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A Critical Year for Hemispheric Free Trade: Can Countries Agree on a Blueprint?

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A CRITICAL YEAR FOR HEMISPHERIC FREE TRADE: CAN COUNTRIES AGREE ON A BLUEPRINT?

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I. OVERVIEW

The Clinton Administration most often receives the credit for inspiring the heads of state in the Western Hemisphere to agree on a two-track process that would result in a Free Trade Area of the Americas (FTAA) by the year 2005. That decision was adopted formally at the Summit of the Americas (Miami Summit or summit) meeting, held in Miami in December 1994. All thirty-four freely-elected heads of state and government in the Western Hemisphere signed the summit's two-part centerpiece, its *Declaration of Principles* and *Plan of Action*. A recent Canadian proposal calling for negotiations to conclude before the end of 2004 has been well received. This deadline would allow at least one year for countries to deposit their instruments of ratification so as to meet the Miami 2005 deadline.

The idea of hemispheric free trade led by the United States was not new to the Clinton Administration. President George Bush, in an historic speech at the White House on June 27, 1990, called for all countries in the Western Hemisphere to be "equal partners in a free trade zone stretching from the port of Anchorage to the Tierra del Fuego." He announced that a free trade agreement with Mexico, which later became the North American Free Trade Agreement (NAFTA), would be the first step in the process toward the long-term goal of a "comprehensive free trade zone for the Americas."

President Bill Clinton took up the free trade cause and completed the NAFTA with Canada and Mexico. In November 1993, the U.S. Congress approved NAFTA after a considerable legislative battle, which, among other things, bruised feelings in Mexico over some of the more controversial aspects of the debate, such as labor and environmental issues. Vice President Al Gore traveled to Mexico City in the aftermath of the NAFTA victory, and while there on December 1, 1993, made the announcement that President Clinton would invite all democratically elected leaders of the hemisphere to a summit meeting in the United States during 1994.

This announcement came as a pleasant surprise to Latin American leaders. Aside from approving NAFTA, the Clinton Administration's foreign policy agenda had not appeared to consider Latin America a high priority. Moreover, in many ways, NAFTA could be considered primarily as domestic policy. The

fact that trade would be the main issue at the summit was not generally known until just weeks before the meeting. However, the Latin American governments wanted a discussion of trade issues from the United States as well as a clear outline of the U.S. post-NAFTA trade agenda. When Senior Presidential Adviser Thomas "Mack" McLarty took charge of the agenda-setting process for the Administration, a strong commitment toward hemispheric free trade finally solidified. Even as presidents and prime ministers prepared to depart for the Miami Summit, negotiations were still in progress among all of the participants that eventually resulted in consensus on the FTAA as a goal, with an agreed-upon completion date of 2005.

At the three day summit, the parties were unable to agree upon an overall blueprint or precise plan for achieving the FTAA. However, actually reaching agreement among the thirty-four participants to set the audacious goal of free trade and to sign the commitment were landmark events. A timetable was set for annual trade ministers' meetings to launch and oversee progress on items in the *Plan of Action* and to advance the entire process. Basically, this timetable of ministerial meetings has involved setting in motion two processes, or "tracks."

Track I, involving the amalgamation and extension of subregional free trade agreements, is progressing steadily. Two encompassing networks of free trade agreements are emerging. One is sponsored by the Southern Cone Common Market (MERCOSUR) and the other by Mexico. Both network "sponsors" are bidding to have free trade agreements (FTAs) with most of their Latin American neighbors by the end of 1997. The Mexican-centered FTAs impose more rigorous disciplines on national governments and are more likely to contain provisions equivalent to NAFTA standards than are the FTAs negotiated by MERCOSUR. If these differences could be bridged, it is possible the two networks could be amalgamated into a single agreement reminiscent of the Latin American Free Trade Agreement (LAFTA) of the 1970s. However, unlike LAFTA, which never lived up to its promise of free trade, a LAFTA II could be, both in name and fact, a true free trade arrangement.

Policymakers at the summit believed that the United States would participate in and help define the tenor of the Track I process by rolling NAFTA southward, beginning with the accession of Chile. In fact, immediately following the summit, the

presidents of the United States and Mexico and the prime minister of Canada announced that Chile would be invited to join NAFTA. Two years later, despite the fact that economic integration within the hemisphere has moved forward with great dispatch, U.S. participation has been confined to "careful monitoring" of what others are negotiating. This uncharacteristic role for the United States stems from the absence of presidential negotiating authority for new trade agreements (known as "fast-track"). Predictably, Chile has entered into separate bilateral FTAs with Mexico and Canada.

While the absence of fast-track may explain why Chile has not become NAFTA's fourth member, it does not fully explain the United States lack of enthusiasm for NAFTA's expansion. One reason for Washington's reticence is the public's skepticism toward new trade agreements with Latin American countries. However, even if the United States was actively seeking broader NAFTA membership, some Latin countries, notably Brazil and Venezuela, have stated that they are not ready to negotiate accession to NAFTA.

Thus, it is not surprising that the United States has been aggressively pushing negotiations along Track II—the development of hemispheric norms. So far, progress under Track II has been quite impressive. Eleven hemispheric working groups (HWGs), established at two ministerial meetings, have collected sufficient data to provide the basis for hemispheric-level negotiations on a comprehensive FTAA. The work of these groups is a form of nascent negotiations, as it indirectly defines the scope of the negotiations, as well as the basis for ultimate consensus and general agreement. In at least one respect, the working groups' preparatory efforts have surpassed those of the Uruguay Round. By identifying areas of converging and diverging practices within the hemisphere, they have probably established the parameters within which national governments will be making ongoing trade policy decisions—well before the formal negotiations are initiated. The groups are identifying: 1) modalities of negotiations; 2) specific areas of convergence and divergence; and 3) opportunities for an "early harvest" of liberalizing measures.

At the first meeting of the Vice Ministers' caucus (which is an outgrowth of the Track II process) since Brazil assumed the chairmanship, the MERCOSUR and U.S. delegations began to address the issue of a specific plan for achieving the FTAA. By

the end of February 1997, Canada, the United States, MERCOSUR, and Caribbean Community (CARICOM) had all presented position papers regarding the start of formal FTAA negotiations. These papers have more similarities than differences; a major point in common is that the negotiations should be launched at the Santiago Summit in March 1998 and continue to a conclusion consistent with the 2005 deadline.

Brazil, favoring a slower approach than that supported by the United States, calls for three distinct stages of negotiation, with each successive stage beginning only after the preceding stage has been completed. The first stage would provide for an "early harvest" limited to business facilitation issues. The second stage would establish a set of common disciplines in a number of familiar areas. The third stage, which would probably not begin until early next century, would address liberalized access for goods and services, investment rule liberalization, and the opening of government procurement to foreign bidders on an equal basis. By moving forward in this manner, Brazil and the other members of MERCOSUR (Argentina, Paraguay, and Uruguay) and its related FTA network would have time to consolidate their arrangements before entering hemispheric negotiations with the United States.

