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**Project B2** Exporting (Good) Governance:

Regional Organizations and Areas of Limited Statehood

**Governance Export by Regional Organizations: The NAFTA Case**

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1. **INTRODUCTION**

*Brief Introduction to NAFTA*

The North American Free Trade Agreement (NAFTA) entered into force in 1994. It brought together Canada, Mexico, and the United States into the world’s second largest (by nominal GDP) trade area. It is a free trade area – which means it aims at the elimination of a variety of tariff and non-tariff barriers to the circulation of goods, all capital, and selected services. It does not liberalize labor movement nor does it call for a common external tariff. Progress in the actual implementation of the stated objectives has so far been impressive both in terms of punctuality and thoroughness.

*Main Empirical Findings*

NAFTA does not have in its text any direct or explicit reference to the exporting of legitimate governance institutions to the member states. This does not mean, however, that the agreement was designed without such exporting in mind or that it does not specify requirements or initiatives that ultimately end up pressuring member states to follow particular governance standards. We will discuss this later in this report (last part of Section 3). More importantly, however, NAFTA comes with two ‘side’, or corollary, agreements (which also came into force in 1994): the North American Agreement on Labor Cooperation (NAALC) and the North American Agreement on Environmental Cooperation (NAAEC). These agreements put forth explicit governance-related principles that are of relevance to this report.

Specifically, if we turn to standards, we see that NAALC commits the three governments to enforcing protecting, enhancing, and enforcing basic workers’ rightsin line with whatever legislation exists already in each of the member states*.* In a sense, then, the NAALC does not really imply any exporting or transfer of governance principles. Still, in an indirect way, the NAALC does pressure the member states towards a certain type of governance, given that it is ultimately pressuring Mexico in particular to effectively enforce existing domestic legislation that is otherwise poorly enforced. The issues in question range from the right of workers to freely associate to the elimination of employment discrimination and to the protection of migrant workers – all issues that fall under the concept of Human Rights. At the same time, the NAALC also asks the member states to ensure transparency and efficiency in the management, enforcement, and production of new laws. Thus, it promotes principles that fall under the concept of Good Governance. Thirdly, the NAALC, by virtue of asking the member states to properly implement their own laws, advances the concept of Rule of Law.

Still in terms of standards, the NAAEC requires the member states to commit themselves to the protection of the environment and to enhancing existing national legislative frameworks. The language is very vague and broad, and ultimately leaves it to each member state to determine how these objectives should be met. As with the NAALC, this ultimately amounts to a form of pressuring Mexico to practically enforce already existing legislation. In any case, given all this, we can say that the NAALC puts forth principles that fall within the realm of Human Rights. By asking the member states to ensure fair and equitable administrative and judicial proceedings, it also commits them to the Rule of Law. And by pushing for efficient and transparent regulation, it advances Good Governance in the member states.

As to actors, the primary targets for both the NAACL and NAAEC are the member states themselves (i.e., the ‘Parties’ to the agreement). However, specific references are also made to state actors such as courts (NAALC Article 7, for instance).

As to instruments, both the NAALC and NAAEC rely on a mixture of litigation (primarily through private party complaint submissions and panels for dispute resolutions), incentives, and fora for exchange and dialogue.

*Overview of Methodological Issues*

To conduct this investigation, I relied on a variety of sources:

* the texts of NAFTA, NAALC, and NAAEC
* analyses of actual cases and litigation under the NAALC and NAAEC frameworks
* secondary analyses on the making of NAFTA and its two side agreements – the NAALC and the NAAEC.
* official government (Canada, Mexico, the United States) white papers, reports, and studies
* transcripts and minutes from meetings of government officials, legal experts, bureaucrats, and others.
* interviews and email exchanges with officials from the NAFTA Secretariat, the NAALC and NAAEC commissions, and the US Department of Labor.

1. **OVERVIEW**

NAFTA came into effect on January 1, 1994. It is built on the foundations of the Canadian-United States Free Trade Agreement of 1988 (which was suspended after NAFTA came into force). The NAALC and NAAEC are two ‘side’ agreements to the NAFTA text. There have been no major revisions, additions, or changes to the NAFTA, NAALC, and NAAEC since adoption (Bélanger 2007).[[1]](#footnote-1)

The members of NAFTA are Canada, Mexico, and the United States. No new members have been added since inception.

Membership criteria are vaguely laid out in Article 2204, where the NAFTA text says that ‘any country or group of countries may accede to this Agreement subject to such terms and conditions as may be agreed between such country or countries and the Commission and following approval in accordance with the applicable legal procedures of each country.’ A member of NAFTA can, in turn, easily withdraw, as stated in Article 2205: ‘a Party may withdraw from this Agreement six months after it provides written notice of withdrawal to the other Parties. If a Party withdraws, the Agreement shall remain in force for the remaining Parties.’

Standards for legitimate governance institutions are not part of NAFTA’s constitutive norms or explicit mission. The Preamble of the NAFTA refers almost exclusively to economic reasons for creating NAFTA. The exception might perhaps be references to ‘special bonds of friendship and cooperation among’ the three nations and (in line with the NAALC and NAAEC) a desire to ‘protect, enhance and enforce basic workers' rights’ and to strengthen the ‘development and enforcement of environmental laws and regulations’. Other than that, nothing in the NAFTA text refers to issues of governance and no reference is made to any other regional organization or international organization that might serve as inspiration.[[2]](#footnote-2) Indeed, Article 102 (1) identifies the following as NAFTA’s objectives:

1. eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;
2. promote conditions of fair competition in the free trade area;
3. increase substantially investment opportunities in the territories of the Parties;
4. provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory;
5. create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes; and
6. establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement.

However, as I discuss in the last part of Section 3 of this report, it is fair to suggest that one of the primary unstated objectives of NAFTA has been to help Mexico stabilize as a functioning market economy and, by way of integrating it into the US and Canadian marketplaces, to promote more transparent and effective legal, administrative, and judicial systems (put differently, the US in particular saw NAFTA as a tool to ensure that Mexico’s recently launched market and democratic reforms would take hold and progress; data strongly suggests that the Mexican leadership at the time also felt the same way).

Some standards for legitimate governance institutions do appear in the NAALC[[3]](#footnote-3) and the NAAEC – primarily in the context not of ‘transferring’ or ‘exporting’ standards from outside of Mexico into Mexico but, rather, as the requirement that all the member states, Mexico included, commit themselves to enforcing already-existing legal texts, constitutional provisions, and other such matters. We shall review those standards in Section 3.

The general mandate of NAFTA is laid out in Article 102 of the NAFTA text: the elimination of all tariffs and a combination of non-tariff barriers to the trade of goods by 2003, though sensitive sectors were given until 2008 (Annex 302.2). NAFTA also aims at the liberalization of capital movement (Chapter 11) and selected services (Article 102; Chapter 12).[[4]](#footnote-4)

To achieve its ends, NAFTA (along with the NAALC and NAAEC) relies on a fairly limited organizational infrastructure. This is comprised of:

