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## **Trump's NAFTA Deal Threatens Our Air, Water, and Climate**

*Environmental Groups Oppose this Deal, Given Failure to Meet Basic Criteria*

As leading environmental organizations, we have repeatedly named essential environmental criteria for rewriting the North American Free Trade Agreement (NAFTA) to end NAFTA's harm to communities across North America. In May 2018, when it became clear the closed-door talks between the U.S., Canada, and Mexico had largely ignored our stated environmental objectives, we reiterated [a shared list of minimum changes that must be made to NAFTA](#). This was not a gold standard for an optimal agreement to advance environmental goals, but a baseline of necessary changes to simply halt NAFTA's threats to our air, water, and climate.

The NAFTA deal that the Trump administration has negotiated with Mexico and Canada fails this baseline environmental test. The deal would offer special handouts to history's largest corporate climate polluters, allow further outsourcing of pollution and jobs, and lock in continued fossil fuel dependency. It not only fails to mention climate change – it would actively contribute to the climate crisis. Despite progress on a few fronts, the deal actually rolls back some environmental standards included in past trade deals, and introduces new rules that could make it more difficult to re-regulate after Trump leaves office. As a whole, this deal fails to curb NAFTA's threats to wildlife, clean air and water, or the health of our communities.

In May, we warned, “We will oppose a NAFTA 2.0 deal if it undermines rather than supports environmental protection and a just transition to a clean energy economy.” Having now seen the text of the deal and its threats to basic environmental priorities, we will actively oppose this deal.

Here is a brief assessment of the deal's environmental implications, using the baseline criteria that we outlined, which fall into three broad categories:

- 1. Criterion: Stop the offshoring of pollution and jobs. Outcome: The deal's weak environment chapter would preserve NAFTA's pollution offshoring loophole, letting more corporations evade U.S. environmental policies by offshoring jobs, climate emissions, and toxic pollution to Mexico, where many environmental standards are weaker.**
  - To close the pollution offshoring loophole, we called for a rewritten NAFTA “to require each country to adopt, maintain, and implement robust climate, air and water, conservation, labor, Indigenous rights, and human rights protections, such as policies that fulfill the Paris Climate Agreement and other fundamental international agreements.” Instead, most terms in the environment chapter use weak, non-binding language that would not actually compel Mexico to raise its standards, while other essential protections are missing altogether. (Ch. 24)
  - The omission of any lead standards, for example, means corporations would still enjoy NAFTA's incentives to dump their lead waste in Mexico, which has contributed to job loss in the U.S. and toxic lead poisoning in border communities. (Ch. 24)
  - Similarly, the deal 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 U.S. states by moving to Mexico, reinforcing the U.S.'s status as the world's largest outsourcer of climate pollution. (Ch. 24)
  - The deal even takes a significant step backwards from the environmental protections included in the last four U.S. trade deals by failing to reinforce a standard set of seven Multilateral Environmental Agreements (MEAs) that protect everything from our wetlands to sea turtles. The deal includes standard enforcement language for only one of the seven MEAs, while using weak language for two MEAs and failing to even mention four of these essential environmental agreements. The deal even removes an MEA provision found in the original NAFTA, which said that countries should heed their environmental commitments under five MEAs even if

they conflict with NAFTA's rules. The removal of this provision suggests that countries should now disobey their environmental commitments if they conflict with NAFTA's rules. (Art. 24.8-24.10, Art. 24.22.2)

- Even the strongest language in the environment chapter would only be effective if it is enforced. 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. (Art. 24.32, Art. 30.3, Art. 31.5.3)
2. **Criterion: Support a clean energy economy, not fossil fuel dependency. Outcome: The deal preserves a rule that locks in gas exports and offers a mixed outcome for tar sands oil.**
- We called for the elimination of a NAFTA rule that “effectively bars the U.S. government from determining whether gas exports to Mexico or Canada are in the public interest, facilitating increased fracking in the U.S., expansion of cross-border gas pipelines, and growing dependency on climate-polluting gas in Mexico.” The NAFTA 2.0 deal keeps that rule intact, which could lock in U.S. gas exports to Mexico for decades to come, encouraging continued fracking, expansion of gas pipelines, and air, water, and climate pollution. (Annex 2-A)
  - We called for the elimination of NAFTA's “proportionality” rule that “locks in tar sands oil extraction and fracking in Canada while encouraging expansion of tar sands oil pipelines into the U.S.” This rule has been removed in the deal – a welcome exception to a deal that otherwise favors fossil fuel firms. However, the deal includes new terms that would make it cheaper for oil corporations to export more Canadian tar sands oil through U.S. oil pipelines – a clear step backwards for our climate. (Annex 4-B, Section V, Note 4)
3. **Criterion: Shield environmental policies from industry interference. Outcome: The deal takes a step forward in curtailing corporate rights, but then uniquely grants those rights to history's biggest climate polluters, while guaranteeing corporations an additional avenue to weaken environmental protections.**
- We called for the elimination of NAFTA's “investor-state dispute settlement” (ISDS) mechanism that has allowed corporations to sue the U.S., Canada, and Mexico in unaccountable tribunals over climate and community protections. This deal makes progress in curtailing the broad procedural and substantive rights that NAFTA grants to multinational corporations. (Ch. 14)
  - However, the deal significantly undercuts this progress by offering NAFTA's full suite of overreaching substantive corporate rights to some of the biggest ISDS offenders: oil and gas corporations. Under the deal, corporations like Chevron and ExxonMobil – the two largest corporate climate polluters in history and repeat users of ISDS – would be allowed to challenge environmental protections in Mexico by relying on the same broad corporate rights that they have used to successfully challenge public interest policies from Ecuador to Canada. In fact, the deal offers these egregious rights to all U.S. and Mexican oil and gas corporations that have, or may at some point have, government contracts for offshore drilling, fracking, oil and gas pipelines, refineries, or other polluting activities in the other country. Other corporations that would retain the power to challenge U.S. or Mexican environmental policies include those with current or future government contracts in the environmentally sensitive sectors of power generation, infrastructure, and transportation. (Annex 14-E)
  - Beyond ISDS, we warned of reports that NAFTA 2.0 could include “‘regulatory cooperation’ terms that could give corporate polluters a different way to delay, weaken, or halt new environmental policies.” Indeed, the NAFTA 2.0 deal imposes binding rules – ones not found in any prior U.S. trade agreement – on the regulatory processes of the U.S., Canada, and Mexico. These rules offer corporations opportunities to challenge proposed environmental regulations before they are finalized, and to ask that existing regulations be “repealed.” Such regulatory hurdles in NAFTA 2.0 could impede efforts to reverse the Trump administration's environmental rollbacks after Trump leaves office, which could extend his polluting legacy for years. (Ch. 12, Ch. 28)

In May, we made clear that “we will oppose any NAFTA 2.0 that puts the interests of polluters over the health of our environment and the needs of our communities.” That description is sadly fitting for the Trump administration's NAFTA 2.0 deal. While we oppose this deal, we will continue fighting for a genuine NAFTA replacement that prioritizes the needs of people and planet.