

Issue Brief for Congress

Received through the CRS Web

Trade and the Americas

Updated May 24, 2002

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Trade and the Americas

SUMMARY

The Summit of the Americas, held in December 1994, led to ongoing congressional interest in three inter-related trade policy issues. The first involves an invitation extended to Chile to join NAFTA. The second focuses on preferential tariff treatment for Caribbean and Central American countries. The third concerns movement towards a Free Trade Area of the Americas (FTAA), the concept of making the entire hemisphere a free-trade zone. Two other issues that subsequently have emerged involve a request by the Andean countries to extend and expand the Andean Trade Preferences Act (ATPA), and consideration of a free trade agreement with five Central American countries.

Following the Miami Summit, the U.S., Canada, and Mexico invited Chile to enter into negotiations to accede to NAFTA. Envisioned as a first step towards creation of an FTAA, preliminary negotiations started in July 1995. Chile, however, shortly thereafter suspended the negotiations pending renewal of U.S. "fast-track" negotiating authority. In August 1999, Chile proposed to re-start discussions on a bilateral free trade agreement and negotiations eventually commenced December 6-7, 2000 in Washington. The Bush Administration has continued the negotiations with the hope of reaching an agreement sometime in 2002. A second issue concerns the treatment of the Caribbean and Central American countries that may have been hurt in trade and investment terms as a result of the implementation of NAFTA. After many years of consideration, Congress in May 2000 enacted the Caribbean Basin Trade Partnership Act (Title II of P.L. 106-200) that provides benefits for CBI beneficiary countries that are similar to the tariff benefits

afforded Mexico. The new law, in particular, offers expanded access and preferential tariff treatment to certain textile and apparel products assembled from U.S. fabric, under specified conditions. Currently, however, the extent of program benefits could be affected by a House leadership pledge, made in the debate over trade promotion authority last December, to require that fabric be dyed and finished in the U.S. to be eligible for duty-free access.

The third issue involves movement towards hemispheric free trade. Nearly four years after the 1994 Summit of the Americas, hemispheric leaders formally launched the FTAA negotiations in 1998. The course of the negotiations has been affected by political and economic problems in the hemisphere and the continued absence of U.S. fast trade authority. Nevertheless, the tariff portion of the negotiations are scheduled to begin no later than May 15, 2002. A fourth issue that has arisen involves legislation to extend and expand the ATPA. The 1991 ATPA granted Andean countries tariff preferences for 10 years in an effort to help the countries fight narcotics trafficking. The House in 2001 approved an expansion and extension of the program (H.R. 3009). Less expansive legislation has also passed the Senate and final reconciliation of the two bills will occur in a conference committee. A fifth issue relates to the Bush Administration's interest in negotiating a free trade agreement with five central American nations - Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. In announcing an interest in pursuing such talks, President Bush on January 16, 2002 noted that it would be another step towards completing a Free Trade Area of the Americas.

MOST RECENT DEVELOPMENTS

House Speaker Dennis Hastert in a May 17 letter indicated that the promises of the House leadership to scale back textile trade preferences for Caribbean and Central American nations was fulfilled in legislation attached to a House supplemental spending bill.

Western Hemisphere trade officials agreed during the week of May 13, 2002 to begin the market access phase of the FTAA negotiations, but many disagreements remain on the scope and modalities for the treatment of services, investment, and government procurement.

On May 10, 2002, Brazilian officials warned that a U.S. decision to impose tariffs on steel imports, as well as significant new subsidies provided to agriculture in the recently passed farm bill, could endanger its participation in the FTAA negotiations.

Fifty-four Senators signed a letter on March 22, 2002 urging U.S. Trade Representative Robert Zoellick to seek elimination of Chile's barriers to U.S. agriculture exports as a priority objective in the FTA negotiations.

In a speech on January 16, 2002, President Bush announced that his administration wishes to negotiate a free trade agreement with the five countries of Central America - Costa Rica, Honduras, Guatemala, El Salvador, and Nicaragua.

The House on December 6, 2001 approved a bill (H.R. 3005) to provide the President with trade promotion authority, formerly known as fast-track. In an effort to win support for the bill, House Republican leaders pledged to bring no future trade bills to the House floor until legislative action is taken to assure that apparel assembled in Caribbean and Central American countries for export to the United States is made from fabric that is dyed, printed, or finished in the United States.

