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Free Trade Area of the Americas

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As leaders of 34 Western Hemisphere countries gather in Quebec City, Canada in April 2001, President George W. Bush hopes that the third Summit of the Americas will mark a step toward fulfilling his father's dream of creating a free trade area stretching from Alaska to Tierra del Fuego. For a variety of reasons, this goal seems increasingly out of reach.

When, at the first Summit of the Americas in Miami in December 1994, President Bill Clinton proposed establishing a Free Trade Area of the Americas (FTAA) linking all of the hemisphere's economies (except Cuba's) by the year 2005, he held out Mexico as the model of economic reform and NAFTA as the model trade agreement. Just ten days later, however, the Mexican peso experienced a massive devaluation. Stunned observers watched as billions of foreign investment dollars flowed out of the country. That, coupled with the austerity and adjustment conditions attached to the bailout package financed by the U.S. Treasury and the International Monetary Fund (IMF)—particularly the requirement that interest rates be maintained at very high levels—led to further devaluation and sent the Mexican economy into a deep depression.

Key Points

- President Bush seeks to fulfill his father's dream of creating a free trade zone of the Americas, and the timetable may be accelerated to complete negotiations by 2003.
- The economic crisis in Mexico and sustained citizens' protests have dampened enthusiasm among the general public, but not among major corporations in the United States, for the extension of free trade agreements throughout the hemisphere.
- Nine negotiating groups have been working to complete a draft agreement to implement the Free Trade Area of the Americas (FTAA).

The effects of the crisis reverberated well beyond Mexico. Subsequent financial crises in East Asia, Russia, Brazil, and elsewhere rocked stock markets and shook confidence in the free trade model of globalization. The failure of the 1999 WTO Ministerial meeting in Seattle and the emergence of intense citizen protests there and subsequently at other official meetings related to globalization have further increased uncertainties.

The economic crises and public discontent have dampened congressional enthusiasm for free trade agreements, as demonstrated by the defeat of the Clinton administration's request for fast-track authority in 1998. Since then, further efforts to introduce fast track—or, as Bush's Trade Representative Robert Zoellick calls it, "trade promotion authority"—have stalemated, with a bloc of congressional Democrats insisting that any agreement must include labor and environmental standards and Republicans vowing to block any accord that includes a linkage.

Recently, the Business Round Table has indicated its willingness to support the inclusion of labor and environmental issues in trade agreements. This is happening in large part because of corporate concerns that other trading partners, particularly the European Union, are gaining ground in trade talks in this hemisphere. In a February 2001 report, the National Association of Manufacturers (NAM) said: "FTAA negotiations should be accelerated and completed by the end of 2003. Speed is important because of the EU's ongoing negotiations with major South American countries." Although the NAM does not favor enforceable labor and environmental standards, it seems likely that the business community will push for some language on those issues in order to gain sufficient Democratic votes to grant the president fast-track authority and accelerate trade talks.

Many of the region's governments believe that an FTAA would serve to ensure sustained access to U.S. markets by reducing tariffs and preventing trade disputes. The FTAA, like NAFTA, would also provide member countries a seal of approval and thereby, they hope, help to stimulate foreign investment. Brazil, in particular, continues to express ambivalence about the FTAA, suggesting that it would be better to promote Latin American integration first and then consider negotiations with the behemoth of the North.

Other governments, discussing such topics as market access, intellectual property rights, and investment have been working since September 1998 to produce a draft FTAA agreement. The hemisphere's trade ministers are providing guidance on various proposals, including whether to accelerate the FTAA timetable so as to complete the negotiations by 2003, a proposal opposed by Brazil. At the Quebec City Summit, the heads of state will provide additional political support to the FTAA process. Negotiations have been carried out with secrecy, so whether the Latin American proposals differ significantly from those of the United States remains a mystery.

President Bush is likely to stand firm in his plan to expand free trade throughout the Americas, even if he is unable to gain fast-track authority in the near future. At the same time, he has called for entering bilateral trade pacts with individual Latin American countries, starting with Chile. Such negotiations could divide the Latin American governments. In the case of the Mercosur (the Common Market which includes Brazil, Argentina, Paraguay, and Uruguay), for example, the member governments have been negotiating as a bloc in the FTAA talks in order to gain greater leverage.