The Brazilian approach appears likely to place the United States in the role of the principal supplicant for an FTAA, since U.S. exports to Latin America would be at a competitive disadvantage relative to trade flowing under the MERCOSUR network of FTAs. This assumes that NAFTA membership will not have grown or have grown only slightly (with the possible addition of Chile and some Caribbean Basin nations) by that time. The United States would prefer a faster negotiating schedule, with all agenda items simultaneously under negotiation.

Until recently, FTAs received no public support in the United States. The U.S. political establishment had not recovered from the psychological effects of the Mexican peso devaluation, the resulting \$20 billion bailout, and the substantial trade deficit with Mexico. There have been outbreaks of guerrilla activity in Mexico and persistent guerrilla violence in Colombia and Peru. Some observers have blamed the rise in guerrilla activity on social tensions caused by excessive reliance on the "free market" in economic policymaking and the resulting inequalities of income distribution. The U.S. working families' declining

share of national income is also blamed in part on the disruptive effects of free trade via NAFTA. However, Mexico's early repayment of its debt with interest has undermined the credibility of many anti-NAFTA groups and individuals who anticipated a Mexican default. Mexican economic performance is expected to continue to improve over the next few years, resulting in a consequent increase in U.S. exports to Mexico and a decline in the bilateral deficit; thus, it is likely that U.S. perceptions about NAFTA will improve.

By failing to squarely address the popular enmity toward free trade, the current U.S. agenda for the FTAA jeopardizes the hemisphere's trade potential and sours many previous supporters of free trade on the FTAA concept. Accordingly, the Administration should promise Congress that a number of new subjects will be added to the agenda of the FTAA, including reducing the possibility that large changes in exchange rates would cause serious swings in trade balances between FTAA participants.

The revised FTAA agenda should also include a means of periodically determining the effects of FTA implementation on the structure of national economies. This could help to dispel the prevailing perception that these agreements exacerbate poverty and income inequalities. In addition, the Administration and Congress should develop an agenda that is more appealing to business. At this stage, many businesspeople believe the FTAA to be a warmed-over version of earlier negotiations. This perception weakens support for the FTAA because many new issues have emerged since the agendas were set for the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and NAFTA in the 1980s. Hemispheric trade is no longer principally inhibited by border measures. Rather, the major problems are caused by national regulations. The FTAA should, therefore, address the following areas: 1) principles for deregulation; 2) improving the hemispheric infrastructure for trade; 3) blending or making more compatible the operation of the Anglo-Saxon common law system with the Roman system of Latin American countries; and 4) facilitating business at the level of a firm's day-to-day operations.

Even if the FTAA addresses a more attractive set of issues, there must be significant, concrete results over the next few years. While current proposals in this regard—such as publication of a customs guide or hemisphere-wide recognition of prod-

uct certifications by national laboratories and testing facilities—are important, they are too technical to excite politicians, businesspeople, or the public. The types of results that would generate enthusiasm are hemisphere-wide agreements that create real business opportunities through foreign investment liberalization, the opening of government procurement to foreign bidders, and making service sectors as accessible to foreign participation as goods sectors. Since there may be no consensus on a single approach to an “early harvest” in the hemisphere, a possible way to proceed could be by negotiating agreements that countries could approve on an ad referendum basis. This would eliminate the need for balanced reciprocity, which has been a problem with previous early harvests.

If the competing objectives for the FTAA (those of U.S. domestic origin and those of our hemispheric trading partners) are to be reconciled, the U.S. Congress must enact fast-track legislation—ideally, in time for the Santiago Summit of the heads of state, to be held in Chile in March 1998.

Absent fast-track authority, the United States may not have the credibility to achieve its preferred approach. Attention would shift naturally to subregional integration efforts, and hemisphere-wide talks would fade into the background. Without fast-track negotiating authority, the role of the United States would be limited in what could be achieved on a hemispheric basis, possibly pared down to providing support for the expansion of the Mexican network of agreements and counting on these NAFTA-like agreements eventually to be applied to U.S. goods and services. Ironically, although the United States may be able to claim credit for being the catalyst for the current integration process, U.S. exporters could still find themselves on the wrong side of the resulting preferential agreements, at least until the FTAA becomes a reality. Fortunately, the following recent Washington developments combine to indicate that the FTAA may well become a reality with U.S. participation: President Clinton's renewed commitment to focus on Latin America and hemispheric trade as expressed in his State of the Union address; President Clinton's active travel schedule for Latin America, a region he did not visit during his first term; and an unexpectedly strong interest and reaction to the recently concluded Canadian-Chilean FTA that may signal U.S. isolation from the process.

II. DISCUSSION AND ANALYSIS: THE SUMMIT MANDATES ON TRADE AND INTEGRATION—A TWO-TRACK APPROACH

Free trade agreements have become the accepted norm among the democratic nations of Latin America and the Caribbean to open their markets. There are currently two expanding networks of free trade agreements—one involving Brazil, the other, Mexico.

MERCOSUR, whose members are Brazil, Argentina, Paraguay, and Uruguay, is negotiating with other South American countries. An FTA between MERCOSUR and Chile was completed in the summer of 1996, underscoring the Brazilian ambition to create what could be termed a South American Free Trade Agreement (SAFTA). Then in September 1996, SAFTA moved closer to reality at the Rio Summit, when the Andean Pact nations (Bolivia, Colombia, Ecuador, Peru, and Venezuela) agreed to enter into an FTA with MERCOSUR. The participants are trying to complete these negotiations by the end of 1997.

So far, the agreements between MERCOSUR and its Latin partners tackle traditional border trade barriers, such as tariffs and some nontariff measures, but are only beginning to address other trade-related measures, including those that impact the services trade, investment, and intellectual property rights.

The second network of agreements is being negotiated by Mexico. The Mexican network currently has more members than MERCOSUR's. In addition to its NAFTA links to Canada and the United States, Mexico has FTAs with its "Group of Three" partners (Colombia and Venezuela), and with Bolivia, Chile, and Costa Rica. Mexico hopes to complete FTAs with the northern tier of Central America (El Salvador, Guatemala, and Honduras), and with Nicaragua, Ecuador, and Peru by the end of 1997. Mexico's recent FTAs eliminate all border barriers and include almost all the NAFTA-level commitments, including those covering investment and services.

Until recently, it was assumed that ideological differences, dissimilar relationships with the United States, and national rivalries would preclude Mexico and Brazil from agreeing to link MERCOSUR and Mexico through an FTA. However, on August 28, 1996, it was announced that negotiations had commenced between Mexico and MERCOSUR in the mold of MERCOSUR's ne-

gotiations with Chile. At the outset of negotiations, the parties would attempt to replace all expiring preferential agreements between Mexico and each of the four MERCOSUR members (as negotiated under the Latin American Free Trade Area—LAFTA I) with a single agreement. The negotiations would address and presumably extinguish compensation claims generated from the diversionary effects of: 1) NAFTA preferences as they affect MERCOSUR exports to Mexico; and 2) MERCOSUR preferences as they affect Mexican exports to the four MERCOSUR members. The target date for achieving these objectives is late 1997, when the current, more limited bilateral agreements are scheduled to expire.

Doubts have been expressed about whether a Mexico-MERCOSUR preferential agreement would ever move beyond consolidation of the current, more limited agreements into a single arrangement. Brazil might delay the second phase—replacing limited preferences with free trade—if the possibility of sharing its leading position in MERCOSUR with Mexico is problematic. A second reason for Brazil to hold Mexico at arm's length is the latter's special relationship with the United States, including the possibility that Mexican firms would import U.S. components duty-free, supply the labor for finishing details or assembly or both, and ship the product into MERCOSUR countries duty-free or at reduced rates. Additionally, it may be impossible for Mexico and Brazil to reconcile Mexico's allegiance to NAFTA-level obligations with Brazil's preference for less rigorous obligations. Recently, however, the MERCOSUR countries have shown an unanticipated interest in deepening the disciplines in their network of FTAs, thereby improving the prospect of an agreement with Mexico.

If the MERCOSUR-Mexico negotiations were to succeed, the two major Latin American markets would be joined in free trade. If that hurdle were crossed, combining the Mexican and MERCOSUR network of agreements into a single FTA would not be too difficult, thereby creating a *de facto* "LAFTA II." Unlike the original LAFTA (some called it "Laughter" since it never went beyond the exchange of a limited number of preferences), LAFTA II would be a comprehensive and completed free trade area.

III. LACK OF FAST-TRACK PREVENTS THE UNITED STATES FROM JOINING PROGRESS UNDER TRACK I

The United States is unable to participate in the development of free trade agreements under Track I because it lacks fast-track negotiating authority. Fast-track authority allows the president to submit free trade agreements to Congress for a quick "up or down" vote; that is, under fast-track, members of Congress may not amend the language of the legislation, change U.S. implementation of the agreements as negotiated, or delay implementation of the agreements. The U.S. trading partners have come to expect that these procedures would be approved by Congress before President Clinton and his trade team would enter into serious negotiations. Chile, the prime candidate for NAFTA accession, not surprisingly refused to enter into negotiations with the Clinton Administration in the absence of fast-track authority. John Biehl, Chilean Ambassador to Washington, has said that his country does not want "to have to negotiate twice with the United States," in other words, once with President Clinton and then with the Congress. Thus, the United States has been forced to place its original plan to roll NAFTA southward on hold.

The problem in getting fast-track authority, while technically simple, has been complicated politically. After the 1994 congressional elections, the new Republican majority notified the Administration that it wanted to give the Administration fast-track authority, but that it had to be a "clean" fast-track, that is, trade only—without labor and environmental components. Congressional Democrats, especially House Minority Leader Richard Gephardt (who had been a determined opponent of NAFTA, reflecting labor objections) insisted that both labor and environmental provisions at least to the NAFTA level (including the NAFTA side agreements) would have to be integrated into any fast-track authority for negotiations with Chile. Although compromise was at least theoretically possible, neither the Administration nor the two political parties were willing to take on the issue during an election year.

However, even if fast-track authority were granted, the United States is not expected to be able to enter into negotiations with enough other hemispheric countries to rival the networks being created by Mexico and Brazil. In fact, the only other

strong potential candidates for NAFTA accession are countries in the Caribbean Basin. The degree of U.S. business penetration of the Caribbean, the small size of the economies, and the fact that they are considered within the sphere of U.S. strategic interests improve their prospects. Further, the Administration has committed to Caribbean Basin Initiative (CBI) leaders to use legislation to prevent harm to the CBI's major nontraditional export to the United States—namely, apparel. The Caribbean Basin apparel industry, as well as U.S. apparel producers (who now rely on coproduction with the region to maintain their competitiveness against Far Eastern imports) are both currently under pressure because of the more preferential access offered the same products entering the United States from Mexico under NAFTA. If the Administration does not honor its commitment to the CBI countries, it will lose credibility not only throughout the Caribbean, but also with other smaller economies in Latin America that are considering the opportunities offered by NAFTA membership and, eventually, the FTAA.

While there is support for joining the Caribbean Basin countries to NAFTA, no political consensus exists. Many of the CBI beneficiaries do not meet informal U.S. prerequisites for NAFTA membership. A 1992 study by Gary Clyde Hufbauer and Jeffrey J. Schott identified seven criteria for judging whether a country is "ready" for NAFTA: price stability, budget discipline, acceptable management of external debt, currency stability, market-oriented policies, a tax structure not unduly reliant on duty revenues, and a functioning democracy.¹ Chile met the criteria easily. The only CBI beneficiaries to be on or close to par with Chile were particular Caribbean states (the Bahamas, Barbados, Jamaica, and Trinidad and Tobago) and El Salvador. At this time, Congress strongly opposes favoring any Central American country (except Costa Rica) with any new concessions due to concerns about the strength of their democratic institutions and alleged inadequate protection of labor rights. Additionally, critics of Mexico's low-wage assembly industries (*maquiladoras*) will find that many CBI countries depend on the same type of industrial development strategies as those used in Mexico.

1. See GARY CLYDE HUFBAUER & JEFFREY J. SCHOTT, NORTH AMERICAN FREE TRADE: ISSUES AND RECOMMENDATIONS (1992).

This situation may be changing. Hufbauer and Schott have updated the "readiness ratings" in a new edition of their book. They show that democratization in Central America has progressed significantly. Political changes in El Salvador and Guatemala support arguments for their participation in free trade agreements. President Clinton's May 1997 trip to Mexico, Costa Rica, and Barbados provided an opportunity for Central American countries to commit to free trade negotiations both in the context of NAFTA accession and FTAA completion. Such a commitment eventually could allow for Central America's enhanced access to the Canadian, Mexican, and U.S. markets on a temporary basis while full-scale negotiations are underway.

The immediate political situation does not bode well for NAFTA expansion in Latin America beyond Chile and, perhaps, the CBI countries. Venezuela has not indicated a desire for membership, and its current economic situation, although improving, makes quick NAFTA accession problematic. The drug trafficking problem makes consideration of an FTA with Colombia impossible for now, although the country is on record as favoring NAFTA entry. Insufficient information exists to refute the following impressions about the other Andean Pact members (Bolivia, Ecuador, and Peru); these countries are characterized by widespread poverty, unstable democracies, and uncontrolled trade in illegal drugs. These perceptions preclude the possibility of a serious consideration of an FTA relationship at this time.

MERCOSUR's leaders are too preoccupied with the further development of their own integration plan, as well as their relationships with other Latin American countries, to consider NAFTA membership at this time. More importantly, the MERCOSUR countries do not believe that their private sectors are ready to compete with U.S. multinationals on a level playing field. The United States, for its part, has not begun the public education process necessary to sell a NAFTA-MERCOSUR or NAFTA-SAFTA agreement to a Republican-controlled Congress. Another consideration is that the MERCOSUR integration model is much more limited in scope than the NAFTA model, and there is no indication that the differences in levels of obligation could be brought into harmony through negotiation, especially if the negotiation process is constrained by time pressures.

However, it is worth noting that the Clinton Administration appears to be targeting Brazil as the hemispheric country with

which it would most like to expand relations. Brazilian President Fernando Henrique Cardoso has characterized U.S.-Brazilian relations as being in the best shape they have been for decades. President Clinton plans to visit Brazil in the fall of 1997. While the chances for a turnaround on trade issues may not be great, the presidents' meeting may lead to a change of perspective in both countries and a commitment to reach an agreement if and when fast-track is renewed, were such an agreement to be authorized by Congress.

IV. THE HEMISPHERIC ALTERNATIVE: WORKING GROUPS SERVE AS POINT OF FOCUS

It is not surprising that the United States has been emphasizing the preparatory phase of negotiations under Track II—the development of hemispheric norms. Twelve HWGs serve as the focal point of the FTAA process. Seven groups were created at the Denver Trade Ministerial meeting, in June 1995: 1) Market Access; 2) Customs Procedures and Rules of Origin; 3) Investment; 4) Standards and Technical Barriers to Trade; 5) Sanitary and Phytosanitary (SPS) Measures; 6) Subsidies, Antidumping and Countervailing Duties; and 7) Smaller Economies.

Four additional HWGs were established at a subsequent meeting in Cartagena, Colombia, in March 1996: 8) Government Procurement; 9) Intellectual Property Rights; 10) Services; and 11) Competition Policy. A twelfth group, Dispute Settlement, was established at the Trade Ministerial meeting in Belo Horizonte, Brazil, in May 1997.

Five of the six HWGs established in Denver have made substantial progress in developing the foundations for negotiations. The sixth group, which deals specifically with agricultural subsidies and trade remedies, is very controversial largely due to the U.S. Congress absolute resistance to consideration of modifications in these areas. The seventh group, on Smaller Economies, has received high marks for its analysis of the problems facing the Caribbean and Central American mini states, but the group is not considered a forerunner of a negotiating group. Its findings, however, will be taken into consideration in overall FTAA negotiations.

The four groups established in Cartagena are generally considered to be tackling more controversial topics than those un-

dertaken by the Denver-created groups; however, it is too early to know whether their initial work programs will proceed smoothly.

The HWGs are supported by a host of multilateral and plurilateral organizations. Major backup is being provided by the Trade Unit of the Organization of American States (OAS), the Integration and Regional Programs Department of the Inter-American Development Bank (IDB), and the staffs of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). Together, these three organizations, referred to as the Tripartite Committee, are providing support. Also providing assistance are the World Trade Organization (WTO), the United Nations Conference on Trade and Development (UNCTAD), the World Bank's International Bank for Reconstruction and Development, the Latin American Economic System (*Sistema Económico Latinoamericano*), the Latin American Integration Association (*Asociación Latinoamericana de Integración*), the Pan American Commission for Technical Standards (*Comisión Panamericana de Normas Técnicas*), the World Intellectual Property Organization, and the World Customs Organization.

Although each HWG has a distinct work program, a number of tasks are held in common by all of the HWGs: 1) preparation of compendia of measures, databases, and other materials to be used during negotiations; 2) identification of where hemispheric practices converge and diverge; 3) suggestions on how to negotiate in their respective areas; 4) identification of possibilities for immediate action; and 5) advice on private sector involvement.

A. *Preparing Compendia*

The first task—preparing compendia of measures, data, and other materials to be used during negotiations—is proceeding extremely well. With the exception of the group on Smaller Economies, which has a more analytical agenda, each working group is collecting three types of data and information. The groups are establishing: 1) inventories or compendia of national measures; 2) compendia of provisions in agreements entered into by hemispheric countries; and 3) databases of hemispheric trade and investment flows. In addition, a number of the groups are preparing their own analyses of WTO rules.

Thanks to the drive of a number of working group chairpersons and the assistance of the Tripartite Committee (OAS, IDB, and ECLAC), many of the seven Denver-created groups have gathered the critical information and data necessary for government-to-government negotiations to take place. More comprehensive and sophisticated preparatory materials are now available than were given to the negotiators during the Uruguay Round. In this respect, the HWGs have certainly outdone their counterparts in the Asia Pacific Economic Cooperation forum (APEC).

The largest share of the credit for preparing these materials should go to the OAS and the IDB, both of which devoted large quantities of internal resources to these efforts. The IDB together with UNCTAD has developed sophisticated software for collecting data. The resulting trade database contains information on preferential duties, tariff rate quotas, SPS measures, and technical standards for every product traded in the hemisphere. This data should allow a more comprehensive approach to market access than in other negotiations.

The OAS has been working in the very controversial area of agricultural subsidies and unfair trade remedies. In order to assure that the database was put together on a timely basis, the OAS collected and organized descriptions of unfair trade remedy laws in effect in each of the FTAA countries. The OAS also developed an historical record of proposals offered in the Uruguay Round's agricultural working group. Although the United States and Brazil objected to the gathering of information not requested by the negotiating countries, the OAS study has been accepted.

The third member of the Tripartite Committee, ECLAC, has taken the lead in support of the more recently formed HWG on Services. Given the number of sectors to be covered by this group, the amount of support work should not be underestimated.

B. Identifying Convergence and Divergence

The second task of the groups is to identify where hemispheric practices converge and diverge. If there is to be a hemispheric paradigm in key areas of trade, investment, and general commerce, at the outset of negotiations the negotiators need to

have an understanding of how national policies are converging and how they may be diverging. By assembling this information, the groups are attempting to design the FTAA negotiations to assure that after an appropriate phase-in period, all the countries will be following common or at least equivalent practices in trade and trade-related areas. The negotiations will need to focus on preventing backsliding where practices are already converging and closing gaps where they are diverging.

In addition to establishing a basis for negotiations, the significance of this work is two-fold. First, after these studies are completed, countries can compare their policies and regulations to those of their hemispheric partners. Second, they can consider this information when updating their own laws or negotiating provisions for inclusion in subregional agreements. Therefore, the very existence of HWG studies that respond to this mandate will facilitate the harmonization of practices prior to the negotiations.

The HWGs have also been asked to recommend how negotiations should be organized in their respective areas. This question was being addressed in each HWG and by the Vice Ministers' caucus between January 1997 and the Belo Horizonte Ministerial on May 16, 1997. At that meeting, the ministers instructed the HWGs to continue their tasks according to their agreed terms of reference. They should also submit different technical alternatives on possible issues and negotiating approaches to the next Vice Ministers meeting prior to the next trade ministerial in San José, in February 1998.

Two working groups have begun to address how to construct the FTAA. The HWG on Market Access asked the secretariats of subregional groupings to explain how free trade was negotiated, with the intent of providing guidance to FTAA negotiators. The HWG on Smaller Economies, although waiting for specific recommendations from the functionally oriented working groups, appears to agree that it will focus its recommendations on technical assistance and temporary aid, as opposed to permanent derogations from specific FTAA obligations.

C. Negotiating Modalities

The third task—defining negotiating modalities—is largely derivative of the work being carried out under the first two mandates. The development of issue-specific compendia defines the subject of negotiations. It will be difficult to negotiate on an issue not included in the compendia. Provisions included in agreements to which FTAA participants belong provide models for the hemispheric FTAA. Uruguay Round accomplishments are interpreted by each HWG and may be used to establish the starting point for the negotiations.

Studies showing which trade practices are pervasive in the hemisphere and which regulatory practices differ among countries will define the eventual negotiating agenda. Where practices converge and meet world-class standards, negotiations will focus on codification and assuring that no backsliding occurs.

D. Identifying Immediate Actions

As the FTAA negotiations are not foreseen to end before the year 2005, there is general consensus that there should be some intermediate, concrete results under Track II. Without such results, the negotiations may quickly become irrelevant to politicians (who may be out of office before the negotiations conclude) as well as to the private sector.

Unfortunately, the business facilitation topics mentioned in the Cartagena Declaration and in the Brazilian proposal at Florianopolis lend themselves to a number of relatively modest steps. These include: 1) publication of a guide to national customs documentation requirements and recommendations for promoting electronic filing of documents; 2) release of an inventory of investment agreements and treaties and of a compendium of hemispheric trade laws and procedures; 3) dissemination of a market access database; 4) agreement on a common form for certification of origin; 5) making recommendations on measures, including technical assistance, to facilitate the integration of smaller economies into the FTAA; 6) public exhortations for countries to join existing arbitral conventions for state-investor disputes; 7) improvements in transportation; and 8) development of procedures for Mutual Recognition Agreements (MRAs). MRAs recognize foreign laboratories' and testing facilities' com-

petence to certify that products meet the agricultural SPS standards or industrial technical requirements of importing countries that sign the MRA.

Although these measures may have some commercial significance, they are relatively modest. However, the reaping of a more substantive early harvest seems particularly difficult. As happened in the Uruguay Round, in which the early harvest was largely unsuccessful, impediments to this process are as follow:

Negotiations in the separate working groups are closely intertwined. Thus, it is difficult to envision circumstances in which one group produces even an "intermediate" agreement without similar results from other groups.

Individual countries may not wish to make concessions unless they receive satisfaction from other countries. It is very difficult to develop this parity among countries before a negotiation is completed, especially if even one of the participating countries does not want to give concessions until the final bargaining session.

WTO rules only allow for preferential treatment in the context of a completed free trade agreement. Since interim results cannot be applied preferentially, all concessions must be applied on a most favored nation (MFN) basis. There is legitimate concern about giving away significant concessions to nonparticipants in Europe and Asia.

E. Advising on Private Sector Role

The role of the private sector still appears to be within the purview of the negotiations. Governments have talked publicly about the importance of private sector participation, but so far no consensus has been reached on the method for allowing full private sector participation.

The Third Americas Business Forum was held simultaneously with the Belo Horizonte Ministerial; national private sector leaders had opportunities to exchange views with trade ministers. The Brazilian organizers called for any written recommendations or papers from the private sector to be submitted by March 15, 1997, well in advance of the forum. This allowed substantive agendas to be prepared for each of the forum's workshops.

The Business Network for Hemispheric Integration (BNHI), a grouping of about seventy regional, subregional, and national private sector organizations, held two general assemblies in 1996 and a third one in January 1997. The members of the Tripartite Committee have been instructed to make available to the private sector their studies and compendia after they are completed and approved. The OAS issued the compendia of investment measures recently.

National governments have been urged to consult with their private sectors. This will, of course, operate more efficiently in some countries than in others. As discussed further in the Appendix to this paper, more work needs to be done before the next Ministerial at San José on the appropriate role for the private sector. Other than agreeing to distribute approved materials and to hold a limited number of briefings for the private sector, the working groups have yet to address this subject substantively.

We suggest that a specific role be provided for the private sector at the hemispheric level. This role can be expanded as the process moves forward and as the national private sectors demonstrate their willingness to devote sufficient resources to organize themselves at the hemispheric level. Designated private sector groups should be responsible for collecting and fully disseminating information on developments in the process. The official HWGs should meet regularly with private sector representatives. Private sector groups should also be asked to report on how to mobilize popular support for the FTAA. The BNHI could play such a coordinating role.

V. COMPETING MODELS LEAVE PATH TO FTAA UNCLEAR

On January 23, 1997, Canada presented a proposal for building the FTAA, stipulating the launching of negotiations at the Santiago Summit in March 1998, aiming to conclude negotiations no later than December 31, 2003, "so as to provide signatories sufficient time to carry out domestic steps to ratify and implement the Agreement by January 1, 2005." It proposed that the FTAA be a single agreement; nevertheless, it should co-exist with, not replace, subregional agreements like NAFTA, MERCOSUR, and other bilateral and plurilateral trade agreements.

In February 1997, the United States, through its embassies in the region, passed a position paper to governments on FTAA negotiations. The U.S. paper and the Canadian paper are in broad agreement, especially in taking the stance that basic market access elements and basic rules should be items of first concentration. There are some differences on the timing of negotiating certain areas, but these are not fundamental differences. A CARICOM proposal, similar to the U.S. and Canadian proposals, calling for market access talks in early 1998 has also been made.

In contrast, an updated MERCOSUR proposal in late February 1997 reiterates that group's earlier position that the construction of the FTAA should take place in three stages which, "start[s] with business facilitation measures, moving onto an intermediate phase where topics not related to market access and corresponding disciplines would be dealt with," and reserving "substantive" negotiations, including market access for goods and services for the third phase, occurring between 2003-2005. The MERCOSUR document was presented at the Vice-Ministers' trade meeting at Recife, held February 25-27, 1997.

Nevertheless, it has been pointed out that the similarities among the papers are more significant than their differences. It is noteworthy, for instance, that they all specify that FTAA negotiations should be launched at the Santiago Summit in March 1998 and continue without any formal or informal suspensions to a conclusion consistent with the 2005 deadline. They also agree that the FTAA working groups will be transformed into negotiating groups. With some differences, they also recognize the need for a secretariat function to be performed, the logical candidate being the Tripartite Committee.

In all these proposals, it is likewise recognized that the starting point would be the Uruguay Round commitments. The FTAA would be a single agreement that is a stand-alone arrangement, which would not subsume existing integration agreements such as NAFTA or MERCOSUR. In fact, all of these points of similarity were formally endorsed by the trade ministers at Belo Horizonte last May.

The divergences in the proposals reflect the competing Brazilian and U.S. views of FTAA construction which have been present all along. At the first meeting of the Vice Ministers' caucus since Brazil assumed the chairmanship, the MERCOSUR

and U.S. delegations began to address the issue of a negotiating plan for achieving the FTAA. Brazil, whose government is not constrained by the lack of negotiating authority, offered a specific, if incomplete, plan for completing negotiations by the year 2005.

The MERCOSUR proposal addressed the timing of the negotiations and the order in which issues should be addressed: a three-stage negotiation, with each successive stage beginning only after the preceding stage is completed.

Under the MERCOSUR proposal, the first stage principally should yield business facilitation measures that lower the costs associated with transportation and border clearance. During the second stage, the negotiations would address subjects usually associated with international codes of conduct, for example, technical barriers to trade, sanitary and phytosanitary requirements, treatment of foreign investment and investors, and intellectual property. Only in the third and last stage would the negotiations address liberalization of goods and services barriers and the more controversial topic of government procurement.

MERCOSUR's proposals reflect Brazil's domestic policies toward business modernization. Brazil is currently implementing programs to reduce production costs. Concrete measures that lower administrative costs for Brazilian exporters would complement these programs.

Postponing product-specific liberalization until a third negotiating stage means that such negotiations would probably not begin until the next century. This would allow Brazil time to reinforce its position within a South American or a Latin American negotiating bloc and postpone the elimination of the preferences that MERCOSUR products will enjoy through its network of FTAs. Depending on how MERCOSUR's negotiations with the European Union (EU) proceed, Brazil might find it advantageous to offer the EU short-term preferences, thereby increasing the negotiating value of Brazilian concessions in the FTAA process.

The Brazilian proposal does not discuss the forum in which the negotiations will take place. It leaves open the question of whether the negotiations will take place at the hemispheric level or be held on an ad hoc basis among the subregional groups. Brazil appears to prefer to conduct the most serious negotiations among participants in subregional integration agreements. Ac-

cordingly, Brazil may recommend that the work of the HWGs be circulated periodically to various subregional groups for their information and reference. The subregional groups would then utilize those materials to deepen their current arrangements and to negotiate with other subregional groups.

The United States would prefer a faster negotiating schedule, with all agenda items under negotiation simultaneously, according to modalities modeled after those in the Uruguay Round. The HWGs would be transformed into negotiating groups, addressing their respective issues. Eventually, matters that could not be settled within the HWGs would be negotiated at a higher level.

Close to the heart of the differences between the Brazilian and U.S. approaches to the actual negotiating scenario lies the issue of "depth of commitments." There is general accord that the WTO agreements now in place will serve as the lowest common denominator in establishing the content of FTAA disciplines. Moreover, every FTAA participant has at least one specific WTO agreement that it would be happy to see strengthened in the course of the FTAA negotiations. Beyond these generalities lies the natural division between nations on the lower end of the development scale and the more advanced economies whose export sectors are competitively strong and diversified. The NAFTA members as a group want more additions to more WTO agreements than do the MERCOSUR nations. The positions of the Caribbean, Central American, and Andean governments straddle those of the two network "sponsors." These divisions are best understood at the level of specific negotiating issues discussed below.

A. Market Access

There is no question that in the important area of market access, negotiations will surpass MFN liberalization resulting from the Uruguay Round. Free trade involves zero duties on substantially all trade. However, with the precedents established in the Uruguay Round for zero-for-zero duty reductions on a sectoral basis, which will be extended through the forthcoming Information Technology Agreement, it appears likely that in some sectors FTAA reductions will lag behind WTO and other plurilateral commitments.

Two factors will determine the extent to which the FTAA will surpass MFN reductions: 1) Whether there is additional MFN liberalization beyond that agreed to in the Round;² and 2) Whether the FTAA, like NAFTA, eliminates duties immediately on a high percentage of heavily traded products and phases out all duties on the remainder. So far, MERCOSUR's agreements have provided for considerably fewer instances of tariff elimination and have not established a schedule for eliminating duties on the remainder of the items.

B. Investment

There is a consensus that the FTAA will go beyond current WTO investment rules. The WTO only addresses trade-related performance requirements applied to foreign investments. At the recent WTO Ministerial meeting, Brazil and other Latin American countries indicated their willingness to explore the possibility of deepening these provisions. Developing countries in Asia and Africa opposed even a preliminary review. Brazil has a number of separate investment agreements with its FTA partners. Brazil has supported activities in the HWG on investment to identify areas where national regimes converge and diverge and has indicated a willingness to develop a hemispheric regime on investment, including protection of foreign investors. Brazil is still suggesting that any discussion on investment liberalization be delayed until the end of the process.

The United States is expected to join Canada, Mexico, and other Organization for Economic Cooperation and Development (OECD) countries to conclude the wide-ranging Multilateral Agreement on Investment by the middle of 1997 in the OECD. This agreement could provide a model for the FTAA negotiations.

2. For example, agreements negotiated at the Singapore Ministerial have set the stage for eliminating duties on about ninety percent of world MFN trade in information technology items, as well as on a number of pharmaceutical products not formerly covered by zero-for-zero agreements.

C. Customs Procedures, SPS, and Technical Barriers to Trade

The third area in which participants have indicated a consensus to go beyond the Uruguay Round is in facilitative areas implementing a number of the codes. The following package of items has been agreed upon as the starting point for FTAA negotiations: the acceptance, implementation, and, where necessary, provision of technical assistance to enable compliance with WTO codes on customs procedures, SPS standards, and industrial standards. FTAA negotiations will focus on developing common customs procedures to facilitate trade. There will also be work on a hemisphere-wide recognition of certification and testing results of national laboratories, and, where possible, harmonization or recognition of equivalent standards.

Similar efforts are underway in other regional groupings. The EU and the United States are focusing on Technical Barriers to Trade agreements in specific sectors. APEC has business facilitation groups working in these sectors. Customs harmonization is an objective of the World Customs Organization. Although we see some multilateral progress here, there are greater opportunities for progress within the FTAA and other regional forums.

D. Services

Whether one will go beyond the WTO rules in liberalizing trade in services is not yet decided. The United States and Mexico would prefer that services be completely liberalized as under NAFTA, with the possibility of a limited number of permanent exceptions. Brazil has yet to indicate whether it prefers liberalization to proceed under the FTAA or in the context of the next round of WTO Services negotiations to begin in the year 2000.

E. Government Procurement

The United States would certainly prefer that government procurement be opened without regard to nationality and that provisions in NAFTA or the plurilateral agreement in the WTO be applied in the FTAA. No Latin American country is a mem-

ber of the plurilateral WTO agreement. Brazil has indicated its wariness of moving too quickly in this area, preferring that progress be made under the WTO first. Brazil has suggested that negotiations on this topic be postponed until the final phase.

F. Agricultural Subsidies

All countries except the United States would like to see agricultural subsidies on hemispheric trade eliminated under the FTAA. The United States prefers to consider any prohibition of agricultural subsidies only in the context of the WTO and its agricultural negotiations, scheduled to begin in 1999. Argentina has led efforts to outlaw agricultural subsidies in hemispheric trade except when subsidies are used to counteract third-country practices.

G. Trade Remedies and Competition Policy

The United States is isolated in its attempt to prevent any serious discussion of dumping laws in the FTAA context. The United States successfully avoided undertaking any commitment to modify its practices in the dumping and countervailing duty areas in NAFTA, with the exception of adopting a dispute settlement mechanism. The United States may not agree to the dispute settlement mechanism in the FTAA. In the group on competition, the United States would prefer that preliminary work focus on eliminating cartels and other anticompetitive practices that prevent the penetration of U.S. products, services, and investment.

All the other FTAA-participating countries favor doing away with national antidumping remedies against hemispheric imports. Instead, they prefer to rely on competition policy, which does not differentiate between imports and domestically produced products on analysis of unfair practices. In a number of subregional FTAs (most recently, the Canadian-Chilean FTA), antidumping cases against member countries are prohibited. Thus, for trade remedies, these countries would prefer to go beyond the Uruguay Round and to use some of the subregional FTAs as a model rather than NAFTA.

H. Dispute Settlement

Finally, there could be significant differences among the participants over dispute settlement. A dispute settlement group was established at the Belo Horizonte Ministerial. The United States would prefer an extremely legalistic body modeled on dispute settlement in the WTO and in NAFTA. Brazil, on the other hand, may prefer a more flexible settlement process, whose institutional framework focuses more on consultation and negotiation than on imposition of rulings. The terms of reference set at the Ministerial charged the new HWG with compiling procedures and mechanisms included in present Western Hemisphere agreements and the WTO, to identify areas of commonality and divergence, and to make specific recommendations with respect to the FTAA.

VI. NEW ISSUES FOR NEGOTIATION

One of the most glaring problems with the FTAA agenda is that it does not address post-Uruguay Round, post-NAFTA trade issues. The FTAA issues currently listed were originally identified in the 1980s, which, in trade policy terms, makes them ancient. As the impact of globalization has accelerated in the 1990s, new issues have become apparent but have not been included in the process. This is especially true in the aftermath of the NAFTA debate, during which questions were raised about the effects of major currency realignments within a free trade context and about the issue of persistent wage suppression in one or more of the FTA member countries. Business interests have identified new issues that need to be addressed, such as excessive national regulations that hinder the ability of businesses to operate in a global environment.

The inclusion of new issues in the FTAA process is particularly critical to the success of fast-track in the 105th Congress, as both the business and labor constituencies must be convinced that the FTAA process will encompass their respective millennial agendas. The following six issues would, in part, satisfy these needs.

A. *Linking Trade Liberalization to Alleviate Poverty and Income Inequality*

A new approach to the question of linking trade liberalization to social issues appears necessary. The recent WTO Ministerial in Singapore probably quelled any multilateral consideration of workers' rights in a trade discipline context. So far, most countries have resisted the introduction of this issue in the FTAA process. No working group has been established to explore it. However, it is hard to envision a Democratic U.S. president who would agree to move forward on free trade without some type of social issue being placed on the agenda. Moreover, Brazil, with its own strong labor movement, also has indicated a desire to explore this issue.

An acceptable alternative to the emotionally charged issue of workers' rights would be to interpret free trade agreements in relation to their success in alleviating poverty and income inequality. Countries would be urged to adopt policies to secure social goals. However, decisions would be left to the countries themselves, as such policies are clearly within the purview of national sovereignty. This formulation would allow labor rights to be considered as part of the free trade initiative but would not raise the specter of trade restrictions being used to address alleged violations of labor rights. It would, on the other hand, squarely confront two concerns: 1) a perception that free trade actually aggravates income inequality and poverty in member countries; and 2) the claim that economic dislocations caused by NAFTA fell disproportionately on workers and the disadvantaged within society. The formulation would also be attractive because it would help developing countries to become more attuned to the concept of macroeconomic coordination.

An FTAA working group addressing an "incomes policy" issue could develop empirical evidence on the effects of free trade on all elements of society. The group could also explore ways to alleviate social tensions caused by economic reforms. It would only identify ways that national governments could assure citizens that the gains from free trade were divided fairly and that there were sufficient resources for the government to meet the challenges of any dislocations. The group would limit itself to studies, as to go beyond that would certainly impinge on sovereignty. National governments would decide for themselves how

to use the conclusions. The work of this group could be linked to work being carried out by the hemisphere's labor ministers.

B. The Trade-Monetary Linkage

Public opinion in all countries seems to hold that for free trade to work, the issue of the effects of monetary fluctuations on competitive advantage must be addressed. In the past three years, Brazilian, Colombian, and U.S. producers have been harmed by devaluations by their FTA partners: Argentina, Venezuela, and Mexico, respectively. In fact, U.S. public opinion is still wary about free trade due to the coincidence in timing among NAFTA implementation, the fall in the peso's value, the resulting bailout, and the subsequent trade deficit.

There is insufficient convergence in macroeconomic policy in the hemisphere to allow for formal linkage of monetary and exchange rate policy among members of a free trade agreement. However, the free exchange of goods among countries in an FTA calls for some form of regular consultations and exchanges of information among countries in an FTA.

While mandatory requirements, such as those included in the Maastricht Treaty for European Monetary Union, would not be appropriate for the FTAA, a system of nonbinding indicators for setting off consultations would be useful. The indicators can be modeled after those in Maastricht and include such variables as the ratio of governmental budget deficits to GNP, government debt as a percentage of GNP, and relative fluctuations in exchange and inflationary rates.

Interestingly, opposition to including the subject of monetary and exchange rate policy linkage in the FTAA has not come from either the private sector or trade and commerce ministers, but from Finance Ministry officials, who claim that it is not an appropriate subject for free trade negotiations. These officials fear that opening this issue will allow their terrain to be invaded by nonfinance officials; however, not addressing it would encourage stronger opposition to extending free trade. A possible way to overcome bureaucratic opposition would be a joint working group involving finance ministers and trade ministers.

C. Deregulation and Rule-Making

The newest issue in trade negotiations may be deregulation. As production and investments become globalized, it is increasingly difficult and wasteful of resources for companies to adjust to different national rules and regulations. Although it is unrealistic to expect countries to give up their own system of rule-making, it is possible to agree on some common principles. Perhaps modeled after current rules on SPS and industrial standards-setting, there could be an agreement that regulations should be as minimally disruptive to market decisions as possible, consistent with their social purposes. There should also be full transparency in the rule-making process.

D. Development of Hemisphere-Wide Infrastructure to Assure that the Advantages of Free Trade can be Realized

This agenda item can address how to develop national infrastructure in ways that encourage the flow of goods and services throughout the hemisphere. One could also work with Finance Ministry officials in some form of a joint working group to assure that official and private sector forms of financing are available.

E. Melding the Operation of the Anglo-Saxon Common Law System with the More Roman System of Latin American Countries

It has become clear that a full-scale legal review must be carried out to decide how best to meld or coordinate the legal traditions of the United States and the English-speaking Caribbean with the different civil law traditions of Latin America. This issue is already under discussion in national bar associations.