BACKGROUND AND ANALYSIS

Summit of the Americas: Trade Results

At the Summit of the Americas held December 9-11, 1994 in Miami, 34 hemispheric democracies agreed to create a "Free Trade Area of the Americas (FTAA)." Under the Declaration of Principles, the countries committed to "begin immediately" construction of the free trade area and to complete negotiations no later than the year 2005.

The Declaration stated that concrete progress toward the FTAA will occur before the close of the century. Based on the view that substantial progress towards economic integration in the hemisphere has already been made, the declaration called for building on "existing sub-regional and bilateral arrangements in order to broaden and deepen hemispheric economic integration and to bring the agreements together." At the same time, the declaration recognized the need to "remain cognizant" of the "wide differences in the levels of development and size of economies" in the Hemisphere in moving toward tighter economic integration.

If created, the FTAA would have 34 members (Cuba is not included) with over 800 million people. This population would be more than twice the 375 million of the now 15-nation European Union.

In the 7 years following the 1994 Miami Summit, Western Hemisphere trade ministers have met six times under the FTAA process. The first meeting was held in Denver in June 1995; the second in Cartagena, Colombia in March 1996; the third in Belo Horizonte, Brazil in May 1997; the fourth in San Jose, Costa Rica in March 1998; the fifth in Toronto, Canada in November 1999, and the sixth in Argentina from April 6-7, 2001.

At the San Jose meeting in 1998, the 34 Ministers responsible for trade in the Hemisphere unanimously recommended that the Leaders formally launch the negotiation of the FTAA at the Second Summit of the Americas in Santiago. As provided by the San Jose Declaration, ministers agreed that negotiating groups were to achieve considerable progress by the year 2000, with a conclusion set for December 31, 2004. The San Jose Declaration also provided recommendations on the initial structure, objectives, venues, and principles of the negotiations.

Canada was designated as the Chair of the overall negotiating process for the initial 18 months (May 1, 1998-Oct. 31, 1999) and the United States and Brazil were named co-chairs during the final two years of the negotiations (November 1, 2002-December 31, 2004). As head of both the Ministerial and Trade Negotiations Committee (TNC), the Chair will provide overall direction and management of the negotiations.

The Ministers elected to establish nine initial negotiating groups, which cover all the tariff and non-tariff barrier issue areas identified by the Leaders at the Miami Summit of the Americas. These groups are market access, agriculture, services, government procurement, investment, intellectual property, subsidies, competition policy, and dispute settlement. In addition, the Ministers created several non-negotiating groups and committees. For example, a Committee on Electronic Commerce, comprised of both government and private sector experts, was established to make recommendations on how to increase and broaden the benefits to be derived from the electronic marketplace. A Committee on Civil Society was established to receive input at the hemispheric level from labor and environmental groups, and academic, consumer, and other non-governmental groups. And a Consultative Group on Smaller Economies was established to bring to the attention of the TNC the interests and concerns of the smaller economies.

The United States (Miami) provided the venue for the negotiating groups and the administrative secretariat supporting those meeting during the first three years. Panama is hosting the administrative secretariat until May when it will shift to Mexico for the duration of the negotiations..

The San Jose Declaration contains General Principles for the Negotiations, as well as General and Specific Objectives. In addition to transparency during the negotiations, the Ministers agreed that the FTAA should improve upon WTO rules and disciplines wherever possible and appropriate. This provision was an attempt to ensure that any final agreement will break down the most serious trade barriers in the region and provide a single set of rules for hemispheric trade. It was agreed that bilateral and sub-regional agreements such as NAFTA and Mercosur can coexist with the FTAA only to the extent that the rights and

obligations under those agreements are not covered or go beyond those of the FTAA. It was also agreed that the negotiations will be a “single undertaking,” in the sense that signatories to the final FTAA Agreement will have to accept all parts of it (i.e. cannot pick and choose among the obligations.)

At the Second Summit of the Americas, held in Chile in April 1998, President Clinton and 21 other presidents and 12 prime ministers of the Western Hemisphere agreed to begin the trade negotiations, and to make “concrete progress” toward the free trade goal by 2000. Since then, some progress has been made in developing a variety of customs-related business facilitation measures to expedite the conduct of trade even before the negotiations are completed. In terms of the negotiations, considerable progress has been made in some of the groups; much less in others.

The sixth ministerial meeting, held April 6-7, 2001 in Buenos Aires, established a more precise time frame for conclusion and entry into force of the FTAA agreement. These deadlines, which include that the FTAA countries must agree on how to conduct the market-opening portion of the talks by April 1, 2002; start tariff negotiations no later than May 15, 2002; and produce an agreement that should enter into force no later than December 2005, were approved by 33 Heads of State at the Quebec City Summit. Only Venezuela declined to endorse the timeline, arguing that the leaders’ declaration as worded did not reflect the process under its national laws for ratifying the agreement. The leaders also added a new pledge that only democracies would be able to participate in the trade bloc and agreed to make public the preliminary negotiated texts. (The preliminary draft text covering nine chapters negotiated is now available on the FTAA website in the four official languages of the FTAA: English, Spanish, French, and Portuguese).

The seventh Ministerial will be held in Quito, Ecuador by October 2002. Ministers have instructed negotiators from all FTAA governments to undertake work to revise the draft chapters of the FTAA text, eliminating brackets in the texts to the maximum extent possible before the Quito Ministerial.

Vision of Free Trade in the Americas

The vision of free trade in the Americas was put forth initially by President George Bush in June 1990. Proposed as the cornerstone of the Enterprise for the Americas Initiative (EAI), President Bush envisaged the creation of a “ free trade system that links all of the Americas: North, Central, and South ... a free trade zone stretching from the port of Anchorage to the Tierra del Fuego” (the southern tip of Chile). The free trade vision was enthusiastically received in Latin America.

Bush Administration officials at the time emphasized that the goal of hemispheric free trade was long-term, and could take a decade or more to come to fruition. Moreover, the hemispheric free trade vision entailed a variable pattern of economic integration, perhaps involving a number of free trade agreements with individual countries or with the region’s economic groupings. Given that the timing, terms, and actual dimensions of the proposal were uncertain, its main significance was an offer of a special relationship with the countries of the Western Hemisphere.

Upon assuming office, President Clinton supported the hemispheric free trade concept. Like his predecessor, Clinton viewed movement towards hemispheric economic integration as supportive of U.S. economic and political interests.

Initially, Clinton Administration efforts to clarify the process by which it would work toward creation of a hemispheric free trade area awaited the outcome of the congressional vote on NAFTA, a trade agreement that was touted as a first step in moving towards the vision of hemispheric free trade. Since NAFTA was approved in late 1993, the Administration restated its intention of negotiating a free trade agreement with Chile first, but declined from naming other specific countries as candidates for future free trade agreements.

The 1994 Clinton Summit of the Americas in Miami helped create a political consensus in the Administration to take further steps in moving towards hemispheric integration. In remarks delivered at the Summit, President Clinton hailed the proposal to build a free trade area from Alaska to Argentina as producing more jobs in the United States and improving the quality of life for residents of the Western Hemisphere.

Since Miami, the vision of hemispheric free trade has been promoted both by the formal negotiations held as a part of the FTAA process, and by the expansion of sub-regional groups and the proliferation of bilateral free trade agreements. Under the former approach, the trade ministers of the hemisphere laid the groundwork for the formal launching of the negotiations, which was agreed to at the Second Summit of the Americas in Santiago. Under the latter approach, Mercosur (the Southern Cone Common Market) has expanded and countries such as Chile and Mexico have negotiated bilateral free trade agreements. Lacking fast-track negotiating authority, the Clinton Administration was not active under this process.

President George W. Bush, who is a strong supporter of promoting close economic ties with Latin America, has enthusiastically backed the FTAA process. At the Quebec City meeting, he committed to obtaining fast-track authority by the end of 2001, thereby giving the FTAA process, which was in danger of stalling, another push forward.

U.S. Interests and Concerns

Supporters view hemispheric integration as bolstering U.S. economic and political interests in a variety of ways. Movement towards freer markets is viewed as supportive of U.S. prosperity, while the strengthening of democratic regimes is viewed as supportive of U.S. values and security. Closer economic ties are also seen improving cooperation on a range of bilateral issues, including environmental concerns and anti-drug efforts.

In most general terms, a reciprocal reduction of trade barriers by two or more countries usually contributes to improved efficiency and higher living standards for both. As average tariffs in Latin America are roughly three times higher than U.S. tariffs (12% compared to 3%), supporters argue that the lowering of tariffs and other trade barriers should facilitate significant increases in U.S. exports.

Supporters point out that the FTAA countries (which includes Canada and Mexico) have become the largest regional destination for U.S. exports and imports. The region

accounted for \$321.5 billion or 44% of total U.S. merchandise exports and for \$414 billion or 36% of total U.S. imports in 2001. During the same year, the FTAA region accounted for about 52% of the U.S. trade deficit. Excluding Canada and Mexico, the region accounts for about 6% of both U.S. exports and imports.

Supporters also believe that a higher degree of economic integration should contribute to the consolidation of economic and political reforms that have taken place throughout the hemisphere. They maintain that the reforms have not only contributed to an improved economic performance in Latin America overall, but they have also made Latin America a more attractive setting for U.S. foreign investment. Similarly, they maintain that the stronger Latin America becomes economically, the more likely democratic institutions will continue to proliferate and deepen.

Opponents of an FTAA are concerned that hemispheric free trade would lead to the export of jobs that otherwise would be in the United States. Some critics believe that an FTAA will induce an outflow of American capital to take advantage of much lower wages and weak safety and environmental standards. Many opponents of the FTAA have argued that free trade with poorer countries will put pressure on the United States to lessen its workforce protections and environmental requirements.

Other critics are concerned that an FTAA will inevitably involve the United States in the instabilities, class tensions, and economic turmoil of many southern hemisphere societies. Some cite Mexico's financial crisis in 1995 as an example of potential costs. According to this view, costs include a deterioration in the U.S. trade balance, an increase in immigration pressures, and the need to extend a large amount of credit.

From a very different perspective, some opponents also argue that hemispheric free trade could undermine the achievement of a stronger and more open multilateral trading system. According to this perspective, regional free trade agreements that may weaken the multilateral trading system do not serve the interests of the United States because it has major commercial interests in all regions of the world — Asia, Europe, and North America, and Latin America. Furthermore, this argument is that a multilateral agreement offers far greater economic benefits than regional agreements.

Latin American Interests and Concerns

Latin American nations made considerable progress in implementing far-reaching trade reforms and opening their economies to outside competition during the first half of the 1990s. The prospects of hemispheric economic integration have spurred new sub-regional integration schemes and breathed life into sub-regional groups that had lost their stamina. Most importantly, the political commitment at the Miami Summit to create an FTAA by the year 2005 was a product largely of pressures from many of the countries in the region.

If the 1980s were Latin America's lost decade, the 1990s, particularly the first five years, may be the catchup years. In the 1990s, the economies of the region averaged roughly 3.5% growth, up from 1.1% in the 1980s. Inflation has been reduced dramatically, averaging around 8% in recent years compared to 500% in 1990. Fiscal deficits are now

approximately 2% of gross domestic product, compared to 9% in 1983. And foreign investment surged from \$9 billion in 1990 to \$76 billion in 2000.

One of the central aspects of the economic transformation of the region has been impressive market-oriented reforms and unilateral trade liberalization. Privatization, especially of utilities, has enhanced efficiency. This trend has been, until Argentina's financial crisis of 2001-2002, complemented by a surge of sub-regional integration efforts and growing hemispheric interdependence.

Since 1990, four sub-regional groups have made considerable progress breaking down intra-regional trade barriers. MERCOSUR, the Common Market of South, consists of Argentina, Brazil, Paraguay, and Uruguay and is the second largest preferential trading group in the Western Hemisphere. Argentina's recent financial crisis and devaluation, however, is severely challenging the viability of Mercosur today. The Andean Community, consisting of Bolivia, Colombia, Ecuador, and Venezuela (Peru dropped out in 1997), currently is the third largest preferential trading group in the Western Hemisphere. Acting unilaterally as well as under the auspices of the Community (formerly the Andean Pact), individual members have liberalized their own trade and investment regimes in recent years. The Caribbean Community and Common Market (CARICOM), consisting of 13 English-speaking Caribbean nations, has agreed to implement a common external tariff over a period of six years, although members will be allowed to maintain their own non-tariff barriers. The Central American Common Market (CACM), originally established in 1961, gained new stimulus after a 1990 summit of Central American Presidents. Within CACM, the Central American Group of four — El Salvador, Guatemala, Honduras, and Nicaragua—has taken measures to liberalize and harmonize their trade regimes.

The likelihood of eventual hemispheric free trade could provide a further boost to the economies of the region. Hemisphere-wide free trade could boost the region's economic growth through increased trade and inflows of foreign investment.

Most Latin American leaders generally support the establishment of a hemispheric free trade area, believing that an FTAA will help bring about greater prosperity, competition, and entrepreneurial activity. A number of critics, however, caution that the United States will benefit the most from the arrangement.

Similarly, many Latin Americans understand that negotiating a free trade agreement with the United States opens themselves to increased trade competition and potential U.S. involvement in such issues as environmental standards, workers' rights, and intellectual property rights protection. Some worry that as tariffs fall, the United States would increasingly resort to other procedural ways (such as the imposition of anti-dumping or countervailing duties) to protect its producers and workers. Consequently some nations might not be willing to move as quickly as others toward the goal of free trade. And others, such as Brazil, may attach greater importance and priority to the consolidation and strengthening of sub-regional trade groups before moving towards a hemispheric free trade area.

Beyond that, opposition to hemispheric free trade could grow if the region's unemployment and staggering poverty does not begin to decline. Despite the overall improvement in economic growth in the 1990s, the number of people living in poverty (defined as less than \$1 a day) has dropped from 41% in 1990 to only 35% by the end of the

decade. As a result, too many Latin Americans have seen little evidence that the shift towards freer trade and more open markets has improved their living standards.

Policy Issues and Congressional Actions

Chile: Negotiating A Free Trade Agreement

Canada's Prime Minister Jean Chretien was widely quoted at the conclusion of the first Summit of the Americas on the invitation to Chile from the United States, Canada, and Mexico to join NAFTA: "For one year we have been the three amigos. Starting today, we will be the four amigos."

Accession negotiations were formally initiated on June 7, 1995 in Toronto, but they remained preliminary due to the fact that the Clinton Administration lacked fast-track negotiating authority. Chile elected not to negotiate on any "sensitive" issues unless fast track authority is renewed to cover the negotiations (Chile subsequently negotiated an FTA with Canada and already had one with Mexico). Such authority allows the Administration to negotiate a trade agreement with assurances that the legislation implementing the agreement will be treated under special, expedited floor procedures. Differences between most House Democrats, on the one hand, and most Republicans, on the other hand, on the inclusion of labor and environmental objectives in future free trade agreements has been a major reason for the fast-track (now called trade promotion) stalemate.

From 1995-1999, the significance of the inability of the Clinton Administration to carry through on its pledge to negotiate Chilean accession to NAFTA or to negotiate a bilateral free trade agreement was mostly political, not economic. In economic terms, NAFTA accession or a free trade agreement would unlikely have any demonstrable effect on the overall U.S. economy because trade between the two countries, although growing, is a minuscule percent of overall U.S. trade flows (approximately 1/2 of 1 percent). Chile ranks as the 32th most important market for U.S. exports worldwide, accounting for \$3.1 billion in 2001. U.S. imports from Chile totaled \$3.5 billion in 2001, representing the 40th largest supplier. As a country of only 13 million people, with an economy the size of Dallas, and located some 4,000 miles from the United States, Chile is unlikely to become a major trading partner of the United States.

In political terms, the Clinton Administration's inability to carry through on its promise to achieve a free trade agreement with Chile perhaps weakened its negotiating leverage in the context of the FTAA. The promise of Chilean accession to NAFTA, for some interest groups, was that NAFTA obligations and rules could be adopted to serve as the foundation for hemispheric integration. After Chile acceded, it was believed that other countries would be eager to join NAFTA when they were ready as well. Lacking fast-track, the Administration, however, arguably was forced to make a number of compromises concerning the objectives and structure of the FTAA negotiations as enunciated in the San Jose Declaration.

Despite the obvious set-backs and delays, the idea of free trade negotiations with Chile took an unexpected turn on August 10, 1999. On this day, Chile's Foreign Minister Juan

Gabriel Valdes announced that Chile was prepared to start preliminary discussions on a bilateral FTA with the United States without fast-track negotiating authority in place. The United States termed the proposal “constructive” and “positive” at the October 5-6, 1999 meeting of the U.S.-Chile Joint Commission on Trade in Investment in Santiago, Chile. And on November 29, 2000, President Clinton proposed that formal negotiations begin. Chile accepted and the negotiations formally commenced December 6-7, 2000 in Washington, D.C.

The Bush Administration, which continued the negotiations during March 26-30, 2001 in Chile, had expected an agreement to be reached early this year. But negotiations are unlikely to conclude this year before Congress finishes consideration of Trade Promotion Authority legislation.

After ten negotiating rounds, a number of major agriculture and services issues remain unresolved. Differences on how to handle labor and environmental issues are likely to be significant. In the area of services, U.S. industry hopes that Chile will agree to broad commitments in a number of sectors such as telecommunications so that other countries in later FTAA negotiations would have adhere to the same obligations. Chile, however, has resisted making the entire FTA a “model” for U.S. free trade expansion elsewhere in Latin America. Officials say they want the agreement to be more specific in dealing with the reality of U.S.-Chile trade. Simultaneously, some Chilean officials have also argued that a U.S.-Chile FTA will “bolster the chances of achieving the successful and timely completion of the Free Trade Area of the Americas.”

While the Chilean economy is relatively open, it still has a number of agricultural barriers. Chile uses a price band system that keeps the price of food imports level by applying a charge on top of its regular tariff. This mechanism is said to impede U.S. sales of wheat, sugar, and vegetable oils by boosting tariffs to achieve a minimum price. A WTO panel ruled on May 3, 2002 that the price band is a border measure similar to a variable import levy and a violation of WTO obligations. Chile’s sanitary and phytosanitary measures do not recognize U.S. meat grading system nor allow unprocessed livestock plants not inspected by Chile’s agriculture department to enter the country. And some U.S. industries, such as sugar and fruits and vegetables, want limits placed on Chile’s access to the U.S. market.

U.S. negotiators are also concerned that an FTA not allow Chile to serve as a platform for regional exports. Accordingly, the U.S. is pressing Chile to eliminate its duty rebate schemes on raw materials and components that are processed and re-exported to the U.S.

For its part, Chile is pushing for better access for its professionals to work in the United States. In addition, Chile is expected to try to negotiate a waiver from U.S. antidumping laws and to end certain U.S. farm payments that are said to distort trade. Reportedly, negotiators from both sides are confident that they can resolve these issues pending passage of a trade promotion authority bill by Congress.

Implementing the Caribbean Basin Trade Partnership Act

Ever since NAFTA was proposed in the early 1990s, Caribbean Basin leaders have expressed concern that Mexico’s more preferential trading status would erode its own

preferential access to the U.S. market as provided by the 1984 Caribbean Basin Economic Recovery Act (CBERA). At the Summit of the Americas, President Clinton and key legislators supported legislation to address the concerns of the CBERA countries. Legislation to prevent an erosion of the CBERA countries' preferential access to the U.S. market has been introduced in every Congress since 1993, but it was not until 2000 that legislation was enacted.

The CBERA, which is commonly referred to as the Caribbean Basin Initiative or CBI, was enacted in 1983 in an effort to bolster the economic development and political stability of this strategically important region. A key objective was to help these countries diversify their exports away from traditional agricultural and raw material based exports such as petroleum, sugar cane, coffee, cocoa, bananas, and aluminum ores.

The centerpiece of this U.S. government program is a unilateral, non-reciprocal, grant of duty-free or reduced duty access for certain Caribbean exports to the U.S. market. Most textiles and apparel, certain footwear, canned tuna, petroleum and petroleum derivatives, and certain watches are not eligible for any preferential treatment. The CBERA was amended by Caribbean Basin Economic Recovery Act of 1990, so-called CBI II. This act made the trade benefits permanent and included measures to promote tourism and establish a scholarship assistance program for the region.

Currently, 24 Caribbean, and Central and South American countries enjoy these trade preferences. (Four countries — Anguilla, Cayman Islands, Suriname, and Turks and Caicos Islands — are eligible to become a CBERA beneficiary country, but have not requested to be designated). Benefits under CBI are conditioned on various mandatory and discretionary conditions, including intellectual property rights protection, investment protection, improved market access for U.S. exports, and workers rights. In its 18-year history, CBERA has been popular with Caribbean exporters, and in recent years about one-fifth of overall U.S. imports from CBERA countries have entered the U.S. under CBERA preferential provisions.

“NAFTA parity” or CBI enhancement bills introduced in Congress since 1993 were premised, in part, on the notion that Mexico's more favorable tariff treatment under NAFTA would lead to a diversion of exports and investment, particularly in the textile and apparel sectors, from the CBERA region. To remedy potential trade and investment diversion, most bills proposed extending NAFTA equivalent provisions to CBERA countries for products that did not enjoy equivalent preferential treatment under CBERA.

In the 106th Congress, both the House and Senate passed bills that provided a form of parity. The House bill (H.R. 984) provided more expansive benefits than the Senate bill (S. 1389). The differences related most basically to the minimum U.S.-origin content under which textile apparel assembled in a CBI country would qualify for the preference. After protracted informal negotiations between the two houses, the final language was agreed to, passed by both houses and signed into law on May 18, 2000 (Caribbean Basin Trade Partnership Act -Title II, P.L. 106-200; Trade and Development Act of 2000).

The Caribbean Basin Trade Partnership Act (CBTPA) focuses primarily on the preferential treatment of textile and apparel products. Articles accorded duty-free and quota-free treatment include apparel assembled in a beneficiary country from fabric wholly formed and cut in the United States from U.S. made yarn, or from a fabric made in the United States

from U.S. made yarn, cut in a beneficiary country and sewn together there with U.S. made yarn. Other items granted preferential treatment include hand-loomed, handmade, and folklore articles.

The preferential treatment becomes effective for each beneficiary country when the U.S. Trade Representative determines that the country has satisfied the statutory eligibility customs requirements for such treatment. Such determinations have to date been made for 14 countries. How to allocate the expanded benefits has been among the most controversial implementation issues. In addition, U.S. Customs Service rulings on how to interpret a number of provisions have led to continuing controversy.

One of the most controversial provisions involves whether Caribbean textile and apparel can qualify for duty-free treatment if the dyeing and finishing process is done outside the United States. U.S. yarn spinners and cotton growers have argued that allowing these processes to take place in CBI countries would allow more trade because it would speed the process from greige goods to finished garments. This position is supported by U.S. apparel importers but opposed by U.S. textile manufacturers who want the U.S. Customs Service to issue a ruling that fabric must be dyed and finished in the United States to qualify as U.S. fabric.

The dye and finishing provision took on added significance in the House debate on H.R. 3005, a bill to provide the President trade promotion authority. House leaders pledged in writing to bring no future trade bills to the House floor until legislative action is taken to assure that apparel assembled in Caribbean and Central American countries for export to the United States is made from fabric that is dyed, printed, or finished in the United States. They also promised that the same requirement would be included in any Andean Trade Preference Act renewal measure containing textile preferences before it would be considered on the floor.

Implementation of this pledge was attached to the \$29 billion emergency supplemental spending bill that passed the House on May 24, 2002. The amendment states that apparel will qualify for duty free treatment only if all dyeing, printing, and finishing of knit and woven fabric from which the articles are assembled is carried out in the United States. The stipulation will apply to both the CBERA and Andean Trade Preferences Act (ATPA).

Movement Towards Hemispheric Free Trade

Since the 1994 Summit of the Americas, the goal of hemispheric free trade has been advanced by two different processes. The first process involves the expansion of sub-regional groupings such as MERCOSUR and the proliferation of bilateral free trade agreements. Most all countries of the Western Hemisphere — except the United States— have been active in this process.

The second process involves the formal negotiations among 34 democratic countries of the hemisphere to create an FTAA. As described above, the March 1998 San Jose Declaration formulated a framework for the negotiations and the Leaders formally launched the FTAA negotiations during the second Summit meeting in Santiago in April 1998. And at the third Summit of the Americas held April 20-22, 2001 in Quebec City, leaders agreed to complete the negotiations by January 2005, with the agreement entering into force no later

than December 2005. Only Venezuela declined to endorse the timeline, arguing that the leaders' declaration as worded did not reflect the process under its national laws for ratifying an agreement.

Assessments differ on whether this combined movement toward hemispheric free trade is "on-track" or "off-track." The former perspective maintains that a solid foundation and structure for FTAA negotiations has been agreed to and that on-going efforts to expand sub-regional groupings are accelerating hemispheric integration. The latter perspective holds that the United States, lacking fast-track authority, has been unable to provide the kind of leadership that is necessary to ensure that the FTAA negotiations proceed according to schedule or in a manner that is supportive of U.S. interests.

Those who see positive developments over the past several years point to the accomplishments of the San Jose Trade Ministerial and the Second Summit of the Americas in getting the FTAA negotiations off to an official start. While some critics doubt much progress can be made in the negotiations until the U.S. President obtains fast-track negotiating authority, others point to agreement on a range of business facilitation measures to date. These include temporary admission of certain goods related to business travelers, express shipments, simplified procedures for low value shipments, compatible data interchange systems, harmonized commodity description and coding system, hemispheric guide on customs procedures, codes of conduct for customs officials, and risk analysis/targeting methodology. The development of a draft "bracketed" text is also considered a major accomplishment, providing an opportunity for political negotiations to begin anytime. The "Action Plan" agreed to at the Quebec City Summit also specified deadlines for interim steps in the negotiations to be completed. During the week of May 20, 2002, Western Hemisphere trade officials agreed on an initial timetable for market access negotiations in five different areas: industrial goods, agriculture, services, investment, and government procurement.

The "on-track" perspective also points to a continuing trend of greater market opening at both the bilateral and sub-regional level as contributing to an expansion of trade flows. In recent years, intra-hemispheric trade has been growing more rapidly than exports to the rest of the world. This trade growth, in turn, has bolstered the economic performance of the countries of the region and enabled Latin American leaders to negotiate with the United States more confidently, as well as to embrace the long-term goal of hemispheric free trade.

Those who judge that the process is "off-track" make several points. The first is that more than seven years have passed since the commitment was made to create an FTAA and that only modest progress has been made since then. Negotiators have established a framework for negotiations and have produced a heavily bracketed text, but the differences among the key countries on basic issues remain large. Most of the hard negotiating work remains to be done. The United States, lacking fast-track authority, has not been able to provide strong leadership to making greater progress.

Most importantly, Brazil and the United States, the two key countries in the negotiation, remain far apart on key issues. Much of Brazilian industry is not supportive of the FTAA. Long protected by high tariffs and quotas, many Brazilian companies are wary that they would be overwhelmed by U.S. competition if the FTAA were to come to fruition. The United States, for its part, is determined to maintain protection in sectors most coveted by

Brazil, including textiles, steel, and agriculture. Brazil has made it clear that agricultural domestic support programs and export subsidies need to be addressed in the FTAA. The United States, however, maintains that these issues must be dealt with in the WTO Doha round because the United States does not wish to “unilaterally” disarm its farm programs with respect to the European Union. And Brazil has made it clear that it will not begin negotiations on sensitive issues until the U.S. President has fast-track implementing authority.

Public support for hemispheric free trade appears to be low both in the United States and in Latin America. Labor and environmental interest groups in the United States oppose free trade agreements that lack strong protections for basic labor and environmental standards. And many Latin American businesses and citizens fear the effects of greater exposure to the competitive pressures of large U.S. companies.

Extending the Andean Trade Preferences Act

The Andean Trade Preferences Act (ATPA) authorizes the President to grant certain unilateral preferential tariff benefits to Bolivia, