



Testimony

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FREE TRADE AREA OF THE AMERICAS

April 2001 Meetings Set Stage for Hard Bargaining to Begin

Statement of Loren Yager, Director
International Affairs and Trade



G A O

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Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity today to discuss our observations on two recent meetings affecting the negotiations for a Free Trade Area of the Americas agreement: a trade ministerial in Buenos Aires, Argentina, on April 7, 2001, and the presidential-level Summit of the Americas in Quebec City, Canada, on April 20-22. The Free Trade Area of the Americas agreement, if completed, would eliminate tariffs and create common trade and investment rules within the 34 democratic nations of the Western Hemisphere. As you know, these negotiations are among the most significant ongoing multilateral trade negotiations for the United States. President Bush has stated repeatedly that establishing the Free Trade Area of the Americas is one of his top trade priorities.

We reported in March 2001¹ that the negotiations are at a critical juncture and these two meetings offered an opportunity to inject momentum and set an ambitious pace for the next, more difficult phase of the negotiations. We also reported that, going into the meetings, the ministers faced an ambitious agenda of decisions designed to start the next phase of the negotiations on a sound footing. At your request, we reviewed the results of the meetings. Specifically, today I will discuss what Western Hemisphere countries did to (1) address controversial issues, (2) set objectives and deadlines for the next phase of the negotiations, (3) build public support, and (4) adding needed momentum into the negotiations. My observations are based on our past and ongoing work on the Free Trade Area of the Americas process, including in Buenos Aires, Argentina. Before I get into the specifics of these topics, let me provide a brief summary.

SUMMARY

As we stated in our March report, the trade ministers for the Free Trade Area of the Americas (FTAA) countries faced an ambitious agenda in the April meetings. This was because a number of controversial and complex issues had slowed progress on the objectives and deadlines that had to be concluded in the April meetings. However, accommodations reached by the ministers

¹See *Free Trade Area of the Americas: Negotiations at Key Juncture on Eve of April Meetings* (GAO-01-552, Mar. 30, 2001).

on topics such as labor and the environment, antidumping, and nations with smaller economies allowed countries to set forth basic principles while keeping topics on the table for future resolution. For example, on labor and the environment, the ministers stated that any delegation has the right to present negotiating proposals it deems relevant. However, the ministers went on to announce that most ministers believe noncompliance with environment and labor rights should not result in trade restrictions or sanctions.

As a result of the movement on these controversial issues, the trade ministers were able to set out clear objectives and deadlines to promote progress during the next 18 months of the negotiations. These negotiations will culminate at the next trade ministerial to be held in Ecuador, in October 2002. So far, the FTAA negotiations have produced a draft text agreement, covering nine major issue areas. The next negotiating phase will involve hard bargaining to refine the draft text and begin negotiations on market access concessions. To move toward consensus on the draft text, ministers directed negotiating groups to eliminate material that is in dispute to the maximum extent possible. To prepare for the beginning of the market access negotiations, ministers instructed specific negotiating groups to develop recommendations by April 1, 2002, on the methods and modalities (basic ground rules) for negotiation. The ministers also asked the groups to develop, where appropriate, inventories of tariffs, nontariff barriers, subsidies, and other practices that distort trade. Ministers directed negotiating groups to initiate these market access negotiations no later than May 15, 2002.

The FTAA trade ministers took several notable actions to build public support for the FTAA process. The biggest surprise decision made at the April meetings was the agreement to publicly release the draft text of the nine negotiating groups. In response to public pressure for greater openness and recommendations by the business community, the ministers determined that releasing the text would help ensure the transparency of the negotiating process and build broad public understanding of and support for the FTAA. The text, which is several hundred pages long, will be made public after its translation into the four official languages² of the negotiations. The trade ministers also took action to enhance the role of civil society—meaning nongovernmental groups representing business, labor, environment, and other interests—in the FTAA process.

²English, French, Portuguese, and Spanish.