F. Trade Facilitation

There is no better way to maintain interest in the FTAA process than to borrow a leaf from the APEC experience. In addition to trade liberalizing groups, APEC has thirteen groups pursuing economic and technological cooperation as a way to en-

courage increased investment and trade among the members. These groups are considering joint activities for: 1) human resource development; 2) science and technology; 3) small and medium enterprises; 4) economic infrastructure; 5) energy; 6) transportation; 7) telecommunication and information; 8) tourism; 9) trade and investment data; 10) trade promotion; 11) marine resource conservation; 12) fisheries; and 13) agricultural technology. Similar groups set up under the FTAA rubric could provide the concrete results that actually generate business and employment.

VII. POLITICAL SUPPORT WILL CLEAR A PATH TO AGREEMENT

If competing objectives for the FTAA, both domestically and among our hemispheric trading partners, are to be resolved successfully, the U.S. Congress must enact fast-track legislation—ideally, in time for the Santiago Summit.

Until now, the United States has been able to lead the FTAA process through the establishment and operation of HWGs. With the issue of the U.S. presidency settled, fast-track is crucial to the continued credibility of this approach. The rest of the hemisphere is in the process of exchanging trade concessions, and if the United States were not able to participate, it would be relegated to the role of observer with the possible exception of providing support to Mexican efforts to establish high standards. The process of creating NAFTA-level hemispheric norms would be side-tracked and soon forgotten.

The Clinton Administration's successful progress toward an FTAA will depend on the strength of its legislative agenda early in the second term, the willingness of the White House to use sufficient political capital to gain approval of the legislation, and a willingness by both the Congress and the Administration to compromise on the thorny issue of linking trade liberalization with international workers' rights. President Clinton's endorsement of fast-track and negotiations with Latin America in his 1997 State of the Union address is a positive sign.

In an attempt to spur congressional action, the Administration has appointed Senior Presidential Adviser Mack McLarty as special envoy for relations with the Western Hemisphere. The Administration has set in motion a series of action-forcing events to increase pressure on Congress to enact fast-track. This plan,

coordinated by McLarty, started with Chilean President Eduardo Frei's visit to Washington early in February 1997, followed by the president's two Latin American trips. At present, the Administration plans to submit fast track legislation in September, 1997.

McLarty's appointment has given considerable hope to advocates of hemispheric integration who have interpreted lack of fast-track authority as evidence of a new era of "benign neglect" by the United States in the hemisphere. The U.S. business community in Latin America and the Caribbean can be seen as his principal constituency. McClarty is politically realistic; he surely appreciates the difficulty of building a free trade constituency in the U.S. Congress. At the same time, he is familiar with the president's persuasive powers: if President Clinton becomes energized about the issue, he can exert sustained leadership in the Congress and in the larger forum of public opinion.

The Administration must develop an agenda that responds to some of the widely held misgivings about FTAs while mobilizing private sector support. Fortunately, there is sufficient time between now and the year 2005 to work on these issues and find solutions that may well overcome stubborn political obstacles.

Lacking fast-track authority, however, the United States may not have the credibility to achieve its preferred approach in the short term. This could result in all attention shifting to subregional integration efforts. Hemisphere-wide talks could quickly lose momentum. The role of the United States would be limited to providing support for the expansion of the Mexican network of agreements, in the hope that these NAFTA-like agreements eventually would be applied to U.S. goods and services. Ironically, although the United States may be able to claim credit for serving as the catalyst for the current integration process, U.S. exporters could still find themselves on the wrong side of the resulting preferential agreements, at least until the FTAA becomes a reality. These issues make 1997 a crucial year for hemispheric free trade. While initial indications are positive, they are not determinative.

VIII. APPENDIX: THE PRIVATE SECTOR IN THE FTAA PROCESS

The private sector has been more involved in the FTAA process than in other trade negotiations. Due to the leadership of the late U.S. Commerce Secretary Ron Brown and the Chairman of the Cartagena Americas Business Forum, Jorge Ramirez Ocampo, representatives of the hemispheric private sector have met in conjunction with the first two Trade Ministerial meetings. Their views have been presented to the ministers and circulated to the working groups.

At Belo Horizonte, the Brazilian private sector organized the largest Americas Business Forum held to date. Discussions in the working groups were relevant to issues being considered by the ministers and allowed as much interaction between government officials and private sector officials as possible. This forum stressed closer integration of the private sector, both at the national and hemispheric level.

The Trade Unit of the OAS has been in the forefront in creating a web page and providing periodic reports on progress in the working groups. The Trade Unit has distributed the first compendium of measures prepared by a working group—a compendium of investment provisions in agreements entered into by FTAA participants. Recommendations by “shadow working groups” of prominent private sector individuals, organized by the North-South Center of the University of Miami, were circulated to the working groups as a series of working papers.

Particularly noteworthy is the formation of the BNHI, comprising approximately seventy subregional and national business organizations. This group has held two general assemblies; during both meetings there were fruitful discussions of the best ways for the private sector to provide useful input and feedback during the process. The current consensus is that the should allow for the dissemination of information being developed by the FTAA process to its member organizations, who would, in turn, serve as private sector sounding boards. Their views would be disseminated during the official FTAA process and should be instrumental in mobilizing support for hemispheric free trade. However, recommendations on specific issues should be developed by national groups, with no attempt to develop consensus on all but the most general issues.

Despite this progress, there have been some serious flaws in the liaison with the private sector. The major problem has been the secrecy of the HWGs. The private sector has been left in the dark about the specifics of identification of barriers to the flow of goods, services, and investment in the hemisphere. This is surprising, as businesspeople are those most aware of barriers—they confront them daily in their business operations. Although instructed to disseminate the results of most of the preparatory materials they had prepared, the HWGs have still not released them. Thus, business groups who would like to make specific suggestions at the next Americas Business Forum do not have access to the solid information necessary for making informed recommendations. Although much of the information collected will be released eventually, the failure to do so in a timely manner has deprived businesses of information they could be using today to develop meaningful private sector input.

The current system lacks any uniform approach to the private sector's participation. There could be one working group or special liaison committee assigned to develop mechanisms to assure the closest liaison with the private sector. Rather than relying on each working group or the tripartite organizations to decide the timing and content of what is released with little interest in what is needed for business, this special liaison group/committee should develop recommendations for an efficient flow of information both from the working groups to business and from business to the working groups. The liaison group should prepare a general format for the release of information to assure some type of uniformity among the groups. Finally, the liaison group should work closely with the organizers of the business forums to make sure that timely information, briefings, seminars, and technical advice are being made available to participants. However, this proposed special liaison group needs to be a facilitator of information exchange and should not interpose itself between FTAA organs and private sector groupings.

The vice ministers themselves should work closely with the chairs of each of the HWGs to assure that information is made available well in advance of the San José meetings to allow meaningful input. A useful suggestion is to make available on the Trade Unit's World Wide Web page summaries and actual contents of the compendia and data collected by the working groups, even if these are not one hundred percent complete or

approved. While considerable progress has been made toward private sector involvement in the process leading to negotiation of an FTAA, instituting the above recommendations would not only enhance private sector involvement and quality of input for the next few years, but also strengthen and make more viable the final FTAA.