* The **Free Trade Commission** (Article 2001). It is charged with supervising the implementation of NAFTA, oversee future elaborations, resolve disputes over interpretation and application, and supervise the work of all working groups and committees.
* The **NAFTA Secretariat** (Article 2002). It administers the mechanisms specified under the agreement to resolve trade disputes between national industries and/or governments in a timely and impartial manner. The Secretariat is supported by national-level sections.
* The **NAFTA Working Groups and Committees** (Annex 2001.2). These are roughly 30 units charged with overseeing and facilitating trade and investment across the member states.
* The **Commission for Labor Cooperation** (NAALC Article 8). The Commission is composed of a Council (the Secretaries in Mexico and the United States, and Minister in Canada, of Labor) and a Secretariat. Acting as a single entity, the Council oversees the implementation of the NAALC and directs the activities of the Secretariat. The Council also promotes tri-national cooperative activities on a broad range of issues involving labor law, labor standards, labor relations, and labor markets. The Secretariat staff is drawn equally from the three NAFTA countries. It includes labor economists, labor lawyers, and other professionals with wide experience in labor affairs in their respective countries. They work in the three languages of North America – English, French and Spanish – to advance labor rights and labor standards as an integral part of expanding trade relations. The Secretariat supports the independent Evaluation Committees of Experts and Arbitral Panels that the Council may establish to resolve disputes under the provisions of the Agreement. Importantly, the NAALC Secretariat was, at the time of writing, temporarily suspended (as of August 20, 2010) and without staff, due to the member states (and it seems particularly the United States, and the administration of President Barack Obama especially) wanting to reevaluate its role and functions. A report by the Council on the future of the Secretariat was due in February 2011, but it has not been made available at the time of writing.[[5]](#footnote-5)
* The NAALC also requires each member state to establish and maintain a **National Administrative Office** (NAO) within its labor department or ministry. The NAOs serve as points of contact and sources of information for concerned private parties, government officials and agencies, the Secretariat, the public, and each other. A key NAO function is to receive and respond to public communications regarding labor law matters arising in another NAFTA country. Each NAO establishes its own domestic procedures for reviewing public communications and deciding what actions to take in response to incoming requests. With the support of the Secretariat, the NAOs initiate the cooperative activities of the Commission, These include: seminars, conferences, joint research projects and technical assistance in relation to the eleven NAALC Labor Principles, labor statistics, productivity, and related matters. The NAOs can also engage in direct bilateral and trilateral cooperative activities with each other.
* **Commission for Environmental Cooperation** (NAAEC Part III): The CEC comprises a Council, a Secretariat, and an independent Joint Public Advisory Committee (JPAC). The Council is the governing body of the Commission and comprises cabinet-level or equivalent representatives of each country. The Secretariat provides technical, administrative, and operational support to the Council. JPAC – with five volunteer citizens from each country – advises the Council on any matter within the scope of the NAAEC. The Commission is responsible for implementing the principles asserted in the NAALC.
* **Dispute settlement panels** **under NAFTA** (Chapter 19 for antidumping and countervailing disputes, Chapter 20 for general disputes, and Chapter 11 for investments). Chapter 19 and 11 panel decisions are binding; those related to Chapter 20 are not (unless they follow from a quasi-appeal process known as Extraordinary Challenge Committee (ECC), which a government can pursue if it feels that it believes that a decision has been materially affected, by either a panel member having a serious conflict of interest, or the panel having departed from a fundamental rule of procedure or having exceeded its authority under the Agreement).
* NAALC defines a "**citizen petition**" mechanism, whereby anyone can file a "complaint" with one of the NAOs alleging that a member state is exhibiting a consistent pattern of violating its own labor, employment, or health and safety laws. This is the first typical step of any complaint. Thus, “civil society actors play a vital role in the NAALC as they are the ones who identify and select the cases to be brought to National Administrative Offices, initiating the complaints process, the source of most of the activity around the NAALC … [this] presents the greatest potential for fostering new forms of transnationalism” (Buchannan and Chaparro 2008: 133).
* **Dispute settlement panels under the NAALC**: If a matter (most likely raised via the citizen petition process) related to occupational safety and health or other technical labor standards (NAALC's Labor Principles 4-11) has not been resolved after ministerial consultations, any country may request the establishment of an independent **Evaluation Committee of Experts** (ECE). The ECE presents its report to the NAALC Council. If after consideration of a final ECE report a country believes that there is still a persistent pattern of failure by another country to effectively enforce its occupational safety and health, child labor, or minimum wage technical labor standards, it may request further consultation, and eventually, the establishment of an independent Arbitral Panel. **Arbitral Panels** consist of five members. Based on the panel's final report and its recommendations, the disputing parties may agree on a mutually satisfactory action plan. Failure to implement the plan could result in fines or trade sanctions.
* As with the NAALC and its **citizens petition** process, Articles 14-15 of the **NAAEC** allow private parties to submit to the Secretariat of the Commission for Environmental Cooperation complaints if they believe that a country is ‘is failing to effectively enforce its environmental law’, provided that certain conditions are met for the complaint. Based on the merits of the submission, the Secretariat can request a response by the targeted member state and engage in factual investigations of that member state’s activities.
* **Dispute settlement panels under the NAAEC**: Articles 22-36 of the NAAEC offer provisions for one member state to make allegations that another member state is systematically failing to enforce its own environmental laws. If the accused government is found guilty after a lengthy process, it can have trade sanctions imposed on it in the case of the US and Mexico, and fines determined in domestic courts in the case of Canada.

To fulfill their objectives, the NAFTA bodies mentioned above have access to rather limited resources.

* **NAFTA Secretariat**: the Secretariat is composed of three national-level units, each with its staff and budget (Hufbauer and Schott 2005: 249; NAFTA Secretariat Canadian Section 2002: 18; Interview: NAFTA Secretariat – Canadian Section, 2011; Interview: NAFTA Secretariat – Mexican Section, 2011; Interview: NAFTA Secretariat – US Section, 2011).
  + Canada has a budget of over US$3.2 million and around 6 staff
  + Mexico has a budget of US$1-2 million and around 6 staff
  + The US has a budget of around US$1-2 million and a staff of 3 members (note, however, that the Secretariat section for the US is under the International Trade Administration of the US Department of Commerce and lacks a separate item in the budget).

* **NAALC Commission**: with a budget of around $2.1 million, the NAALC Commission staff has (when operating) a staff of up to 15 persons (as low as 3 right before its Secretariat temporarily closed in 2010) (Interview: US Department of Labor, Office of Trade and Labor Affairs, 2011)
  + Three national administrative offices (NAOs), one in each country. These are attached to other administrative units (in Canada, for instance, the Inter-American Labour Cooperation – Labour Branch – Human Resources and Social Development). Their staff and resources are therefore difficult to assess.
* **NAAEC Commission**: with a budget of approximately US$9 million per triennium, the NAAEC Commission has a staff of around 50 employees (E-mail exchange: Elhadj, Malika at the NAAEC Commission, 2011; Wold 2008).

1. **MAPPING GOVERNANCE TRANSFER**
2. **The framework of governance transfer: Prescription & policy**

Two documents are of particular importance for governance transfer; the NAALC and the NAAEC. This section considers NAALC’s prescription and policy first, and then NAEEC’s prescription and policy. We shall see throughout that the focus is on compliance with already existing principles found in the three member states, and not on the promotion of new principles. From a substantive point of view, we shall also see that the NAALC is fairly comprehensive in focus (child labor, migrant workers, women even if not directly, and workers in general are all being addressed) and, with knowledge of the genesis (discussed in Section 4 of this report) of the agreement, aimed at reducing unfair competition in terms of costs between Mexico and the other two member state (the United States and Canada). The NAAEC is in theory even more comprehensive in focus than the NAALC, for it does not identify any particular environmental area or issue, and is therefore designed to ensure above all the enforcement of existing environmental laws in all relevant areas (e.g. land, water, etc.). As with the NAALC, the driving preoccupation seems unfair advantages enjoyed by Mexican producers because of non-compliance with the law.

*NAALC (Prescription)*

The NAALC is a ‘side agreement’ to NAFTA. It was the first labor agreement negotiated as part of an international free trade agreement. Signed in 1993 by the three member states, it came into force on January 1, 1994 (along with the main NAFTA text). The NAALC is a legally binding piece of international law.

In the NAALC, the standard-settersare the member states themselves. As the Preamble states, “The Government of Canada, the Government of the United Mexican States and the Government of the United States of America … have agreed as follows.”

The addressees are also the member states themselves. All relevant NAALC articles that prescribe standards, in fact, explicitly mention each “Party” to the agreement as their addressee. Having said that, Article 5 in particular mentions that each Party should ‘ensure that its administrative, quasi-judicial, judicial and labor tribunal proceedings for the enforcement of it labor law are fair, equitable and transparent.’ Even so, the addressees remain the member states.

As to content of the standards, it must be stressed again that the NAALC does not put forth any new, joint, or harmonized sets of labor principles that the member states commit to embrace. This is widely recognized in the literature.Instead, the NAALC simply states this:

Each Party shall promote compliance with and effectively enforce its labor law through appropriate government action (Article 3).

The NAALC (Annex 1) then focuses on eleven principles it asks the member states to promote, to the extent and way in which they already exist in the domestic legal frameworks:

* Freedom of association and protection of the right to organize
* The right to bargain collectively
* The right to strike
* Prohibition on forced labor
* Child labor protections
* Minimum labor standards with regard to wages, hours and conditions of employment
* Non-discrimination in employment
* Equal pay for equal work
* Health and safety protection
* Workers’ compensation
* Protection of the rights of migrant workers

Many, if not all, of these eleven principles belong to the category of Human Rights and all its three subcategories (Civil and Political Rights; Economic, Social, and Cultural Rights; Collective Rights). More specifically, this is how they could be categorized:

* Freedom of association and protection of the right to organize 🡪 Collective Rights (group and collective rights; right to self determination); Civil and Political Rights (right to freedom of assembly and association)
* The right to bargain collectively 🡪 Collective Rights (group and collective rights; right to self determination)
* The right to strike 🡪 Collective Rights (group and collective rights)
* Prohibition on forced labor 🡪 Economic, Social, and Cultural Rights (right to leisure, rest and holidays)
* Child labor protections 🡪 Civil and Political Rights (prohibition of slavery and torture); Economic, Social, and Cultural Rights (right to leisure, rest and holidays)
* Minimum labor standards with regard to wages, hours and conditions of employment 🡪 Collective Rights (right to a healthy environment); Economic, Social, and Cultural Rights (right to leisure, rest and holidays)
* Non-discrimination in employment 🡪 Economic, Social, and Cultural Rights (right to work); Collective Rights (group and collective rights)
* Equal pay for equal work 🡪 possibly Economic, Social, and Cultural Rights
* Health and safety protection 🡪 Collective Rights (right to a healthy environment)
* Workers’ compensation 🡪 Collective Rights (right to social security)
* Protection of the rights of migrant workers 🡪 Civil and Political Rights (equality before the law; group and collective rights)

At the same time, upon close analysis, we can see that for the purposes of this report the NAALC actually asks the member states to uphold additional standards that we would associate with legitimate governance. The NAALC does not elaborate much on those standards, but they should certainly be pointed out.

Article 1(g) states that one of the objectives of the NAALC is ‘to foster transparency in the administration of labor law’ 🡪 This falls within the Good Governance category (specifically its Transparency norm).

Article 2 states that ‘affirming full respect for each Party's constitution, and recognizing the right of each Party to establish its own domestic labor standards, and to adopt or modify accordingly its labor laws and regulations, each Party shall ensure that its labor laws and regulations provide for high labor standards, consistent with high quality and productivity workplaces, and shall continue to strive to improve those standards in that light’ 🡪 This falls within the Human Rights category (within that, the Economic, Social and Cultural Rights *and* the Collective Rights subcategories).

Article 3(1) states that ‘Each Party shall promote compliance with and effectively enforce its labor law through appropriate government action’🡪 This falls under the Rule of Law category.

Article 3(2) states that ‘Each Party shall ensure that its competent authorities give due consideration in accordance with its law to any request by an employer, employee or their representatives, or other interested person, for an investigation of an alleged violation of the Party's labor law’ 🡪 This falls under the Rule of Law category.

Article 4(1) states that ‘Each Party shall ensure that persons with a legally recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial, judicial or labor tribunals for the enforcement of the Party's labor law’ 🡪 This falls under the Rule of Law category.

Article 4(2) states that ‘Each Party's law shall ensure that such persons may have recourse to, as appropriate, procedures by which rights arising under:

1. its labor law, including in respect of occupational safety and health, employment standards, industrial relations and migrant workers, and
2. collective agreements,

can be enforced’ 🡪 This falls under the Rule of Law category.

Article 5(1), concerned with ‘Procedural Guarantees’, states that ‘Each Party shall ensure that its administrative, quasi-judicial, judicial and labor tribunal proceedings for the enforcement of its labor law are fair, equitable and transparent’ 🡪 This falls under the Good Governance category (particularly the Transparency and Accountability subcategories).

Article 5(3) states that ‘Each Party shall provide, as appropriate, that parties to such proceedings have the right, in accordance with its law, to seek review and, where warranted, correction of final decisions issued in such proceedings’ 🡪 This falls under the Rule of Law category.

Article 5(4) states that ‘Each Party shall ensure that tribunals that conduct or review such proceedings are impartial and independent and do not have any substantial interest in the outcome of the matter’ 🡪 This falls under the Rule of Law and, possibly, Good Governance categories.

Article 5(5) states that ‘Each Party shall provide that the parties to administrative, quasi-judicial, judicial or labor tribunal proceedings may seek remedies to ensure the enforcement of their labor rights. Such remedies may include, as appropriate, orders, compliance agreements, fines, penalties, imprisonment, injunctions or emergency workplace closures’ 🡪 This falls under the Rule of Law category.

Article 5(6) states that ‘Each Party may, as appropriate, adopt or maintain labor defense offices to represent or advise workers or their organizations’ 🡪 This falls under the Good Governance category (perhaps Effectiveness subcategory).

Article 6, concerning Publication, states that ‘Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and Parties to become acquainted with them’ 🡪 This falls under the Good Governance category (perhaps Transparency subcategory).

Article 7, in turn, states that ‘Each Party shall promote public awareness of its labor law, including by:

1. ensuring that public information is available related to its labor law and enforcement and compliance procedures; and
2. promoting public education regarding its labor law’

🡪 This falls under the Good Governance category (Transparency subcategory).

It is worth noting, however, that despite all of the above passages, Article 5(7) stresses that ‘nothing in this Article shall be construed to require a Party to establish, or to prevent a Party from establishing, a judicial system for the enforcement of its labor law distinct from its system for the enforcement of laws in general’ and, in turn, that Article 5(8) states that ‘for greater certainty, decisions by each Party's administrative, quasi-judicial, judicial or labor tribunals, or pending decisions, as well as related proceedings shall not be subject to revision or reopened under the provisions of this Agreement.’ With these statements, the NAALC makes clear that the member states retain a great deal of control over their governance system.

*NAALC (Policy)*

The NAALC does not have an overarching policy (or specific strategic guidelines) for the promotion of its standards. Instead, we find several passages where fairly specific steps are envisioned. Note that it is at times difficult to distinguish between ‘policy’ and ‘adoption’ as two separate categories for analyzing the NAALC text.

Having said this, here are specific passages that might be categorized as policy-oriented:

Article 3:

* Promoter: each of the member states
* Target: each of the member states
* Objectives: compliance and enforcement of the eleven labor principles listed above, as they appear in domestic law already
* Instruments: each of the member state is required to ‘promote compliance with and effectively enforce its labor law through appropriate government action, subject to Article 42, such as:

1. appointing and training inspectors;
2. monitoring compliance and investigating suspected violations, including through on-site inspections;
3. seeking assurances of voluntary compliance;
4. requiring record keeping and reporting;
5. encouraging the establishment of worker-management committees to address labor regulation of the workplace;
6. providing or encouraging mediation, conciliation and arbitration services; or
7. initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labor law.’

Articles 10-11:

* Promoter: the Council of the Labor Commission
* Target: each of the member states
* Objectives: compliance and enforcement of the eleven labor principles listed above, as they appear in domestic law already (and perhaps some of the broader standards related to transparency)
* Instruments: a variety of rather soft instruments such as:
  + ‘facilitat[ing] Party-to-Party consultations, including through the exchange of information’
  + ‘promote cooperative activities between the Parties, as appropriate’, regarding data collection, occupational safety and health, work benefits, legislation on trade unions and their rights, and other related matter
  + As part of #2, the Council can help the Parties cooperate through seminars, training sessions, working groups and conferences, joint research projects, technical assistance, and more.

Article 14:

* Promoter: the Secretariat of the Labor Commission
* Target: the public and the member states
* Objectives: make available to the public information on each member state’s laws and initiatives related to labor policy and law
* Instruments: reports that become available to the public on member states’:
  + labor law and administrative procedures
  + trends and administrative strategies related to the implementation and enforcement of labor law
  + labor market conditions such as employment rates, average wages, and labor productivity
  + human resource development issues such as training and adjustment programs.

Article 17:

* Promoter: National Advisory Committees (which are optional for member states to have)
* Target: the member states
* Objectives: help with the implementation of NAALC’s labor principles
* Instruments: the National Advisory Committees (comprised of labor and business representatives, and others) can offer advice to the member states.

Article 18:

* Promoter: Governmental Committees (which are optional for member states to have)
* Target: the member states
* Objectives: help with the implementation of NAALC’s labor principles
* Instruments: the National Advisory Committees (comprised of representatives of federal and state or provincial governments) can offer advice to the member states.

Article 21:

* Promoter: NAOs
* Target: NAOs
* Objectives: implementation of NAALC’s labor principles
* Instruments: the NAO of any member states can request the NAOs of the other member states consultations in relation to the latter’s labor law, administration, and labor market conditions. These requests from an NAO typically originate from the concerns of private citizens (understood to include non-governmental organizations as well as individuals).

Article 22:

* Promoter: any member state
* Target: Ministerial level staff in another member state
* Objectives: compliance with all eleven NAALC labor principles
* Instruments: a member state can request consultation with the ministerial level staff of another member states over evidence/information on compliance with NAALC’s requirements.

Articles 23-26:

* Promoter: Evaluation Committee of Experts (ECEs), made up of three experts (from a roster developed by the member states)
* Target: the member states
* Objectives: compliance with all of NAALC’s labor principles *except for* freedom of association, the right to collective bargaining, and the right to strike (Article 23(3)(b)). For these three rights, no further support other than what is set out in Article 22 is available
* Instruments: the ECEs will issue an evaluation report and submit it to the NAALC Council (the report will also be published); the member states will submit their responses to the recommendations set out in the ECEs’ reports.

Articles 27-41:

* Promoter: the NAALC Council and the Arbitration Panels, which comprise five members (from a roster established and maintained by the NAALC Council)
* Target: the member states
* Objectives: compliance with *three* of NAALC’s labor principles: health and safety issues, child labor, or minimum wage violations
* Instruments:
  + mediation via the Council
  + if mediation via the Council fails, arbitration panels are set up to investigate whether a persistent pattern of failure indeed exists
  + the panel will recommend an action plan for the member state in question (such plan should be satisfactory to the member state placing the original complaint)
  + if no action plan can be produced, the panel will recommend an action plan of its own that can include *sanctions* which are to take the form of increased trade tariffs against the offending party (Grimm 1998: 195-196), though the offending party can choose to pay the sanction with money instead.

The above policy steps have not changed since NAALC’s inception. There has been no evolution, therefore, in those standards.

*NAAEC (Prescription)*

The NAAEC is a ‘side agreement’ to NAFTA. Signed in 1993 by the three member states, it came into force on January 1, 1994 (along with the main NAFTA text). The NAEEC is a legally binding piece of international law.

In the NAAEC, the standard-settersare the member states themselves. As the Preamble states, “The Government of Canada, the Government of the United Mexican States and the Government of the United States of America … have agreed as follows.”

The addresseesare also the member states themselves. All relevant NAAEC articles that prescribe standards, in fact, explicitly mention each “Party” as their addressee.

As to content of the standards, it must be stressed again that the NAAEC does not put forth any new, joint, or harmonized sets of environmental principles that the member states commit to embrace (for instance, new limits on air pollution or emissions), other than the generic objective set out in Article 3, which asks each member state to ‘ensure that its laws and regulations provide for high levels of environmental protection and shall strive to continue to improve those laws and regulations’ 🡪 This falls within the Human Rights Category (Collective Rights subcategory).

Other than what appears in Article 3, the NAAEC requires the member states to commit to what we may call two procedural standards:

Article 1 states that the member states agree, as an objective, to ‘promote transparency and public participation in the development of environmental laws, regulations and policies’ 🡪 This falls within the Good Governance category (Transparency subcategory).

Article 2 asks the member states to ‘promote the use of economic instruments for the efficient achievement of environmental goals’ 🡪 This falls within the Good Governance category (Efficiency subcategory).

Article 7 asks that ‘administrative, quasi-judicial and judicial proceedings referred to in Articles 5(2) and 6(2) are fair, open and equitable’ 🡪 This falls within the Good Governance category (Rule of Law subcategory).

*NAAEC (Policy)*

As is the case for the NAALC, the NAAEC does not have an overarching policy (or specific strategic guidelines) for the promotion of its standards. Instead, we find several passages where fairly specific steps are envisioned. Note that it is at times difficult to distinguish between ‘policy’ and ‘adoption’ as two separate categories for analyzing the NAAEC text.

Having said this, here are specific passages that might be categorized as policy-oriented.

Article 2:

* Promoter: each of the member states
* Target: each of the member states
* Objectives: ensure transparency
* Instruments: each member state shall ‘periodically prepare and make publicly available reports on the state of the environment’.

Article 4:

* Promoter: each of the member states
* Target: each of the member states
* Objectives: ensure transparency
* Instruments: each member state shall ensure that ‘its laws, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons and Parties to become acquainted with them’.

Article 5:

* Promoter: each of the member states
* Target: each of the member states
* Objectives: ensure effective enforcement of environmental laws in each member state
* Instruments: ‘with the aim of achieving high levels of environmental protection and compliance with its environmental laws and regulations, each Party shall effectively enforce its environmental laws and regulations through appropriate governmental action, subject to Article 37, such as:
  1. appointing and training inspectors;
  2. monitoring compliance and investigating suspected violations, including through on-site inspections;
  3. seeking assurances of voluntary compliance and compliance agreements;
  4. publicly releasing non-compliance information;
  5. issuing bulletins or other periodic statements on enforcement procedures;
  6. promoting environmental audits;
  7. requiring record keeping and reporting;
  8. providing or encouraging mediation and arbitration services;
  9. using licenses, permits or authorizations;
  10. initiating, in a timely manner, judicial, quasi-judicial or administrative proceedings to seek appropriate sanctions or remedies for violations of its environmental laws and regulations;
  11. providing for search, seizure or detention; or
  12. issuing administrative orders, including orders of a preventative, curative or emergency nature’.

Article 6:

* Promoter: the member states
* Target: each of the member states
* Objective: ensure compliance with domestic law in any of the member states
* Instrument:
  + ‘each Party shall ensure that interested persons may request the Party's competent authorities to investigate alleged violations of its environmental laws and regulations and shall give such requests due consideration in accordance with law’
  + ‘each Party shall ensure that persons with a legally recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial or judicial proceedings for the enforcement of the Party's environmental laws and regulations’.

Article 7:

* Promoter: each of the member states
* Target: each of the member states
* Objectives: ensure rule of law (including access to law and fairness of law)
* Instruments: to ensure that a member state’s administrative, quasi-judicial and judicial proceedings referred to in Articles 5(2) and 6(2) are fair, open and equitable, each member state shall provide that such proceedings:
  + comply with due process of law
  + are open to the public, except where the administration of justice otherwise requires
  + entitle the parties to the proceedings to support or defend their respective positions and to present information or evidence, and
  + are not unnecessarily complicated and do not entail unreasonable charges or time limits or unwarranted delays.

Article 9:

* Promoter: the Council of the Commission for Environmental Cooperation
* Target: the member states
* Objectives: exchange of information and policy ideas around environmental principles; ensure enforcement of, and compliance with, national laws
* Instrument: the Council can set up working groups.

Article 10:

* Promoter: the Council of the Commission for Environmental Cooperation
* Target: the member states
* Objectives: ensure proper member states’ compliance with the NAAELC
* Instruments: the Council will:
  + promote and facilitate cooperation between the Parties with respect to environmental matters
  + develop recommendations regarding:
    - pollution prevention techniques and strategies;
    - approaches and common indicators for reporting on the state of the environment;
    - the use of economic instruments for the pursuit of domestic and internationally agreed environmental objectives;
    - scientific research and technology development in respect of environmental matters;
    - promotion of public awareness regarding the environment.
  + promote exchange of information on criteria and methodologies used in establishing domestic environmental standards
  + establish a process for recommendations on greater compatibility of environmental technical regulations, standards and conformity assessment procedures
  + promote public access to information related to the environment that is held by public authorities of each Party.

Article 13:

* Promoter: the Secretariat of the Commission for Environmental Cooperation
* Target: the member states and the public
* Objective: improve transparency, availability of information
* Instrument: the Secretariat has the independent authority to prepare reports on non-enforcement of environmental matters.

Articles 14-15:

* Promoter: the Secretariat of the Commission for Environmental Cooperation
* Target: a member state that is allegedly failing to comply with NAEEC environmental commitments
* Objective: compliance with NAAEC environmental principles
* Instrument:
  + the Secretariat may consider a submission from any non-governmental organization or person asserting that a Party is failing to effectively enforce its environmental law, provided that the submission conforms with certain requirements
  + the Secretariat assesses whether the submission merits a response by the Party
  + If requested, the Party must respond within 30-60 days
  + Based on the response by the Party, the Secretariat may develop a factual record (based on input from various parties, including independent experts), which can, if the Council agrees by a 2/3 vote, be made publicly available.[[6]](#footnote-6)

Articles 20-21:

* Promoter: the member states
* Target: the member states and the public
* Objective: increase availability of information on environmental matters
* Instrument: commitment to share relevant information on policies, possible violations, responses to queries.

As Wold puts it, when it comes to enforcement, “two mechanisms underscore the NAAEC’s emphasis on enforcement and competitiveness concerns. The NAAEC creates a procedure that allows a complaining Party to seek the imposition of a monetary assessment if a Party is found by a tribunal to have engaged in a ‘persistent pattern’ of failure to enforce environmental law with potential competitiveness effects in the NAFTA region. In addition, it establishes a citizen submission process that provides an avenue for groups or individuals to allege that a Party is failing to effectively enforce its environmental laws. These mechanisms constitute the NAAEC’s ‘teeth’ in what otherwise would be solely a forum for regional environmental cooperation” (Wold 2008: 217). Let us consider each mechanism in turn:

Articles 22-36:

* Promoter: each of the member states
* Target: each of the member states
* Objectives: ensure effective enforcement of environmental laws in each member state
* Instruments:
  + a member states can request consultation with a second member state ‘regarding whether there has been a persistent pattern of failure by that other Party to effectively enforce its environmental law’ (Article 22)
  + if consultations fail to resolve the dispute between the Parties, the Council may upon a two-thirds vote convene an arbitral panel to prepare a report with recommendations for better enforcements (Article 24)
  + if the panel finds a persistent failure to enforce environmental law by a member state, the disputing parties ‘may’ agree on a ‘mutually satisfactory action plan, which normally shall conform to the determinations and recommendations of the panel’(Article 33)
  + if the parties cannot agree on a plan or there is disagreement over the implementation of a plan, the disputing member state can request that the panel be reconvened; at this point, the panel may impose a plan on the parties (Article 34)
  + if the panel finds that a party is not fully implementing the plan, it may impose a monetary penalty not to exceed .007% of total trade between the parties (Article 34(5)
  + If a member state fails to pay, the other member state in the dispute may suspend NAFTA benefits in an amount not to exceed the monetary assessment (Article 36)
  + Interestingly, ‘all monetary enforcement assessments shall be paid in the currency of the Party complained against into a fund established in the name of the Commission by the Council and shall be expended at the direction of the Council to improve or enhance the environment or environmental law enforcement in the Party complained against, consistent with its law’ (Annex 34(3).

Articles 14-15:

* Promoter: citizens and non-governmental organizations
* Target: any of the member states
* Objectives: ensure effective enforcement of environmental laws in each member state
* Instrument:
  + A citizen or non-governmental organization can file a submission with the Secretariat against a member state for failing to enforce its environmental laws
  + Provided that certain conditions are met, the Secretariat can ask the member state in question to respond to the complaint (or the Secretariat can simply deem such report unnecessary and close the case); if a report is requested, the member state has 30 days to produce it (the report should specify whether the matter is or was the subject of pending judicial or administrative proceedings, and whether private remedies are available)
  + The Secretariat then has discretion to request authorization from the Council to prepare a factual record upon receiving a response from the Party; the Council must approve the request by 2/3 votes
  + The factual investigation will not assess whether the member state is at fault or even suggest ways in which enforcement could be improved; instead, “by describing the facts of a submission and the government’s response, the factual record shines a light on government action, which readers are free to interpret” (Wold 2008: 221).

1. **Measures of governance transfer: Adoption & application**

This section focuses again on the NAALC and the NAAEC. Attention turns first to NAALC’s adoption and application first, and then to NAEEC’s adoption and application. As we shall see, adoption is limited for both the NAALC and NAAEC. On the application front, we see some activities by the NAALC and NAAEC institutions of relevance (publications of reports, conferences, etc.). The most impressive aspects of both agreements, however, concern their reliance on third-party submissions (citizens, non-governmental actors) to enforce compliance with existing laws. These venues for submission have been used quite a bit to date, and have targeted not only Mexico but Canada and the United States as well.

*NAALC (Adoption)*

As the previous section should make clear, the NAALC’s policy for governance transfer is very reactive: for the most part, the NAALC sets up institutions to enable the member states to articulate their concerns and resolve disputes in the implementation of the NAALC’s eleven labor principles. Articles 10 and 11 in particular do envision that the NAALC Council engage in cooperation and other activities; Article 14 asks the Secretariat to make available reports on a variety of topics. The Council and the Commission have in fact executed this function to some extent; it seems appropriate, however, to discuss those activities in the *Application* section below, for they amount to actual activities fulfilling in practice the requests set out in Articles 10, 11, and 14.

*NAALC (Application)*

With the above in mind, and also recalling that the NAALC Secretariat is at this point temporarily suspended, we can still identify a small number of initiatives that might qualify as ‘specific measures’ practically applied within the NAALC context.

Articles 10 of the NAALC states that the Council shall (e) approve for publication reports and studies prepared by the Secretariat (as specified, in part, under Article 14), independent experts or working groups. Given this:

* The Council, as promoter, has published, with the general public in mind as its target on several occasions, reports. The most important include (Commission for Labor Cooperation 2009; also see the NAALC Website[[7]](#footnote-7)):
  + *Migrant Workers Rights in North America (2011)*
  + *Workplace Anti-Discrimination and Equal Pay Laws (2007)*
  + *Violence at Work in North America (2006)*
  + *Benefits in North America (2004)*
  + *Guide to Labor and Employment Laws for Migrant Workers in North America (2004)*
  + *Workplaces Injuries and Illnesses in North America (2004)*
  + *The Rights of Nonstandard Workers: A North American Guide (2003)*
  + *Protection of Migrant Agricultural Workers (2002)*
  + *Standards and Advanced Practices in the North American Garment Industry (2000)*
* Two seminar proceedings were also published:
  + Proceedings from a seminar in 2000 in Mexico City with prominent academic economists and high-level labor and business representatives to exchange ideas and experiences in an attempt to understand the links between productivity and workers’ income levels (*Incomes and Productivity in North America –Papers from the 2000 Seminars*)
  + Proceedings from two seminars (the last in 1998) in Dallas with the same sorts of participants and objectives as the 2000 seminar mentioned above (*Incomes and Productivity in North America –Papers from the 1998 Seminar*).

Articles 10 of the NAALC states that the Council (as part of the Commission) shall (f) facilitate Party-to-Party consultations, including through the exchange of information. These are some of the relevant activities that the Commission, as the promoter*,* has engaged in (with the help as well of the NAOs), with the member states as the targets(Commission for Labor Cooperation 2010 and Commission for Labor Cooperation 2009):

* Government-to-Government Session (in Puebla, Mexico, on December 2, 2008) on topics of freedom of association and the right to bargain collectively. Participants exchanged information on best practices on numerous issues such as transparent procedures for union registration and access to collective agreements and labor-management cooperation mechanisms. Present were officials from the three member states.
* *Tri-National Government Experts Workshop on the Role of Labor Ministries in the Effective Promotion of Mine Safety and Health in North America* (in Guadalajara, Mexico, on October 30-31, 2007)
* *Tri-National Conference on the Labor Dimensions of Corporate Social Responsibility in North America* (in Ottawa, Canada, on March 30-31, 2005)
* *NAALC Conference on Trafficking in Persons in North America* (in Washington, D.C., on December 6-7, 2004)
* *Fourth Meeting on the Tri-National Working Group of Government Experts on Occupational Safety and Health* (in Toronto, Canada, on April 25-26, 2004).

Article 11 states that the Council, as the promoter*,* shall promote cooperative activities between the Parties (which are the targets), as appropriate, on a variety of labor-related topics. To that end, Article 11 foresees events such as seminars, training sessions, working groups, conferences, and joint research projects. This is what we can observe (Commission for Labor Cooperation 2010):[[8]](#footnote-8)

* The Secretariat (which supports the Council in its mission) sponsored and/or organized the following events (Commission for Labor Cooperation 2009):
  + *Workshop on Supporting Economic Growth Through Effective Employment Services* **(**September 29-30, 2004) in Cancún, Mexico. This workshop was co-sponsored with the Inter-American Conference of Labor Ministers (IACML) and the Organization of American States (OAS), so more than the NAFTA member states participated.
  + *Seminar on Workplace Discrimination and the Law in North America* (November 18-19, 2004), George Washington University Law School, Washington DC. Experts and officials from the three NAFTA member states presented and attended.
* Two seminars (mentioned above already) on *Incomes and Productivity in North America*:
  + one in 2000 in Mexico City with prominent academic economists and high-level labor and business representatives to exchange ideas and experiences in an attempt to understand the links between productivity and workers’ income levels,
  + one in 1998 in Dallas with the same sorts of participants and objectives as the 2000 seminar mentioned above.
* *The Youth Employment in North America Seminar*, organized by the Secretariat of the Commission for Labor Cooperation, took place in Mexico City on December 4 and 5, 2008. The seminar analyzed how to create employment opportunities for youth (preparing youth for the work place and skills development) and how to engage youth at risk entering the labor market and protecting young people in the workplace.
* A seminar on [*Tri-national Government Experts Workshop on the Role of Labor Ministries in the Effective Promotion of Mine Safety and Health in North America*](http://www.naalc.org/coop-activities/Mine_Safety.htm)  – October 30 & 31, 2007. This was a tri-national seminar organized by the Commission on Mine Safety and Health issues in North America in Guadalajara, Mexico.
* [*Labor Market Interdependence in North America: Challenges and Opportunities of an Aging Population*](http://www.naalc.org/coop-activities/Aging%20Seminar.htm)– November 13, 2006. Seminar in Mexico City based on concerns over the rapidly changing demographics in each member country and what can be done to adapt to an aging population.
* [*Trilateral Seminar - Labor Boards in North America*](http://www.naalc.org/coop-activities/Trilateral-Seminar.htm)– in Monterrey, Mexico, on March 20, 2003.

Article 21 foresees the possibility that an NAO of one member state (following request of private citizens, including non-governmental organizations, or acting independently) asks for clarifications and documentation from the NAO of another member state concerning the enforcement of its labor principles (Caulfield 2010: 6). Article 22 foresees Party-to-Party ministerial consultations as a first step toward resolution to any dispute that may arise between the member states (Buchanan and Chaparro 2008). Articles 23-26 foresees the use of expert committees (ECEs) if consultations fail (but for freedom of association, the right to collective bargaining, and the right to strike, which can only be considered under Article 22). Finally, Articles 27-41 lay out the use of Arbitration Panels if ECEs fail, but only for three NAALC principles (health and safety issues, child labor, and minimum wage violations).

In practice, this is what has happened. A complete list (no cases have been filed since 2008) of private actor complaints stemming from Article 21 can be seen on the NAALC’s website.[[9]](#footnote-9) A complete list can also be found on the website of the US Department of Labor (Bureau of International Labor Affairs),[[10]](#footnote-10) where this information is available (updated as of March 2010):

* Thirty-seven submissions have been filed under the North American Agreement on Labor Cooperation (NAALC). Twenty-three were filed with the U.S. NAO of which twenty-one involved allegations against Mexico and two against Canada. Nine were filed with the Mexican NAO and involved allegations against the United States. Six submissions have been filed in Canada, three raising allegations against Mexico and four raising allegations against the United States.
* Eighteen of the twenty-three submissions filed with the U.S. NAO involved issues of freedom of association and nine of them also involved issues of the right to bargain collectively. Two submissions (9802) (2005-03) concerned the use of child labor, one (9701) raised issues of pregnancy-based gender discrimination; three (9801, 2005-01, 2005-03) concerned the right to strike; six (9403, 9901, 2003-01, 2004-01, 2005-03, 2006-01) concerned minimum employment standards; and eight (9702, 9703, 9901, 2000-01, 2003-01, 2004-01, 2005-03, 2006-01) raised issues of occupational safety and health.
* Of the submissions filed to date with the U.S. NAO, four (940004, 9602, 9803, and 2004-01) were withdrawn by the submitters before hearings were held or the review process completed. Hearings were held on ten (940001, 940002, 940003, 9601, 9701, 9702, 9703, 9901, 2000-01, 2003-01). Eight of the U.S. submissions (940003, 9601, 9701, 9702, 9703, 9901, 2000-01, 2003-01) have gone to ministerial-level consultations. The U.S. NAO declined to accept submissions 9801, 9802, 9804, 2001-01, 2005-01, and 2005-02 and 2006-1 for review.
* Mexican NAO submissions 9501, 9801, 9802, 9803, 9804 resulted in ministerial consultations. Canadian NAO submission CAN 98-1 resulted in ministerial consultations. Canada declined to accept submissions CAN 98-2, CAN 99-1, and CAN 05-1 for review.

Some of these submissions, then, have led to ministerial consultations, as laid out in Article 22. Importantly, though, none have gone past that phase. Indeed, most of the submissions originating under Article 21 have either been dismissed or withdrawn at the national level. Observers also note that even when evidence of wrongdoing was found, little of consequence happened (Jacobs 2010). Some consultations have led to the workshops and seminars listed earlier in this report. For specific information on particular complaints and resultant actions, see the NAALC website.[[11]](#footnote-11) The most noteworthy cases are from the late 1990s and concern Mexico (Caulfield 2010: 68). Nearly every case against Mexico lists freedom of association violations as the major complaint (19 of the 24 petitions filed on Mexico). The most significant direct steps in response to these cases have amounted only to the holding by the Mexican government of public seminars and forums on selected topics (US NAO 1997-02 and US NAO 1997-03), and the Mexican government promising to promote registration of collective agreements and eligible voter lists (US NAO 1997-02).[[12]](#footnote-12) Some analysts argue that the cases have had the indirect effect of pressuring Mexico into pursuing important labor reforms, not least by way of enabling the Mexican government to point to US pressure resulting from the pressure to justify those reforms (Nolan García 2011a: 100).