The April meetings appear to have been successful in providing high-level political leadership across the hemisphere and fresh momentum to the FTAA negotiations. At their summit in Quebec City, President Bush and other leaders signaled their commitment to the FTAA and their desire to work together to attain the common goals of expanding trade, improving economic opportunities, strengthening democracy, and redressing social and economic inequities. The meeting also set new deadlines for completing and implementing the agreement, partly accomplishing the feat of setting an accelerated pace for negotiations. Business and congressional leaders attended, underlining interest by key U.S. stakeholders, even as protests graphically demonstrated the opposition mobilizing against an FTAA. The outcomes at Buenos Aires and Quebec allow the next phase of technical negotiations to start on a sound footing. However, boosting U.S. congressional and public support, dealing with a large and complex agenda of issues, and accommodating the diverse needs and positions of participants are among the challenges facing FTAA negotiators in the hard bargaining ahead.

BACKGROUND

In December 1994, the heads of state of the 34 democratic countries in the Western Hemisphere agreed at the first Summit of the Americas in Miami, Florida, to conclude negotiations on a Free Trade Area of the Americas no later than 2005. The FTAA would cover a combined population of about 800 million people, more than \$11 trillion in production, and \$3.4 trillion in world trade. It would involve a diverse set of countries, from some of the wealthiest (the United States and Canada) to some of the poorest (Haiti) and from some of the largest (Brazil) to some of the smallest in the world (Saint Kitts and Nevis). Proponents of the FTAA contend that a successful negotiation could produce important economic benefits for the United States. Business groups say that if relatively high tariffs and other market access barriers are removed, U.S. trade with the region could expand further. While an FTAA may provide benefits for the United States, it may also adversely impact certain import-competing sectors. Other groups, such as certain unions and environmental groups, have also strongly voiced concerns about the FTAA's impact on U.S. workers and on the U.S. government's capacity to act in the public interest.

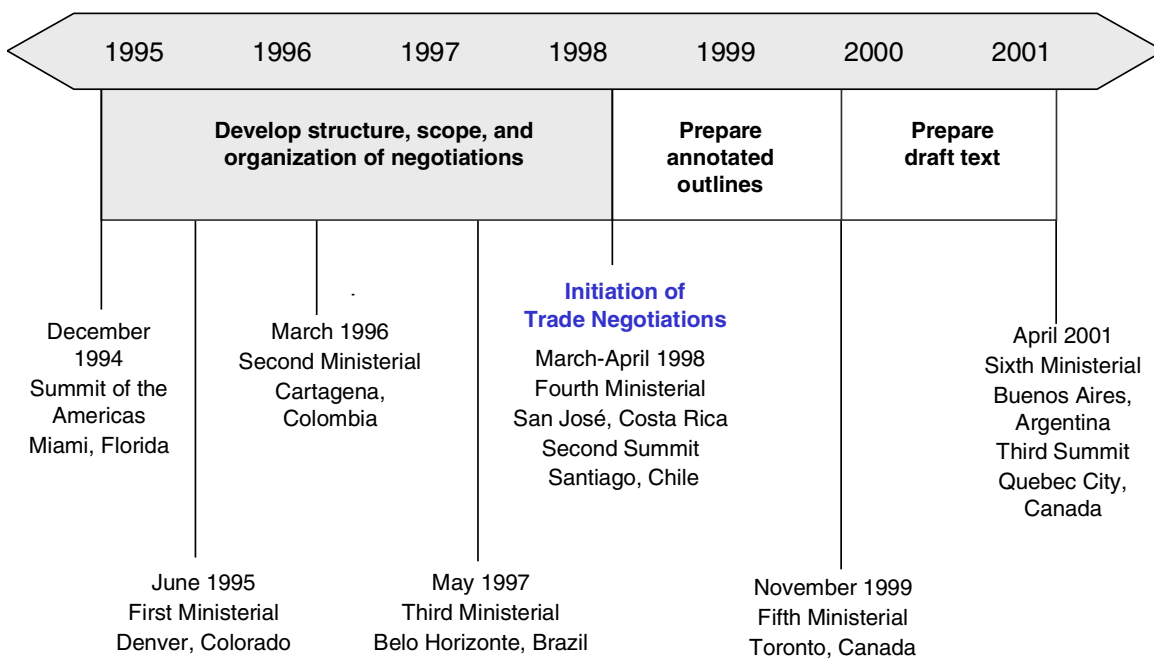
From a technical standpoint, ministers agreed in 1998 at the San José Ministerial meeting that the FTAA would be a single undertaking, meaning that the agreement would be completed and implemented as one whole unit instead of in parts. They also agreed that the FTAA agreement will be consistent with the rules and disciplines (practices) of the World Trade Organization, and that the FTAA could coexist with other subregional agreements, like the Common Market of the

