

Global Corporate Empire

Corporate Rule by "Free" Trade Agreement

by Nancy Price

Over centuries, profits from traded commodities such as tin, copper, gold, salt, spices, tea, coffee, sugar, rum, textiles, and tragically, opium and slaves, made traders and investors rich, while filling the treasuries of city-states, colonial regimes, and empires that paid armies and police to put down resistance. Today's corporate-driven "free" trade agreements are the newest chapter in this long history of pillage of other peoples' land and resources and disregard for human life. Corporations have always been engaged in setting trade policy, but the so-called "free" trade agreements give them unprecedented power to rule.

Corporate Rule, Phase One. From 1947 to the mid-1980s, international trade was regulated by the General Agreement on Tariffs and Trade (GATT) to increase trade in manufactured goods, and to lift quotas and lower tariffs to stimulate import and export for economic development and maintain trade balance among countries. Trade disputes were settled through negotiation and a transparent legal process.

Corporate Rule, Phase Two. From the mid-1980s on, drastic changes to this system were codified in the North American "Free" Trade Agreement (NAFTA 1994) between the US, Canada and Mexico. The US then attempted to get these new rules included when GATT was expanded into the World Trade Organization (WTO 1995), but was only partially successful, so turned its attention to bilateral and multi-lateral agreements. NAFTA became the new "model" with radical rules to create a new global system of corporate rule. These radical rules:

- Expand beyond trade in goods to services, including financial services such as banking;
- Promote privatization and deregulation of key public services, including drinking water/sanitation, education, and health care;
- Include rules on government purchasing, intellectual property, labor standards, and the environment;
- Create new rules for agricultural goods beyond basic commodities;
- Expand market access for foreign corporations to give them the benefits of local rules for products and services;
- Expect governments to "harmonize" their laws and regulations relating to the environment, food safety, purchasing, health and labor to the lowest common denominator and to allow challenges to democratically instituted and court supported laws;
- Establish investor-to-state rules (see sidebar)

These extreme rules are replicated in other US trade agreements such as the Central America CAFTA (2005), Peru (2007), Panama (2011), South Korea (2012), and Colombia (2012), allowing corporations to pick the most advantageous venue to bring their endless trade challenges.

Corporate Rule, Phase Three. The Trans-Pacific Partnership Agreement (TPP) was put together with 550 corporate executives, lawyers and lobbyists who make up 90% of the US advisors, while our political leaders, even Congress, and concerned citizens are shut out. The TPP drastically expands the NAFTA model by adding:

- More provisions that corporations can use to claim their investor rights to future profits have been harmed;
- A mandate for "Regulatory Coherence" requiring that each country create a domestic bureaucratic structure to conform all their agencies' regulations to a corporate-friendly, regulatory framework;
- A "docking" provision so other countries can join after the original 12 now negotiating the TPP have signed. Though currently limited to the Pacific Rim, in theory any country could join.

Global Corporate Rule. The basic provisions in these "free trade" agreements provide the framework that pushes down all laws and regulations to the lowest common denominator, but it is the investor rights provision that is the enforcement mechanism. Corporations and their investors are in the driver's seat.

Nancy Price is the Co-chair of the Alliance for Democracy and Western Coordinator of AfD's Defending Water for Life Campaign.



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Investor-to-State Rules

Why is this so important? The investor-to-state provision puts corporations and their investors on an equal footing with our government by allowing foreign investors to sue the United States government directly in a special court for compensation over laws and regulations which they claim will take away their right to expected future profits. Environmental, labor, and health laws can all be challenged. Trade attorneys argue and decide the cases. States, cities, towns do not have standing to participate, no matter how they might be impacted. These trade court decisions cannot be appealed in our courts, not even in the US Supreme Court. This is trade autocracy, not democracy.

Investor-to-state rules have been included in almost all bilateral and multilateral US trade agreements ever since NAFTA. But significantly, the United States was unable to get the investor-to-state provision into the WTO agreement. This is where the TPP comes in because all of the TPP Pacific Rim countries are already in the WTO. The US wants the investor-to-state rule included in the TPP so that US corporations can sue signatory countries to protect their corporate "right" to expected future profits.