*NAAEC (Adoption)*

As is the case with the NAALC, the NAAEC’s policy for governance transfer is very reactive: for the most part, the NAAEC sets up institutions to enable the member states and private parties to articulate their concerns and resolve disputes in the implementation of the NAAEC principles. At the same time, the Commission for Environmental Cooperation has engaged in several activities consistent with its mandate. Those activities are perhaps best captured in the *Application* section below.

*NAAEC (Application)*

Article 9 allows the Council of the Commission for Environmental Cooperation to set up working groups to advance the objectives of the NAALC. Three groups have been active, the first of which is the most pertinent for this report:[[13]](#footnote-13)

* North American Working Group on Environmental Enforcement and Compliance Cooperation (EWG): constituted in 1995 with the mission of promoting cooperation and prepare reports on environmental enforcement obligations and activities. Members include senior administrators from each of the member states (such as the Director of Federal Activities of the US Environmental Protection Agency, the co-chair of the Procurador Federal de Protección al Ambiente of Mexico, and the Chief Enforcement Officer of Environment Canada). The EWG has engaged in a number of related activities in line with its mission:
* it maintains a record of all environmental law in Canada, Mexico, and the United States.[[14]](#footnote-14)
* it has co-sponsored judicial training seminars and symposiums held between 2005 and 2008, which have provided forums to analyze and discuss the challenges posed by the application and administration of environmental law:
  + (2008, Mexico) *Seminar on Strengthening the Enforcement and Administration of Environmental law in North America*
  + (2007, Mexico*) Symposium for Judges on Environmental Law*
  + 2005, Mexico) *Symposium on Judiciary and Environmental Law in Mexico, United States and Canada*.[[15]](#footnote-15)

The other two working groups are The North American Wildlife Enforcement Group and The Hazardous Waste Task Force.

Articles 10 and 13, among others, foresee the Commission (via the Council and the Secretariat) to engage in the production and dissemination of information relative to national enforcement of law, compliance, and other related matters. In that spirit (though it is not always easy to link directly observable activities with the articles of the NAAEC), we note the following.

The Commission has sponsored and/or organized public meetings on matters of sound environmental law and legal compliance. Some of these were broadcast live via the Internet, and are currently available online.[[16]](#footnote-16) The commission has been drawing from more than one article of the NAALC; a few of these events are worth listing here:

* (2008) *North American Workshop on Environmental Sustainability and Competitiveness*
* (2010) *North America's Energy Market: Aligning Policies and Managing Carbon*
* (2011) *Workshop on E-waste Recycling and Refurbishing*

The Commission has, in turn, engaged in several projects, many of which are not relevant for this report, since they do not concern governance as such.[[17]](#footnote-17) Some projects are relevant, however, and should be mentioned here. It should be noted that those projects include events, seminars, and other activities which may already have been mentioned earlier in this section:

* Trade and Enforcement of Environmental Law (2005-ongoing)
  + Sample activity: *Workshop on Environmental Compliance* (2011)
  + Sample activity: *Workshop on the Identification of non-Compliant Imports* (2010)
* Mapping North American Environmental Issues (2005-ongoing)
  + Sample activity: *Annual Meeting of the North American Atlas Consultative Group* (2009)
* State of the Environment Reporting (2005-ongoing)
* Strengthening Wildlife Enforcement (2005-ongoing)
* Enhancing North American Air Quality Management (2005-ongoing)
  + Sample activity: *3rd Workshop on Recent Scientific Findings on Air Pollution and Implications* (2009)

The Commission also published Annual Reports, which include as perhaps the most important component national progress reports by country. Two important facts are worth mentioning here. First, the latest available annual report is for 2004. Second, according to the Communications Department at the Commission, the delay in publishing more recent reports has to do with national progress reports: simply put, these have not been approved yet (but for 2005 and 2006, which are about to be approved) (Interview: Communications Department of the Commission for Environmental Cooperation 2011). The above activities have led observers to praise the activities of the Commission: the “Commission,” reported recently one analysis, “has been able to convene a diversity of stakeholders (environmental groups, grassroots organizations, local and state governments, scholars, industry, and federal agencies) around important topics. Particularly successful have been efforts to address conservation issues (birds, butterflies, coastal areas, and biodiversity). The [Commission] secretariat has helped the three federal governments create regional forums to discuss relevant environmental issues” (Sanchez 2002: 1375).

As noted earlier, Articles 22-36 set out procedures for consultation all the way to arbitration. To date, no NAFTA member state has initiated consultations with another member state or even threatened to do so. Indeed, according to Dane Ratliff, Director, Submissions on Enforcement Matters Unit at the NAAEC, the member states have yet to develop the necessary rules of procedures, as required by Article 28 (1), for how arbitration cases should unfold and, in turn, there exists no active roster for potential panelists (Interview: Ratliff, Dane, 2011).

On the other hand, per Articles 14-15 (which allow private parties to submit complaints if they believe that a country ‘is failing to effectively enforce its environmental law’, provided that certain conditions are met for the complaint[[18]](#footnote-18)), there have been, as of May 2011, a total of 76 submissions by citizens and non-governmental organizations (see 8 - Annex – NAEEC Article 14 Submissions). Many of these petitions, according to Dane Ratliff again, have been “high quality” submissions with real consequences, especially for Mexico (Interview: Ratliff, Dane, 2011), where, in the words of one observer, the NAALC is responsible for “stimulating corrective actions by non-compliant industries and federal agencies before domestic law enforcement becomes involved” (Dorn 2007: 129), though there certainly are debates over the effectiveness of the process (Lewis 2007). A case-by-case summary is available online.[[19]](#footnote-19) Below are two representative cases:

* SEM-98-007: Known as *Metales y Derivados*, the submission was filed on 23 October 1998 by the Environmental Health Coalition and the Comité Ciudadano Pro Restauración del Cañón del Padre y Servicios Comunitarios, A.C.[[20]](#footnote-20) The two organizations argued that Mexico had failed to enforce Articles 170 and 134 of Mexico’s General Law on Ecological Balance and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA) by failing to do anything about an abandoned lead smelter in Tijuana. The Mexican government answered the complaint by stating that it was taking several steps, including (a) the initiation of a criminal prosecution against the owners of the company for environmental crimes, (b) various inspection visits, (c) the ordering of technical measures, (d) several temporary shutdown orders, and (e) a permanent shutdown. A factual record report was ordered, comments were collected from the governments of Canada and the United States, and significant information was made publicly available North American Commission for Environmental Cooperation (2002: 15).[[21]](#footnote-21)
* SEM-96-001: Submitted by the Comité para la Protección de los Recursos Naturales, A.C., Grupo de los Cien Internacional A.C., and Centro Mexicano de Derecho Ambiental, A.C., and related to plans to construct a pier, a component of a larger port terminal project in Cozumel, Quintana Roo. With the protection of a coral reef in mind, the three submitters argued that Mexico was failing to enforce its own laws.[[22]](#footnote-22) The case attracted public attention and led to a voluntary moratorium on further construction in the area, pending the publication of the factual report by the Secretariat. After the report was released (in which the Secretariat stated that the reef would be irreparably damaged), construction resumed. However, the submission process succeeded in heightening public attention to environmental matters and government action (or lack thereof).

**c) Summary**

At the official level, the NAFTA text itself does not prescribe any significant governance standards. The NAALC focuses on *compliance* with already existing national-level standards around labor principles. The NAAEC identifies a few general principles and then, mostly, *compliance* with existing national-level standards about environmental protection. The onus thus falls primarily on the member states and Mexico in particular: it is they that must ensure compliance. At the same time, mechanisms for the member states themselves and private parties to voice complaints against the member states exist and have been put to the test in part.

**d) Governance Transfer through Unofficial Venues: Supporting Democratization and Market Liberalization Reforms in Mexico**

The above discussed the official texts of the NAALC and the NAAEC, and the activities and initiatives that have resulted from those texts. It would be fair to argue, however, that the adoption of NAFTA (and indeed the actual pursuit of the agreement, and the preparation for entrance into NAFTA) served as a lever for the United States and Canada to pressure Mexico to improve, or build new, governance institutions within its national territory. There is also evidence in support of the idea that the Mexican government itself viewed NAFTA as a powerful level to justify policies that would improve democratic and open-market practices in the country. Put simply, the prospect of economic integration with the United States and Canada (and not any official statement of standards or other matters) prompted governance transfer to Mexico.