South (Mercosur) and the North American Free Trade Agreement (NAFTA), to the extent that the rights and obligations go beyond or are not covered by the FTAA. An eventual FTAA agreement would contain three basic components: (1) chapters on general issues and the overall architecture of the FTAA and its institutions, (2) schedules for reducing tariff and nontariff barriers, and (3) chapters on specific topics. The chairmanship of the negotiations changes every 18 months, with Argentina serving as chair through the April 2001 meetings, succeeded by Ecuador for the next round of negotiations. Brazil and the United States are set to co-chair the final round from November 2002 to December 2004. Ministers set out the workplans for the negotiating process and select new chairs for the negotiating groups in 18-month increments.

The FTAA negotiations have so far met the goals and deadlines that the trade ministers set. Since beginning the process in 1994, the 34 participating countries have succeeded in building a technical foundation for the negotiations. As shown in figure 1, from December 1994 to March 1998, the participants developed the overall structure, scope, and objectives for the negotiations. The participating countries then formally initiated the negotiations at the San José Ministerial and the Santiago Summit of the Americas in 1998. The negotiating groups, illustrated in figure 2, recently produced a first draft of chapters for specific issues, such as market access, investment, and agriculture. According to U.S. and foreign negotiators, however, the draft text is heavily bracketed,³ indicating that agreement on specific language has not been reached. In addition, negotiations on market access have yet to begin. Nevertheless, participants described this draft text as an important accomplishment and stated that it will form the basis for future negotiations. The negotiations have also produced several business facilitation measures and improved coordination between participating countries on trade matters.

