

# Journal of Food Law & Policy

---

Volume 13 | Number 1

Article 19

---

2017

## Trump's New Trade Policy: Risks for North American Food and Farms

Karen Hansen Kuhn

*Institute for Agriculture and Trade Policy*

Follow this and additional works at: <http://scholarworks.uark.edu/jflp>

 Part of the [Food and Drug Law Commons](#)

---

### Recommended Citation

Hansen Kuhn, Karen (2017) "Trump's New Trade Policy: Risks for North American Food and Farms," *Journal of Food Law & Policy*: Vol. 13 : No. 1 , Article 19.

Available at: <http://scholarworks.uark.edu/jflp/vol13/iss1/19>

This Essay is brought to you for free and open access by ScholarWorks@UARK. It has been accepted for inclusion in Journal of Food Law & Policy by an authorized editor of ScholarWorks@UARK. For more information, please contact [scholar@uark.edu](mailto:scholar@uark.edu), [ccmiddle@uark.edu](mailto:ccmiddle@uark.edu).

## **Trump's New Trade Policy: Risks for North American Food and Farms**

**Karen Hansen Kuhn\***

President Trump began his administration with a series of actions apparently designed to satisfy campaign promises to supporters and antagonize nearly everyone else. They include a series of statements and actions on the renegotiation of the North American Free Trade Agreement (NAFTA). NAFTA was a bad deal, he says,<sup>1</sup> and as a consummate dealmaker, he will tear up the existing agreement and get America a better deal. At one point, he declared that it should be retitled the North American Free and Fair Trade Agreement (NAFAFTA!), although what he means by fair, and how that would play out for farmers and rural communities in the three countries involved in the agreement is far from clear.

Unsurprisingly, President Trump's January executive order to build a wall between the United States and Mexico incited the worst political crisis between the two countries in decades. That action, along with the notion that a tax on Mexican imports (and U.S. consumers) could pay for the barrier, willfully ignores the reality of declining livelihoods and increasing inequality. This is particularly and especially true in rural areas.

While the exact nature of the NAFTA renegotiation will only become clear as talks unfold, the initial proposals are simplistic, blunt instruments to fix complex problems. In the

---

\* Karen Hansen-Kuhn is Director of Trade and Global Governance at the Institute for Agriculture and Trade Policy. She has published articles on U.S. trade and agriculture policies, local food systems in the trade debate, and women and food crises. She started to learn about the challenges facing farmers as a Peace Corp Volunteer in Paraguay, where she worked with a rural cooperative. She holds a B.S. in International Business from the University of Colorado and a Master's degree in International Development from The American University.

1. Maggie Seaverns, *Trump Pins NAFTA, 'Worst Trade Deal Ever,' On Clinton*, POLITICO (Sept. 26, 2016), <http://www.politicso.com/story/2016/09/trump-clinton-come-out-swinging-over-nafta-228712>.

case of NAFTA, much of the focus appears to be on the trade balance. Trade flows among the United States, Canada, and Mexico have quadrupled since the agreement began.<sup>2</sup> That means goods – and investments – are flowing back and forth across borders to create complex supply chains. Take the example of meat production. U.S. corn and soy exports to Mexico have soared, as has domestic and foreign investment in industrial-scale beef production. Many of those animals are then brought back to the U.S. for finishing and slaughter. U.S. beef production has also increased, using the same cheap feeds, much of which is exported to Mexico and other countries.<sup>3</sup>

According to a superficial explanation, U.S. farmers must be relatively better at producing animal feed and cattle than their Mexican counterparts. Consumers should benefit from lower prices, so it would seem that all must be well. However, if you look more closely at that rosy picture, the festering dysfunctions come into view. U.S. exports to Mexico of cheap corn quadrupled in the wake of NAFTA. Millions of Mexican farmers lost their land and were driven from their communities to seek work in cities throughout Mexico and the United States. Consumption of cheap meat, highly processed foods, and dairy products spiked in Mexico, too, resulting in dramatic increases in obesity rates.<sup>4</sup>

On the U.S. side, oft-repeated assertions that increasing exports would save the farm have turned out to be flatly wrong. More specifically, this assertion is wrong for family farmers and entirely advantageous for agribusinesses. Any way you look at it, corporate concentration in U.S. agriculture has increased dramatically over the last two decades as companies nimbly shift various aspects of production around the world, protected

---

2. Economic Research Service, *Foreign Agricultural Trade of the United States (FATUS): Calendar Year*, USDA (last updated Nov. 4, 2016), <https://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-fatus/calendar-year/>.

3. Joseph Glauber, *Likely Effects of a Trade War for US Agriculture? Sad!*, IFPRI (Jan. 31, 2017), <http://www.ifpri.org/blog/likely-effects-trade-war-us-agriculture-sad>.