More specifically, we can note that prior to the arrival of NAFTA, under the leadership of President Carlos Salinas, Mexico was undergoing a process of democratization and market liberalization. The United States leadership, especially under Secretary of State James Baker and President George H. Bush, saw the attractiveness of the Mexican market for US exports but also understood that unstable political institutions, poor market conditions, and relatively advanced but weakly enforced regulatory frameworks (in areas such as product standards, labor, the environment, and more) would expose US companies to unfair competition and risky business environments. They came to see NAFTA as a market opening opportunity *and* a powerful way to help (and further pressure) the Salinas administration in its efforts to modernize the Mexican economy and political system. As one observer put it, “around the beginning of February 1990, Salinas called George Bush and proposed the free-trade pact. The President and his close friend, Secretary of State James Baker, immediately accepted the idea, viewing it as a grand chance to stabilize Mexico as a free-market, democratic nation, while providing trade expansion for American exporters” (Dryden 1995: 369). According to a second account, and what is perhaps the most comprehensive analysis of the crafting of NAFTA, in February 1990 James Baker “urged President Bush to seize the opportunity to stabilize Mexican reforms” (Cameron and Tomlin 2000: 69). Salinas himself understood that NAFTA would help his administration achieve its objectives and, in the process, avoid a repeat of the economic crisis of the 1980s (Cameron and Tomlin 2000: 57)

In a move illustrative of the catalytic effect of the NAFTA accord, Salinas consented to the creation of the National Commission on Human Rights (*Comisión Nacional de los Derechos Humanos*) in 1990, just four days before a trip to meet with President Bush (Collins 2010: 748). Later, at the time of ratification, President Bill Clinton sought to reassure members of the US Congress and the American public that Mexico’s inclusion in a trade area with the United States would force it to adopt democratic reforms. This became known as “*de facto* conditionality” which threatened to derail the treaty and Mexico’s prospects of tariff-free exchange with its largest trade partner. In response to this, Salinas thus “launched a vigorous lobbying campaign in Washington and pledged that democratization in Mexico would follow in the wake of the trade accord” (Collins 2010: 749)

A number of important reforms and changes accordingly took place after the enactment of NAFTA and Salinas’ departure in 1994 (and President Ernesto Zedillo’s arrival) – all of which, according to many (though not all)[[23]](#footnote-23) scholars, were directly linked to NAFTA:

* As Mark Aspinwall put it, “[The Mexican government] reformed its 1994 Federal Act of Administrative Procedures (*Ley Federal de Procedimiento Administrativo*)[[24]](#footnote-24) in 2000 with four main objectives: to increase transparency in drafting regulations, promote public participation, increase legal certainty regarding enforcement and provide that benefits outweigh costs of regulation … These adaptations were not accidental but were directly the result of the NAFTA agreement” (Aspinwall 2009: 8). Other observers agree with this view (DeHart 2006: 660).
* Because of NAFTA, Mexican institutions in the areas of competition policy, consumer rights, property rights, bankruptcy laws, monetary policy, and the environment were strengthened (Aspinwall 2009: 7-8). None of these changes was directly required by NAFTA regulation but the process of competing in the NAFTA marketplace (and also some of the principles found in Chapter 10, 11, 14, and 19) created the context that made those changes possible: “NAFTA has moved the Mexican economy towards institutional upgrading” (Ibarra-Yunez 2004: 2).
* An additional change in the late 1990s was Mexico “amend[ing] its Foreign Trade Law (*Ley de Comercio Exterior)* regarding administrative procedures and made adjustments to allow access to information and widen participation in dispute settlement” (Clarkson, 2002, pp. 14–15). The same law was amended in 1996 to permit greater foreign investment in the communications and transport sector (Aspinwall 2009: 8).[[25]](#footnote-25)
* Other important changes included (a) the introduction of new standards of reporting in Mexico, (b) INEGI (*Instituto Nacional de Estadística y Geografía*), the statistical agency, publishing statistics more often and more quickly, (c) and the Ministry of Public Administration (*Secretaría de la Función Pública*) overseeing the transparency of all ministries as well as the introduction of a new transparency law (Aspinwall 2009: 9).
* The new transparency law (*Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental* ) was adopted in 2002 and has by many accounts put Mexico at the forefront of public disclosure of freedom-of-informal practices. It was accompanied by practical oversight and enforcement as well through the very active and efficient Federal Institute of Access to Public Information (*Instituto Federal de Acceso a la Información Pública y Protección de Datos*).[[26]](#footnote-26)
* At a more general level, “the intense media coverage of the NAFTA debate in the United States and Mexico helped to catalyze, within both countries, civic-based political activity concerned with the issues of human rights, labor rights, and the environment” (Collins 2010: 749).

Put briefly, “the 1994 political shocks in the wake of Mexico’s entry into NAFTA forced the administration to remove the old authoritarian legacies” in place in the country prior to NAFTA (Steffan 2010).

At another level, NAFTA has also generated unforeseen internal reactions and transnational dynamics that have pressured the Mexican government to adopt legislative and administrative reforms in line with international standards of democracy, transparency, and efficiency. We can point to one here: the uprising of the Zapatistas, which began exactly on the day that NAFTA was signed. Newly inaugurated president Ernesto Zedillo, as firmly committed to neoliberal economic policies and the NAFTA accord as Salinas, made a strong effort to pacify the Zapatistas. His most consequential initiatives included (Collins 2010: 750):

* Establishing an independent Federal Electoral Institute (*Instituto Federal Electoral)* (this is credited with allowing the opposition PAN and PRD parties to register victories in local elections and in the 1997 congressional elections—where for the first time the PRI lost its legislative majority). The institute proved to have far-reaching consequences, as it became more independent than the regime expected, and helped to reduce the PRI’s longstanding practice of election fraud and manipulation (Lawson 1997, 15).
* The introduction of a national primary system for the selection of the ruling party’s presidential candidate.

While it is difficult to argue that such initiatives are a direct result of NAFTA, it is fair to argue that NAFTA was a proximate cause for them.

1. **EXPLAINING GOVERNANCE TRANSFER**

We turn first to the NAALC and NAAEC. Attention then turns to NAFTA as a whole and the unofficial ways it has promoted governance transfer. By and large, it seems fair to argue that there is evidence in support of rationalist and constructivist approaches. There seems to be less evidence in favor of historical institutionlist accounts (unless we consider the question of actual implementation and impact of laws and policies in Mexico, which is beyond the scope of this report) or policy diffusion as such. More specifically, on the constructivist front, we certainly see officials working on NAFTA embracing certain principles – however limited – around labor and the environment that are reflective of Western discourses. This is hardly surprising, since the United States and Canada, if not Mexico, are at the very heart of the ‘Western world’.

On the rationalist front, we observe that both the Mexican government and the US government pursued the NAALC and the NAAEC as a way to secure reforms in Mexico, and to reassure American unions and environmentalist groups, and business later, that NAFTA would not hurt American interests.

The next two sections ‘explain’ the NAALC, NAAEC, and NAFTA in light of the questions posed in the report guidelines (variables at work at the international, regional, and national level). Most of what follows, as noted, confirms constructivist and rationalist accounts.

NAALC and NAAEC

By most accounts, the NAALC was envisioned by President Bill Clinton in response to labor concerns in the United States (those concerns were in place well before NAFTA was signed by President Bush), about violation of workers’ rights in Mexico and the resulting challenges US firms would have when competing with Mexican firms that had lower labor costs (Nolan García 2011b; Harvey 1996: 1-3). US corporations, by contrast, took some time to recognize this challenge and mobilized quite late. Clinton understood that, without the NAALC (by the time Clinton assumed the Presidency the NAFTA text could no longer be amended, as the terms of the agreement had already been set; the member states were instead expected to vote ratify it or not), support by the Democratic Party for NAFTA’s ratification would probably be missing and his own election could be jeopardized (Graubart 2008: 6). The NAALC was therefore Clinton’s concession to labor in the United States. The NAALC, it is worth pointing out again, represents the first time that a labor-rights agreement was included in a free trade pact (Phelps 2001 and Carr 2009). Notwithstanding this, we should note that the NAALC was widely criticized by NGOs and labor unions for its limited reach, lack of enforceable standards, and procedural complexity, though in hindsight, as already observed in this report, its impact has not been totally negligible (Buchannan and Chaparro 2008: 132).

In light of its origins and other considerations, we can point to a few critical analytical factors that account for the NAALC and its requirement that the member states commit to enforcing existing national labor laws:

* National level:
  + in the United States, upcoming presidential elections and pressure by the Democratic Party and labor unions on President Bill Clinton to ensure Mexican compliance with national labor law
  + in Mexico, low level of legitimacy of political institutions and thus a significant ‘misfit’ between the United States and Canada *and* Mexico.
* Regional level:
  + Heterogeneous membership basis, with Mexico lagging behind the United States and Canada in compliance terms, socio-economic development, political stability and legitimacy.

When it comes to the Application dimension, it is worth noting that recent research suggests that the likelihood that the petitions alleging labor rights abuses are accepted for review by NAFTA’s labor arbitration offices increases when these petitions are submitted by transnational (as opposed to national) advocates (Nolan García 2011b).

NAAEC, in turn, was also conceived primarily out of a concern with ensuring that Mexico, which already has rather strict environmental regulation, enforce its laws. The underlying reasoning is that poor enforcement allowed Mexican firms, and especially the *maquiladoras,* to compete favorably but unfairly with US companies. As Wold put it, “on closer inspection, Mexico, it was learned, had environmental standards equivalent to, and in some circumstances stricter than, U.S. standards. What accounted then for the deplorable conditions near many *maquiladoras*? According to another analysis, Mexico’s enforcement of environmental laws was weak and crippled by inadequate allocation of resources. As a consequence, environmental enforcement became a major focus of the NAAEC” (Wold 2008: 11).