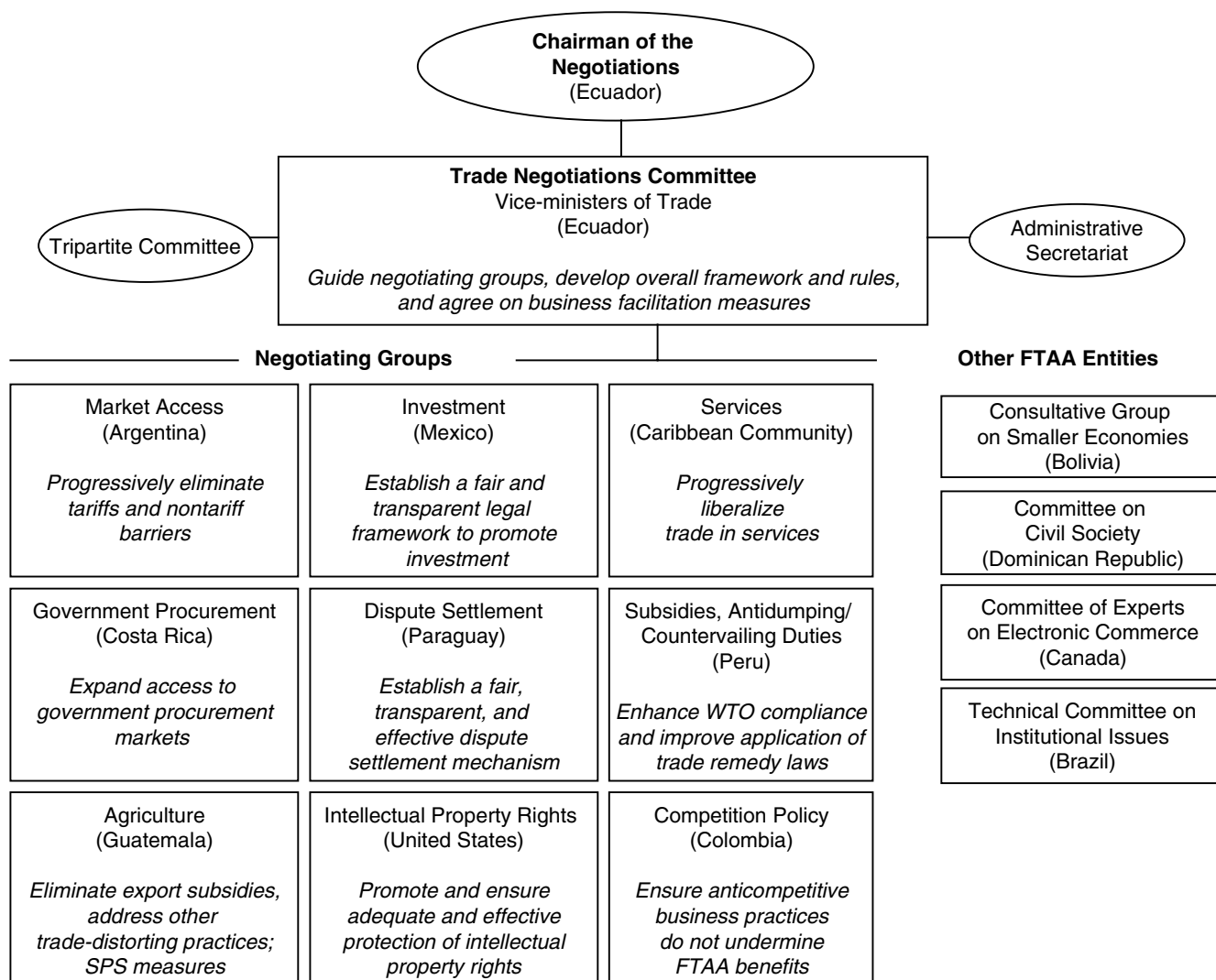
³The term “bracketed” refers to the punctuation placed around language in the draft chapters for which agreement has not yet been reached. For example, if two countries submitted different proposals for language in a chapter, brackets would be placed around each proposal until a consensus is reached on the differences between the two.

Figure 1: History of the FTAA Negotiations. 1994-2001



Source: GAO.

Figure 2: Organization of the FTAA Negotiations



Legend

SPS=Sanitary and phytosanitary measures (These measures are taken to protect human, animal, or plant life or health)

Note 1: Current chairs of the various FTAA entities are listed in parentheses. The objectives of each negotiating group and the Trade Negotiations Committee appear in italics.

Note 2: The Tripartite Committee provides technical assistance to the negotiations and is composed of the Organization of American States, the Inter-American Development Bank, and the United Nations Economic Commission for Latin America and the Caribbean.

Note 3: The FTAA ministers and negotiating groups are serviced by an Administrative Secretariat.

Note 4: The venue for the actual negotiations was initially located in Miami and will rotate to Panama City and Mexico City.

Source: GAO.

MINISTERS DEFUSE CONTROVERSIAL ISSUES

FTAA ministers took measures in Buenos Aires to prevent several controversial or complex topics from blocking the progress of the negotiations. In our March report, we noted that the trade ministers faced an ambitious agenda in the April meetings because the controversies had consumed considerable time in the preparatory process. One such issue involved the right of countries to put forward text in the negotiating groups, specifically on labor and the environment. The United States had sought to include proposals in the investment negotiating group obligating parties to strive to ensure that their environmental and labor laws would not be relaxed to attract investment. Other FTAA countries objected to this proposal, stating that labor and the environment were outside the mandate of the negotiating group and did not belong in an FTAA. The ministers resolved this conflict by stating that the negotiating groups should work under the principle that any delegation has the right to present proposals it deems relevant, though others may place these proposals in brackets if they do not agree. However, most ministers went on to announce their opposition to the use of sanctions for enforcing labor and environment provisions.⁴

Another challenging issue addressed by ministers to keep the process on track involved considering the needs of smaller economies. As we reported, countries with smaller economies are concerned with both technical and resource constraints that make the negotiating process a challenge and with preventing their economies from being overwhelmed by the larger ones once the agreement is implemented. According to FTAA experts, their concerns about resource constraints were met in part by assurances from the U.S. Trade Representative and the President of the Inter-American Development Bank that they would attempt to identify additional technical assistance. In addition, their concerns about implementation were addressed in the ministerial declaration, wherein the ministers in Buenos Aires reiterated their commitment to take into account the differences in levels of development and size of the economies among the FTAA participants. The ministers further directed the Trade Negotiations Committee to formulate by November 2001 some guidelines for applying treatment for dealing with the differences in the size of the economies.