4. Clark et al., *Exporting Obesity: US Farm and Trade Policy and the Transformation of the Mexican Consumer Food Environment*, INT'L J. OF OCCUPATIONAL AND ENV'T HEALTH, 18(1) 53, 53–64 (2012).

by trade rules on tariffs, food safety, intellectual property rights, and investment. University of Missouri researcher Mary Hendrickson has calculated the share of a given agricultural sector controlled by just four companies. That ratio has increased dramatically since NAFTA's inception. In the case of beef slaughtering, it increased from 69 percent in 1990 to 82 percent in 2011, with Cargill, Tyson, JBS, and National Beef controlling the vast majority of the sector.<sup>5</sup> As a result, farmers and ranchers on both sides of the border lose bargaining power, further depressing their livelihoods.

Untangling this mess so that trade rules actually contribute to rural economies and healthier food and farm systems will require a lot more than the blunt instruments of raising tariffs or inane suggestions to ban immigrant workers.<sup>6</sup> On the other hand, the complexity of trade rules proposed in deals like the Trans Pacific Partnership (TPP) shouldn't mask the clear intentions behind those rules. Although Robert Lighthizer, Trump's nominee for U.S. trade representative, has been critical of past trade deals, many top administration posts have been filled with proponents of the TPP. Initial drafts of the administration's objectives for the NAFTA renegotiations leaked in March included many proposals lifted directly from the TPP, indicating persistent pressure to continue with business as usual trade proposals.<sup>7</sup>

Trump claims that NAFTA and other existing trade deals have failed. They haven't for their proponents. The rules were specifically designed to help big, global firms remove regulations and programs that might limit their profits, whether in the U.S. or internationally. The entirely foreseeable increases

---

5. Mary Hendrickson, *The Dynamic State of Agriculture and Food: Possibilities for Rural Development?*, University of Missouri at the Farm Credit Administration Symposium on Consolidation in the Farm Credit System (Feb. 19, 2014), <https://www.fca.gov/Download/Symposium14/hendrickson19feb2014.pdf>.

6. Steve Suppan, *Undocumented Farmworkers and the U.S. Agribusiness Economic Model*, IATP (Dec. 19, 2016), <https://www.iatp.org/blog/201612/undocumented-farmworkers-and-the-us-agribusiness-economic-model>.

7. Alex Lawson, *Trump's NAFTA Plan Hews Closely To TPP Model*, Law360.com, (March 30, 2017) <https://www.law360.com/articles/907981/trump-s-nafta-plan-hews-closely-to-tpp-model>

in income inequality and environmental degradation were not mere accidents. Rather, the deal's proponents simply saw those effects as unavoidable and even unimportant.

The real story of recent changes in the trade debate is that organizations representing workers, faith communities, the environment, public health, and family farms stood up and said no, translating trade-speak into plain language. Terms like "Investor State Dispute Settlement," for example, sound vaguely benign. But this mechanism in trade deals like NAFTA sets up unaccountable private tribunals of trade lawyers to enable companies to extract hundreds of millions of dollars from governments over public interest regulations such as cigarette labels, controls on toxic wastes from gold mines, or the recent corporate lawsuit challenging the rejection of the Keystone XL pipeline.<sup>8</sup> Simply put, these agreements were never about "free" trade.

### **New Rules for NAFTA**

So if the new administration were serious about righting the wrongs of NAFTA, a first reasonable step would be to open up the process to include consultations with affected communities, including farmers and workers in the U.S., Canada, and Mexico. In a statement on a better approach to NAFTA, Rudy Arredondo of the National Latino Farmers and Ranchers Association said:

"Rural communities and farm, ranch and farmworker organizations must be at the table for these negotiations. Since NAFTA, we have witnessed the collapse of rural economies in our nation and those of our neighbors. Any renegotiation of NAFTA must support trade policies and investments that rebuild our agricultural base and food systems."<sup>9</sup>

---

8. Johnson et al., *Investor-State Dispute Settlement, Public Interest and U.S. Domestic Law*, COLUMBIA CENTER ON SUSTAINABLE INVESTMENT (May 2015), <http://ccsi.columbia.edu/files/2015/05/Investor-State-Dispute-Settlement-Public-Interest-and-U.S.-Domestic-Law-FINAL-May-19-8.pdf>.

9. Press Release, *U.S.-Mexico Relations Should be Based on Fair Trade, Not*

In addition, renegotiation could also eliminate some of the worst aspects of current trade deals, starting with Investor State Dispute Settlement. There is no reason such disputes cannot be resolved under existing national judicial systems.

There is a very real danger that any efforts to renegotiate NAFTA could make it much worse, for food and farm systems alike, if negotiators rely on new proposals from other failed trade deals. Article 18.83 of TPP, on Intellectual Property Rights, would require countries to ratify the International Convention for the Protection of New Varieties of Plants, as revised at Geneva on March 19, 1991 (known as UPOV91). That convention tightens agribusiness controls over seeds and plant varieties. Mexico has ratified a previous version of the treaty that allowed family farmers to save and share protected seeds. Concerted local campaigns have so far prevented the Mexican Senate from ratifying the 1991 version, or from enacting laws to implement it, but the country was under considerable pressure to ratify the law during the TPP debate.