President George H. W. Bush made some push for environmental principles to be part of the NAFTA negotiations. However, it was under President Clinton, as the time for ratification of the agreement approached, that pressure for an environmental deal mounted (Graubart 2008: 6). NAFTA could not be reopened or renegotiated (neither Canada nor Mexico would have been interested), so a ‘side’ agreement seemed like the most expedient way to proceed. As one analyst put it, the Commission for Environmental Cooperation in particular “was designed in part to address fears that this first regional trade agreement between a developing country and two developed countries would have significant negative overall environmental impacts. A notable concern was that industry would be drawn to jurisdictions with lax environmental laws or weak, and that this would lead to a ‘race to the bottom’ in standards or enforcement” (Carpentier 2006: 260).

Given this, we can attribute the NAAEC to a few factors:

* National level:
  + in the United States, upcoming presidential elections and pressure by environmentalists and business (late) on President Bill Clinton to ensure Mexican compliance with national labor law
  + in Mexico, low level of legitimacy of political institutions and thus a significant ‘misfit’ between the United States and Canada *and* Mexico.
* Regional level:
  + Heterogeneous membership basis, with Mexico lagging behind the United States and Canada in compliance terms, socio-economic development, political stability and legitimacy.
* International level:
  + the presence of the US as a regional hegemon promoting specific standards for legitimate governance institutions.

Mexican Domestic Reforms

As already discussed in the previous sections, a number of Mexican domestic reforms (in the legislative but also administrative realms) can be attributed at least in part to Mexican government leveraging entrance into NAFTA to propose and justify initiatives. They can also be attributed in part to pressures from the United States, and its use of ‘*de facto* conditionality’ (Collins 2010) and requests for democratization and market stabilization in Mexico. We can therefore categorize those independent variables as follows:

* National level:
  + Mexico’s fragile transition to democracy in the 1980s encouraged the Salinas government to pursue a free trade agreement with the US and Canada to justify the introduction of further reforms; it also makes the United States more responsive to a request for a trade deal
  + there is a clear ‘misfit’ between Mexico *and* Canada and the United States which compels the Mexican government to undertake reforms, and the United States government to pressure Mexico to embark on those reforms.
* International level:
  + In the 1980s and 1990s, a number of international actors (the IMF for instance) are active in Mexico trying to encourage democratic and market reforms. For instance, the IMF approved an 18-month stand-by credit for Mexico of up to the equivalent of US$17.8 billion in support of the government's 1995-96 economic and financial program. Their influence must surely be taken into account when explaining reforms in Mexico during this time.
* Regional level:
  + the presence of the US as hegemon (economic and not only political), to which the Mexican government could point to justify its reforms.

Finally, in the case of the reforms that have come because of pressure from the Zapatistas’ movement, to the extent that NAFTA helped the Zapatista’s cause, we could argue the following:

* National level:
  + Mobilization and rise in protests by the Zapatistas, with reference partly to NAFTA (Bok and Duina 2011), push the Mexican government toward more democratic reforms, especially in terms of human rights, local autonomy, and increased transparency.

1. **CONCLUSIONS**

Governance transfer with NAFTA can be said to have been minimal (even if we do not consider actual outcomes but merely what is written down in official documents and then promoted with plans). NAFTA itself is silent on the matter, and the NAALC and NAAEC focus primarily on enforcement of domestic law (arguably a dimension of good governance). Mexican reforms have taken place in part because of the NAALC and NAAEC documents, and more generally the arrival of NAFTA (which was used by the Mexican government to initiate and execute reforms).

Methodologically speaking, it is quite difficult to trace causality between the arrival of NAFTA and Mexican reforms, especially since other variables (domestic and international) were also driving those reforms. Secondary research suggests causality and more in theory could be discovered on this front, primarily by way of personal interviews with the individuals responsible for creating change. The same can probably be said of the NAALC and NAAEC: they, too, probably created indirect pressure points on governments and even industry for more enforcement and compliance (for instance, well publicized cases of non-compliance very likely deterred non-compliance by other actors and prompted government action in other instances), but the extent to which such causality can be ascertained is not clear.

At the level of actual implementation (which is not in the purview of this report or project more generally), there remains real questions about the actual impact and extent of any of the observable reforms. In the case of the NAAEC, for instance, we saw that cases of non-enforcement brought to the attention of the public and government in Mexico led to temporary measures and corrective behaviors which were later rescinded. Though the agreement has been criticized by many as being ineffective, some observers emphasize that the agreement (and the citizen petition process in particular) has improved public awareness and contributed to the “development of transparency in environmental matters” (Malgosia 2006: 368). In the case of the NAALC, there exists a debate over the extent to which changes to Mexican policies and law can be attributed to the agreement, with some granting the NAALC considerable importance (Graubart 2008; DeHart 2006; Nolan García 2011a).[[27]](#footnote-27) There is also evidence that the NAALC, like the NAAEC, has helped raise public awareness of labor rights violations in the member states and encouraged cross-national mobilization and networking (with, presumably, positive results on laws and policies) (Finbow 2006; Nolan García 2011b; Kay 2005).

In sum, NAFTA, the NAALC, and the NAAEC can be said to have had limited, though probably real, impact on Mexico.

1. Minor changes have applied only to the NAFTA text and have concerned primarily technical matters, such as revised rules of origins guidelines – leading politicians, interest groups, and activists to wonder about the need for major revisions (see, for instance, Hussain 2010; Jacobs 2010; Malkin 2008; Finbow 2006: 265; Bélanger 2008). Article 2202 of the NAFTA agreement specifies how amendments can be made. [↑](#footnote-ref-1)
2. Reference is made (Article 101) to GATT, but only in order to state that NAFTA is in compliance with GATT Article XIV, which lays out the conditions for acceptable trade blocs in the world. [↑](#footnote-ref-2)
3. The NAALC text refers to the International Labor Organization only in terms of consultation for selecting a roster of experts to set up Evaluation Committee of Experts (Articles 45 and 24). [↑](#footnote-ref-3)
4. Article 1201 exempts financial services and air transport. [↑](#footnote-ref-4)
5. See the following press release (NAALC Council 2011): http://www.naalc.org/index.cfm?page=751&artcat=4&article=56. [↑](#footnote-ref-5)
6. See Pratt (2006: 751-756) for a discussion of these steps. [↑](#footnote-ref-6)
7. http://new.naalc.org/index.cfm?page=165 [↑](#footnote-ref-7)
8. It is not easy to determine whether an activity (such as a workshop) falls under the scope of Article 10 or Article 11 of the NAALC. The above assignment of activities under each article is therefore tentative. [↑](#footnote-ref-8)
9. http://www.naalc.org/userfiles/file/NAALC-Public-Communications-and-Results-1994-2008.pdf (also available as a pdf file in the Annex section of this report (NAALC Public Communications and Results 1994-2008). See also http://new.naalc.org/index.cfm?page=226 for an incomplete list. [↑](#footnote-ref-9)
10. http://www.dol.gov/ILAB/programs/nao/status.htm [↑](#footnote-ref-10)
11. http://www.naalc.org/userfiles/file/NAALC-Public-Communications-and-Results-1994-2008.pdf [↑](#footnote-ref-11)
12. For a valuable analysis of many of these cases, see Finbow (2006). [↑](#footnote-ref-12)
13. For more details, see the NAAEC website: http://www.cec.org/Page.asp?PageID=122&ContentID=3004&SiteNodeID=602&BL\_ExpandID= [↑](#footnote-ref-13)
14. See http://www.cec.org/Page.asp?PageID=924&ContentID=2716 [↑](#footnote-ref-14)
15. For more information on these events, see: http://www.cec.org/Page.asp?PageID=861&ContentID=&SiteNodeID=613&BL\_ExpandID= [↑](#footnote-ref-15)
16. See http://www.cec.org/Page.asp?PageID=924&SiteNodeID=652 [↑](#footnote-ref-16)
17. http://www.cec.org/Page.asp?PageID=751&SiteNodeID=622 [↑](#footnote-ref-17)
18. See Pratt (2006: 751). [↑](#footnote-ref-18)
19. http://www.cec.org/Page.asp?PageID=924&SiteNodeID=542 [↑](#footnote-ref-19)
20. To read the Final Factual Record report, see Secretariat for the North American Commission for Environmental Cooperation (2002). The report is available at http://www.cec.org/files/pdf/sem/98-7-FFR-e.pdf [↑](#footnote-ref-20)
21. For details on the timeline of events, see http://www.cec.org/Page.asp?PageID=2001&ContentID=2372&SiteNodeID=250 [↑](#footnote-ref-21)
22. To read the Final Factual Record report, see Secretariat for the North American Commission for Environmental Cooperation (2002). The report is available at http://www.cec.org/files/pdf/sem/ACF17D1.pdf [↑](#footnote-ref-22)
23. See, for example, Cameron and Wise (2004). [↑](#footnote-ref-23)
24. For the text of the law, see Cámara de Diputados del H. Congreso de la Unión (2000), available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/112.pdf [↑](#footnote-ref-24)
25. For the text of the law, see Cámara de Diputados del H. Congreso de la Unión (2006), available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/28.pdf. [↑](#footnote-ref-25)
26. For the text of the law, see Cámara de Diputados del H. Congreso de la Unión (2010), available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/244.pdf.

    For information on the institute, see: http://www.ifai.org.mx/. [↑](#footnote-ref-26)
27. See, again, the information on the US Department of Labor’s website on NAALC submissions and their results, as available at: http://www.dol.gov/ILAB/programs/nao/status.htm [↑](#footnote-ref-27)