

Is Tenure Tenuous Under NAFTA?

By John Tanton

Most people think of NAFTA in terms of manufactured goods. Less well known is the fact that the agreement also covers personnel. In *Annex 1603*, p. 16-7 of the 2,000 page, 600,000 word NAFTA document, we find the following (see if you can figure out what it means):

Section D — Professionals

1. *Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1, if the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:*
 - (a) *proof of citizenship of a Party; and*
 - (b) *documentation demonstrating that the business person will be so engaged and describing the purpose of entry.*
2. *No Party may:*
 - (a) *as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or*
 - (b) *impose or maintain any numerical restriction relating to temporary entry under paragraph 1.*
3. *Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.*
4. *Notwithstanding paragraphs 1 and 2, a Party may establish an annual numerical limit, which shall be set out in Appendix 1603.D.4, regarding*
 - temporary entry of business persons of another Party seeking to engage in business activities at a professional level in a profession set out in Appendix 1603.D.1, if the Parties concerned have not agreed otherwise prior to the date of entry into force of this Agreement for those Parties. In establishing such a limit, the Party shall consult with the other Party concerned.*
5. *A Party establishing a numerical limit pursuant to paragraph 4, unless the Parties concerned agree otherwise:*
 - (a) *shall, for each year after the first year after the date of entry into force of this Agreement, consider increasing the numerical limit set out in Appendix 1603.D.4 by an amount to be established in consultation with the other Party concerned, taking into account the demand for temporary entry under this Section;*
 - (b) *shall not apply its procedures established pursuant to paragraph 1 to the temporary entry of a business person subject to the numerical limit, but may require the business person to comply with its other procedures applicable to the temporary entry of professionals; and*
 - (c) *may, in consultation with the other Party concerned, grant temporary entry under paragraph 1 to a business person who practices in a profession where accreditation, licensing, and certification requirements are mutually recognized by those Parties.*
6. *Nothing in paragraph 4 or 5 shall be construed to limit the ability of a business person to seek temporary entry under a Party's applicable immigration measures relating to the entry of professionals other than those adopted or maintained pursuant to paragraph 1.*
7. *Three years after a Party establishes a numerical limit pursuant to paragraph 4, it shall consult with the other Party concerned with a view*

to determining a date after which the limit shall cease to apply.

Appendix 1603.D.1 gives the list of the professionals covered by Section D [See side bar]. According to Appendix 1603.D.4, 5,500 people will be allowed to enter as "Section D Professionals."

Are we really short of Americans to take such jobs? Fortunately for the current occupants of some jobs, contracts and other agreements (such as the tenure which covers teachers) provide a measure of security.

But switch now to the section of NAFTA that provides for a "Free Trade Commission" to settle disputes (see "The Ties That Bind" on p. 35). This unelected and unaccountable group, that will doubtless be composed of promoters of "free" trade, is empowered to resolve disputes and set aside "technical barriers to trade." The environmental community has been concerned that this might lead to the abrogation of such things as the Marine Mammal Protection Act, which regulates the method of catching tuna so as to minimize the incidental dolphin kill. (See p.5.)

Is it not possible that someone admitted to the U.S. for the purpose of hunting for a job as a "university teacher" — but who found the way blocked by tenure — would ask that the practice be set aside as a "technical barrier to trade?" Might the Commission agree, and back their decision up with trade sanctions, as they would be permitted to do?

This may seem farfetched, but given the desperation generated by the shortage of jobs and the longage (to use Garrett Hardin's term) of workers in the world, it would not be surprising to see this ploy tried.