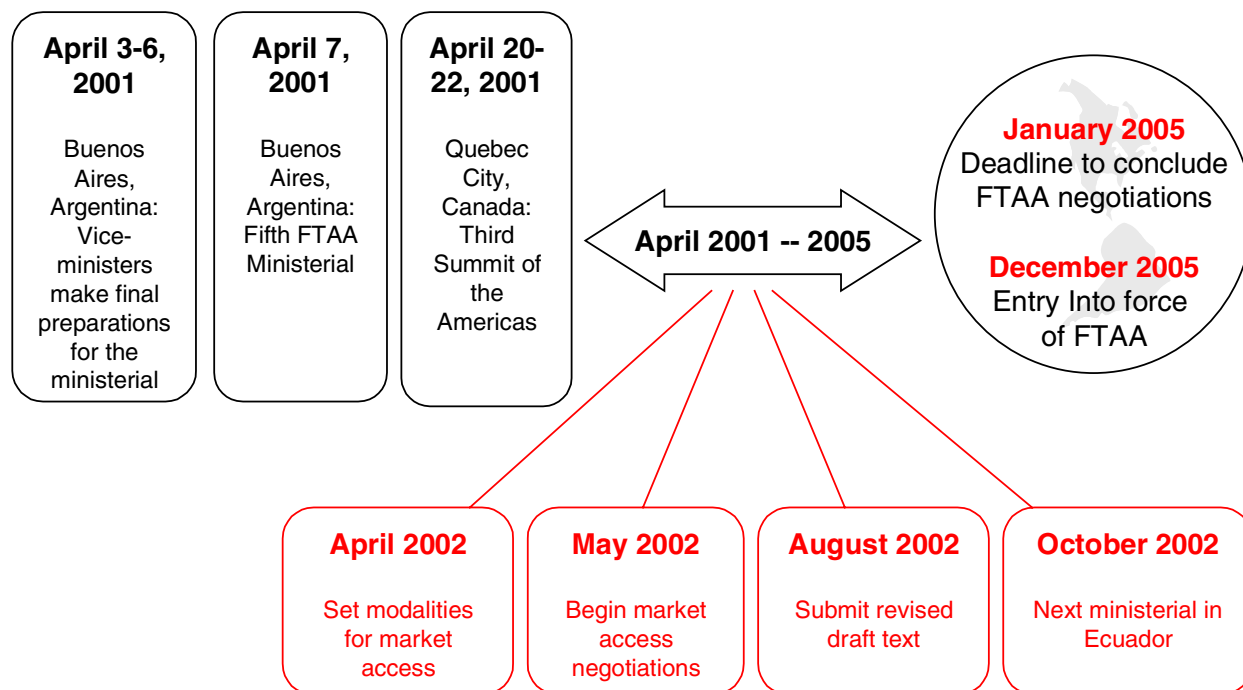
⁴The text of the ministerial declaration states, "Most Ministers recognize that the issues on environment and labour should not be utilized as conditionalities nor subject to disciplines, the non-compliance of which can be subject to trade restrictions or sanctions."