Problems with Current U.S. Policy

On the eve of the Clinton administration's departure, the U.S. Trade Representative's office (USTR)—in response to congressional and international NGO pressure—published summaries of its FTAA negotiating positions. The summaries, while giving only partial and rather vague information, do provide a clear indication that the United States is promoting proposals based in large part on NAFTA.

The USTR supports, for example, the controversial "investor-state" provision contained in both NAFTA and the failed Multilateral Agreement on Investment (MAI), as well as in a series of bilateral investment agreements negotiated by the U.S. government. That clause, which grants corporations legal status formerly reserved for nations, represents a significant expansion of investors' abilities to use trade agreements to challenge local laws. When this sweeping procedural right to challenge governmental regulatory actions is coupled with the broad and vaguely worded investor protections in Chapter 11 of NAFTA, virtually all government regulation becomes a potential target. In the past, investment agreements or national laws have provided for compensation in cases where governments take control of investors' assets in the public interest. Under the MAI/NAFTA approach, that right is broadened to include measures tantamount to expropriation, which investors have used to demand compensation for potential lost profits arising from regulatory changes. These challenges are decided by dispute resolution panels meeting in secret without input from citizen groups.

In 1998, the Canadian government was forced to rescind its ban on MMT, a gasoline additive believed to cause nerve damage, after a challenge brought under the investor-state provision by the U.S.-based Ethyl Corporation. Currently, the Canadian corporation Methanex is suing the U.S. government for $970 million because of a California executive order banning the use of MTBE, another gasoline additive associated with serious health and environmental risks. The inclusion of such a provision in the FTAA could effectively provide corporations with veto power over local laws and regulations.

As with NAFTA, the USTR proposals for the FTAA would result in greater rights for investors, without establishing any corresponding responsibilities. The USTR's position is that investors should have the right to move funds into and out of countries without delay—meaning that provisions such as capital controls or performance requirements to ensure that investments serves to promote development goals would be illegal under an FTAA.

NAFTA includes weak side-agreements on labor and the environment, in which the three countries commit not to break their own laws on those issues, but not even these meager measures are being considered under the FTAA. Washington suggested even weaker language, calling for countries to strive to ensure that labor or environmental standards are not lowered in order to attract investment. Most Latin American governments, however, have rejected even those ideas as inappropriate in trade talks, fearing that any efforts to raise such standards would lead to disguised protectionism. Instead, they have relegated discussion of those issues to unenforceable summit declarations and action plans.

In an outline of its objectives leaked last year, the FTAA services negotiating group stated its goal to liberalize all services in all sectors—i.e., commercial services such as tourism, data processing, and financial transactions, as well as public services at all levels of government. The USTR supports further liberalization of trade in services, promoting a top-down approach in which all services not specifically excluded would be included in the trade deal. This approach could lead to the privatization of such public services as health and education—particularly if a government has opened the door to commercialization of the services by allowing some aspects to be subcontracted to private service providers. The USTR proposal calls for the inclusion of energy services, something excluded from NAFTA, and it fails to address the possible environmental consequences of such a move.

It is clear that the U.S. is pursuing a "NAFTA plus" approach to the FTAA, despite ample evidence of the failure of NAFTA to raise living standards in North America. Many promises were made during the debate over NAFTA approval: that it would, for example, result in more and better jobs, improved environmental conditions, and more stable economies in all three of the countries involved. None of these promises has been fulfilled. More than 335,000 Americans have been certified as having lost their jobs because of NAFTA, and the true number could be much higher. Most of the jobs created in the United States have been in the low-wage service sector, and many have been temporary. Also significant has been the increase in the "blackmail effect:" Cornell University researcher Kate Bronfenbrenner found that the incidence of employers using the threat of moving production out of the U.S. in order to undermine union organizing efforts has increased dramatically since NAFTA's inception.

Key Problems

- The U.S. government is promoting an approach to the FTAA based in large part on NAFTA, despite the failure of that accord to raise living standards.
- Proposals for an "investor-state" clause in the FTAA would give investors the power to challenge national and local laws.
- The USTR is promoting a significant expansion of trade in services, leading potentially to the privatization of such public services as health and education.

