates, less accessibility and poorer quality.

Water isn't just exported in its raw form. Water services, through water delivery and waste treatment are also important services. In Canada, these services are made more accessible when they are provided through the public sector.