A third area in which controversy was forestalled involved antidumping. Prior to the ministerial, a U.S. alternative proposal in the negotiating group on antidumping created a controversy among the FTAA participants. The Office of the U.S. Trade Representative has stated that the FTAA agreement should ensure the right of each country to maintain and apply trade remedies within the FTAA. According to one of the foreign lead negotiators, the U.S. alternative proposal angered many other participants because it was viewed as an effort on the part of the United States to take the antidumping issue off the negotiating table. While U.S. officials have denied that this was their intent, the issue threatened to distract the ministers at Buenos Aires, according to observers. The issue was defused, however, by several ministerial directives. Specifically, the ministers placed language in the ministerial declaration repeating their initial charge from the San José Ministerial for the negotiating group on subsidies, antidumping, and countervailing duties to intensify its efforts to reach a common understanding and improve the rules and procedures for operation and enforcement of trade remedy laws. The ministers further directed the negotiating group to submit recommendations on the methodology to achieve this objective by April 2002. In effect, the ministerial action reminds all participants that they have previously agreed to seek improvements in trade remedy regimes, while providing a deadline for action toward that end.

MINISTERS PROVIDE DIRECTION FOR NEXT PHASE OF NEGOTIATIONS

As we noted in our March report, an important task for the April meetings was setting the pace, goals, and structure for the remainder of the FTAA process. At the Buenos Aires Ministerial, FTAA trade ministers took a series of steps to set out the objectives and timeframes for the next 18 months of the negotiations, which will culminate in the next trade ministerial to be held in Ecuador in October 2002. These steps are illustrated in figure 3.

Figure 3: FTAA Timeframes and Milestones, 2001-2005



Source: GAO.

One of the important tasks of the April meetings was to prepare for the beginning of market access negotiations. Before countries can begin to negotiate on market access concessions, they must agree on the basic ground rules of the negotiations, such as the type of tariff rate to use as the starting point. Negotiators refer to these ground rules as the “modalities.”⁵ Several of the specific directions ministers provided to the negotiating groups are listed below (applicable negotiating groups are listed in parentheses):

Recommend methods and modalities for upcoming negotiations on tariffs, nontariff barriers, rules of origin, subsidies, investment, government procurement, services, and other practices that distort trade in agricultural products (market access; agriculture; investment; subsidies, antidumping, and countervailing duties; services; and government procurement). Create a preliminary inventory of nontariff measures (market access, agriculture). Recommend what types of other practices that distort agricultural trade should be addressed (agriculture).

⁵Other modality decisions include, for example, the period of time in which the tariff reductions will occur.

A related step ministers took to advance the FTAA process was to set a date for beginning market access negotiations. As we reported in March 2001, the FTAA participants had not set out a date to begin the market access negotiations, where countries start to offer tariff and nontariff concessions. In Buenos Aires, ministers directed specific negotiating groups to begin these negotiations no later than May 15, 2002. This pertains to tariff liberalization in the market access and agricultural groups, and rules of origin in the market access group. The deadline also pertains to investment, services, and government procurement groups for market access negotiations in their respective groups.

The ministers also instructed negotiating groups to take steps to reach consensus on the draft text. As we reported, the draft text generally represents a consolidation of all proposals submitted by FTAA countries so far. FTAA participants state that the draft reflects wide differences between the countries over substance and philosophical approaches to key issues. The ministers specifically directed the nine negotiating groups to intensify efforts to resolve existing differences and reach consensus, with a view to eliminating brackets and consolidating text to the maximum extent possible. Ministers also set August 2002 as a deadline for negotiating groups to submit their revised draft chapters to ministers.

In addition to setting specific objectives for the negotiating groups, the ministers formed a new Technical Committee on Institutional Issues to begin discussions on the FTAA's overall institutions, like the location of a permanent secretariat and the type of mechanism that will be used for dispute settlement. U.S. officials also expect that this committee will act as a mechanism to deal with issues that pertain to all negotiating groups or do not fall within a specific group. U.S. and other officials participating in the process stated that this new committee is comparable to the negotiating groups in that it will have a different chair than the chair of the negotiations and will be supervised by the Trade Negotiations Committee.

MINISTERS ATTEMPT TO BUILD PUBLIC SUPPORT FOR FTAA

In March, we noted that the April meetings represented an opportunity to build public support for the FTAA and address concerns about openness. The FTAA trade ministers took several notable actions in an effort to do so. The biggest surprise of the April meetings was the decision to publicly release the bracketed text of the nine negotiating groups. As we previously reported, Canada, more than 50 Members of Congress, and various U.S. nongovernmental groups had

called for the release of the bracketed text, because publicly available information on the FTAA negotiations has been limited. In addition, recent public protests added to the groundswell of support for releasing the text. However, given the ongoing and confidential nature of FTAA deliberations, this proposal was expected to be controversial at the meetings. Nevertheless, in response to public pressure and the recommendation of the business community, the FTAA leaders determined that releasing the text would help improve the transparency of the negotiating process and would increase public understanding of and support for the FTAA. The text, which is several hundred pages long, will be made public after its translation into the four official languages of the negotiations.

The trade ministers also took action to enhance the role of civil society in the FTAA process. The Committee of Government Representatives on the Participation of Civil Society⁶ has been contentious since its creation. For example, one country had consistently blocked the committee from preparing recommendations based on the public input received. In part because of the disagreement over the role of the committee, many civil society representatives we interviewed told us they were disappointed with the committee because there was little evidence that their input was being given serious consideration in the negotiations. At Buenos Aires, however, the ministers took action to strengthen and extend the role of the committee. For example, they instructed the committee to

develop a list of options by the next Trade Negotiations Committee meeting on how to foster a process of increasing and sustained communication with civil society, analyze the possibility of incorporating more information on the FTAA's web page,⁷ and forward the public input by civil society to the appropriate negotiating groups.

Whether or not these steps will be deemed sufficient by outside observers remains to be seen. Nevertheless, the steps, taken in combination with the release of the bracketed text, will make the FTAA process more open to public scrutiny and comment than it has been so far.

⁶The committee was created at the urging of the United States to provide a vehicle for public input on business concerns, environment and labor rights, and other issues.

⁷The English-version FTAA web page is located at www.ftaa-alca.org/alca_e.asp.

LEADERS TAKE STEPS TO PROVIDE POLITICAL MOMENTUM TO THE FTAA PROCESS

As we noted in our March report, one of the most important aspects of the April meetings was the opportunity by hemispheric leaders to inject needed momentum into the negotiations at a key juncture, since the phase of negotiations in which countries set out initial positions has ended, and the coming phase is expected to narrow the many substantive differences that remain. The leaders addressed the issue of momentum in two ways. First, they set precise deadlines for concluding and implementing an FTAA. Second, they provided political-level support and direction to the process as it enters a more ambitious and difficult phase.

In April, hemispheric leaders endorsed a more precise formulation of the dates for the conclusion of negotiations and the entry into force of the agreement that should accelerate technical-level progress. As we reported, at the 1994 Miami Summit leaders set 2005 as the original target date to conclude the negotiations but did not specify precisely what this meant. Chile put forward a proposal last year to move up the target date to December 31, 2003, with a final agreement entering into effect on January 1, 2005. However, some FTAA participants, most notably Brazil, publicly stated that these dates were unrealistic. As a compromise, FTAA leaders approved a ministerial recommendation at the Quebec City Summit to establish January 2005 as the deadline for concluding FTAA negotiations and December 2005 as the deadline for the agreement's entry into force. The U.S. Trade Representative called this step a key development to add momentum to the process and later noted that the United States is prepared to try to help beat these deadlines.

On the political level, the April Summit engaged President Bush and other heads of state in the FTAA process and provided an opportunity for leaders to renew their countries' political commitment to the FTAA. For the U.S.'s part, President Bush underlined the importance he attaches to achieving progress in liberalizing trade and to solidifying and improving relations within the Western Hemisphere as a means to increase and spread prosperity and foster freedom and democracy. At the same time, he said, "Our commitment to open trade must be matched by a strong commitment to protecting our environment and improving labor standards." Calling the vision of "a fully democratic hemisphere bound by goodwill and free trade" both a "tall order" and a "chance of a lifetime," the U.S. President pledged to seek and secure from the Congress

“fast track” or trade promotion authority⁸ by the end of 2001. Other FTAA participants see this authority as a litmus test of U.S. commitment to an FTAA and view it as necessary for concluding and passing an eventual agreement. Demonstrating commitment to continued trade liberalization in the hemisphere, President Bush also said he would seek to renew and expand the Andean Trade Preferences Act, which accords unilateral U.S. tariff preferences to nations of the Andean region, and to conclude a bilateral free trade agreement with Chile by yearend 2001.

Statements of other key regional players also underlined their political commitment to an FTAA. For example, speaking on behalf of the Caribbean, Barbados Prime Minister Owen Arthur expressed satisfaction that “arrangements for economic integration have now been so deliberately designed to truly accommodate the special concerns of the smallest and most vulnerable entities in our hemisphere.” Reluctance by Caribbean participants about accelerating the pace of negotiations was a major factor at Buenos Aires in discussions on setting FTAA deadlines, according to participants. Brazilian President Fernando Henrique Cardoso urged fellow leaders to aim for a “Community of the Americas,” including an FTAA that progressively eliminates barriers to trade, opens up opportunities for growth, and does away with inequalities. At the same time, he warned that an FTAA that failed to provide access to more dynamic markets would be “irrelevant or, worse, undesirable.” The only country taking a new stance in the Quebec City summit declaration from the Buenos Aires Ministerial was Venezuela, which reserved its position on the final deadline for concluding and implementing an FTAA due to concerns about its technical ability to meet the implementation deadline.

Generating interest in and support of the FTAA within the U.S. Congress, the U.S. business community, and the U.S. public remains a challenge. As we reported, many FTAA participants believe this support will be crucial if the United States is to provide the leadership they believe is necessary for concluding a deal. It is also required for ultimate approval of an FTAA in the Congress and in the U.S. “court of public opinion.” However, some FTAA participants believe the United States has been distracted from pursuing trade liberalization because it is without a domestic consensus on the benefits of trade and the way in which to handle the overlap between trade and labor rights and the environment. Moreover, U.S. policies on key aspects of FTAA rules, such as investment, have yet to be announced. Support by the Congress and the business community for the FTAA has been limited until recently, though a sizeable number of U.S. trade

⁸ In the past, the Congress has enacted trade promotion authority (also known as “fast track”) to implement trade agreements with other countries. This authority provided for a congressional vote within a limited period of time to accept or reject the implementing legislation for a negotiated agreement without making any changes.

associations and firms participated in the Americas Business Forum at Buenos Aires, and a bipartisan congressional delegation accompanied President Bush to Quebec City. Meanwhile, the opposition by key interest groups, who demonstrated in the streets of Buenos Aires and Quebec City, is actively mobilizing. For example, the American Federation of Labor-Congress of Industrial Organizations, Public Citizen, and the Sierra Club have launched campaigns against the FTAA as it currently stands.

Longer-term Challenges

Facing a critical juncture in the FTAA process, the FTAA countries generally accomplished that part of an ambitious agenda designed to start the next phase of the negotiations on a sound footing. Still, as we have previously reported, significant challenges will need to be overcome to successfully conclude an agreement. Hard bargaining will be required to turn the accumulation of proposals currently on the table into a mutually agreed-upon, binding document. In addition, the FTAA negotiations face other longer-term challenges, including

- managing the sheer scope and complexity of work required to finalize draft rules,
- negotiating market access concessions,
- devising an institutional structure for the implementation of the agreement,
- recognizing the diverse negotiating objectives and economic conditions of the FTAA participants,
- achieving consensus on the negotiated outcomes,
- dealing with changing political and economic conditions as the negotiations unfold, and
- summoning the political will to conclude an agreement.

A number of participants told us that the FTAA can be successfully concluded if the key Western Hemisphere leaders demonstrate that they have the political will to conclude the agreement. The April meetings provided a major step in this direction, as well as clear guidance and milestones for technical-level progress. But the ultimate success or failure of the FTAA will rest on the continued demonstration of political commitment to the negotiation's conclusion.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I will be happy to answer any questions you or other Members may have.

CONTACTS AND ACKNOWLEDGMENTS

For future contacts regarding this testimony, please call Loren Yager or Kim Frankena at (202) 512-4128. Individuals making key contributions to this testimony included Anthony Moran, Jody Woods, and Tim Wedding.

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