Similarly, “innovations” on regulatory cooperation in the stalled Transatlantic Trade and Investment Partnership (TTIP) would undermine local efforts to ban toxic chemicals. That proposal would establish a supranational review committee to review public interest laws, potentially including state and local laws on food labels, food safety, and pesticides. Any such law (or, in some iterations, legislative proposals) would be subject to extensive cost-benefit analysis and other legal hurdles that could well prevent their enactment.<sup>10</sup> While the TTIP appears to be on hold, the approach seems consistent with President Trump’s orders to eliminate “burdensome” regulations.

If, in fact, we want better deals, we need new rules. U.S. groups including the National Family Farm Coalition, Rural

---

*Xenophobia*, IATP (Jan. 27, 2017), <https://www.iatp.org/documents/farm-food-groups-call-for-new-way-on-nafta>.

10. Center for International Environmental Law, *Preempting the Public Interest: How TTIP Will Limit US States’ Public Health and Environmental Protections*, CIEL (Sept. 2015), [http://www.ciel.org/wp-content/uploads/2015/09/CIEL\\_Preempting-Public-Interest\\_22Sept2015.pdf](http://www.ciel.org/wp-content/uploads/2015/09/CIEL_Preempting-Public-Interest_22Sept2015.pdf).

Coalition, National Farmers Union, Western Organization of Resource Councils, Food & Water Watch, and the Institute for Agriculture and Trade Policy have come together to discuss what should be on the agenda if NAFTA were to be replaced with a new agreement whose goal is to increase living standards across all three countries. These conversations are happening in Mexico and Canada as well.

It's hard to be optimistic that NAFTA renegotiations will go well. A key early indication will be whether the Trump administration continues the current practice of secretive negotiations among corporate advisors or if it begins with a thorough, open, and democratic assessment of NAFTA that involves both rural and urban communities, including farmers. If the agreement includes provisions related to agriculture, the overall goal should be to support fair and sustainable rural economies and food supplies.

### **A Better Deal for Farmers and Consumers**

Trade and farm policy go hand in hand. Both should ensure that farmers are paid fairly for their crops and livestock. The current U.S. Farm Bill is almost entirely geared at growth in international exports as a means of increasing incomes for farmers. This approach, however, has dramatically failed, with farmers now experiencing the fourth consecutive year of low prices. Discussions on the Farm Bill will likely heat up in 2017, but in the meantime, the U.S. should stop trying to dismantle other countries' efforts to support their farming communities. These issues are mainly being debated at the World Trade Organization. However, honest discussions with NAFTA partners on more sensible approaches for food reserves or any efforts to minimize dramatic swings in prices or supplies would be a welcome step.

The U.S. could also press its NAFTA partners to abandon their challenges to Country of Origin Labeling for meat. A pledge to take on this issue appeared in early drafts of Trump's

NAFTA plans, but seems to have been discarded for now.<sup>11</sup> Canada and Mexico won a WTO challenge of a U.S. program that required the same kinds of disclosure typically required for fruits and vegetables. A survey commissioned by the Consumer Federation of America found that 90 percent of Americans want to know where their meat is from.<sup>12</sup> Accurate information is an essential component of well-functioning markets. Current trade rules prioritize trade flows over a consumer's right to know what's in their food. That simply has to stop.

It's easier to see what needs to be removed from current trade policy than to see how the trade rules themselves can proactively help advance food security and rural livelihoods. Most of the reforms that need to happen in our food system – whether in a community, a nation, or on the global scale – must start with local conditions and priorities. This will become increasingly clear as climate change destabilizes weather, disrupting global supply chains and making massive, single-crop production more vulnerable. A recent study co-authored by an MIT economist found that increasing crop diversity within countries is likely to be much more important in confronting climate change than relying on trade to make up for declining productivity.<sup>13</sup> The idea that we should build up from what farmers know about their soil, weather, and local markets to feed their families and their nations is at the center of the global movement for food sovereignty. Trade policy should support that process, not create new obstacles.

It is impossible to know now whether President Trump's campaign promise to renegotiate NAFTA will result in any substantial improvements. Further, there are plenty of reasons to question what the three governments might eventually decide to do. Even so, however, there is also no reason for the same

---

11. Jenny Hopkinson, *Return of COOL Not Cool at All*, POLITICO (Nov. 21, 2016), <http://www.politico.com/tipsheets/morning-agriculture/2016/11/return-of-cool-not-cool-at-all-217512>.

12. Press Release, Consumer Federation of America, *Large Majority of Americans Strongly Support Requiring More Information on Origin of Fresh Meat*, (May 15, 2013), <http://www.consumerfed.org/pdfs/CFA-COOL-poll-press-release-May-2013.pdf>.

13. Peter Dizikes, *Grow Your Own Way*, MIT NEWS OFFICE (Nov. 20, 2015), <http://news.mit.edu/2015/trade-not-help-fight-farming-failures-1120>.



civil society movements that defeated the TPP to allow other interests to set the agenda on NAFTA.