Whatever else may be said about Section 1603 of the proposed free trade agreement, it is clearly an end run around our immigration laws. ■

Annex 1603
Appendix 1603.D.1

PROFESSION

General

Accountant
Architect
Computer Systems Analyst
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)
Economist
Engineer
Forester
Graphic Designer
Hotel Manager
Industrial Designer
Interior Designer
Land Surveyor
Landscape Architect
Lawyer (including Notary in Province of Quebec)
Librarian
Management Consultant
Mathematician (including Statistician)
Range Manager/Range Conservationist
Research Assistant (working in a post-secondary educational institution)
Scientific Technician/Technologist
Social Worker
Sylviculturist (including Forestry Specialist)
Technical Publications Writer
Urban Planner (including Geographer)
Vocational Counsellor

Medical/Allied Professional

Dentist
Dietitian
Medical Laboratory Technologist (Canada)/ Medical Technologist (Mexico and the United States)
Nutritionist
Occupational Therapist
Pharmacist
Physician (teaching or research only)
Physiotherapist/ Physical Therapist
Psychologist
Recreational Therapist
Registered Nurse
Veterinarian

Scientist

Agriculturist (including Agronomist)
Animal Breeder
Animal Scientist
Apiculturist
Astronomer
Biochemist
Biologist
Chemist
Dairy Scientist
Entomologist
Epidemiologist
Geneticist
Geologist
Geochemist
Geophysicist (including Oceanographer in Mexico and the United States)
Horticulturist
Meteorologist
Pharmacologist
Physicist (including Oceanographer in Canada)
Plant Breeder
Poultry Scientist
Soil Scientist
Zoologist

Teacher

College
Seminary
University

In a previous issue of **THE SOCIAL CONTRACT** we printed Sir James Goldsmith's contrarian view on the GATT treaties. An Australian writer picks up on Goldsmith's theme in this article, a portion of which is reprinted with permission from *The Australian of July 31, 1993.*

Rural Exodus A Road to Disaster

By B. A. Santamaria

[The article began with observations on the decline of the Australian National Party which has its base of support in rural and agricultural interests.]

The depopulation of the countryside is the basic cause of the decline of the National [Party] vote. Its significance, however, ranges far beyond that fact. In the short run, the rural exodus may, superficially, seem to make sense. In the slightly longer run — with unemployment and underemployment in Western industrial countries now close to 30 million, and growing relentlessly, and with a vast refugee problem building up on every continent — it is nonsense.

As far back as 1942, William Hocking, professor of philosophy at Harvard, dismissed the nostrum that urbanization was the key to economic and social progress. "Capitalism can maintain its health only on three conditions," he wrote. "(a) It must take the problem of employment as its collective responsibility: it must satisfy the will to work. (b) The owning and use of capital must be general. (c) Ownership in its full sense must be widely diffused; this means the ownership of real property instead of mere abstract tokens such as money and securities. And real property comes to its best expression in the farm operated by its owner or owners, for here we have capital bearing its natural and unchallenged fruit in direct response to labor and intelligent investment."

Five decades later such concepts are not even worth a laugh in a society which prefers to make its money out of paper shuffling, but is now, as a result of this interpretation of progress, flat on its back waiting for the Keating-type recovery which, whether in Australia, Britain or the U.S., never comes.

One of the West's most successful practitioners of "playing the markets," Sir James Goldsmith, put his finger on the nub. "When people are forced to move from the countryside to the towns, both the countryside and the towns are destabilized. The famous *favelas* of Brazil, the slums of such mega-

towns as Rio de Janeiro, did not exist before the Green Revolution, which was supposed to eradicate hunger throughout the world by applying science to agriculture and thereby increasing output...

"Large mechanized, scientific farms did produce more food per person, directly employed, but those no longer employed were chased into towns, creating vast urban concentrations with their attendant slums. As they were uprooted not only from their homes but also from their cultures and families, the refugees and their children were reduced to dependence on welfare and crime.

"...those no longer employed [on the farms] were chased into towns, creating vast urban concentrations and their attendant slums."

"The GATT proposals would do even greater damage. By preventing nations from protecting their farmers, rural communities throughout the world would be washed away as if by a flood. Whole populations would be uprooted and swept into urban slums. In the world as a whole, the rural population consists of about 3.1 billion people. Let us suppose that as a percentage of total population, it were to be reduced to the levels that already exist in the new farming countries such as Australia and Canada.

"The result would be emigration from the land to the town of about 2.1 billion people, figures which worsen as the world's population grows. As the affected nations become ungovernable and impoverished, so their people will be forced to seek refuge elsewhere. Mass migration will follow, and do not think that any nation would remain unaffected by vast movements of uprooted and tragic peoples." ■