Environmental conditions, particularly in the U.S.-Mexico border region, have deteriorated as industrial activity has increased, and the aftereffects of the 1995 financial crisis in Mexico (particularly the collapse of the banking sector) continue to plague that country. Massive increases in U.S. corn exports to Mexico under NAFTA displaced hundreds of thousands of farmers in that country. While employment did increase in the maquiladora sector, the lack of effective labor rights protections has meant poor wages and working conditions. Wages in the manufacturing sector in Mexico have fallen some 9.5% since NAFTA's onset, even though worker productivity has increased.

Toward a New Foreign Policy

The Hemispheric Social Alliance (HSA), a network of unions, environmentalists and women's, family-farm, consumers' and other progressive organizations representing some 46 million people in the Americas is working to combine critiques of the official FTAA process with alternative proposals. It advocates a model of integration based on raising environmental, labor, and other social standards throughout the hemisphere.

Key Recommendations

- Trade negotiations should be opened up to include a broader representation of society.
- Labor, environmental, and other relevant social issues should be included in the negotiation of trade agreements.
- Investment policy should balance investors' needs for clear rules with the regulating needs of each country's development strategy.

A critical first step is opening the FTAA process to a broader representation of social sectors. In fact, the HSA and other citizen organizations have been calling for greater transparency and participation in decision-making on trade accords. In November 2000, more than 330 groups (all but 50 of which from outside the U.S.) sent a letter with those demands to the head of the FTAA Trade Negotiations Committee.

In addition to demanding the release of the FTAA draft text, the letter criticized the existing mechanism for civil society input, the Committee of Government Representatives on the Participation of Civil Society, that serves as a kind of suggestion box. Submissions from civil society are summarized and delivered to trade ministers at the periodic ministerial meetings. During the first round of submissions, the committee received 71 letters, ranging from short notes to comprehensive proposals. These were summarized into a five-page document delivered to the ministers some eight months later.

According to *Alternatives for the Americas: Building a Peoples' Hemispheric Agreement*, which was prepared by activists and scholars from the hemisphere, labor, environmental, and other relevant social issues must be included in the negotiation process. The resulting agreements should affirm such internationally recognized accords as the International Labor Organization Conventions, the United Nations Convention to Eliminate All Forms of Discrimination Against Women, and the Inter-American Convention on Human Rights. Additionally, any consensus reached on these issues must be included within the text of the FTAA agreement, not in unenforceable side agreements.

Language regulating investments should also be changed to balance investors' needs for clear rules with the development objectives of national economies. Governments should retain the right to impose performance requirements on foreign investors and should be allowed to protect small and medium-scale producers and other key economic sectors in order to promote national development priorities. Each country's right to maintain food and nutritional security (for example, by excluding basic grains from trade-liberalization measures) should also be guaranteed. Likewise, governments must be free to regulate without having to compensate foreign investors for "economic harms." Until such time as the substantive rules reflect greater balance between granting broad new rights to corporations and imposing concomitant responsibilities, the investor-state mechanism has no place in the FTAA.

The *Alternatives* document outlines a comprehensive approach to achieving a different kind of trade agreement. It is a central organizing paper of the Hemispheric Social Alliance. Even were the FTAA defeated, or NAFTA repealed, many of the existing rules on corporate-led globalization would remain in place. The *Alternatives* document offers a vision of what a fundamentally different kind of economic integration could be.

In its recent statement on the FTAA, the AFL-CIO issued a challenge. "An acceptable hemispheric agreement must not simply replicate the failed trade policies of the past, but must incorporate what we have learned about the problems and weaknesses of the current rules," the labor federation's Executive Council said. "The success or failure of any hemispheric trade and investment agreement will hinge on governments' willingness and ability to develop an economic integration agreement that appropriately addresses all of the social, economic, and political dimensions of trade and investment, not just those of concern to corporations." Unions and citizen groups in other countries in the Americas have expressed similar concerns. They will continue to press for a different kind of economic integration than that embodied in NAFTA or the current FTAA proposals, one designed to promote equitable and sustainable development for all of the peoples involved.

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United States Trade Representative
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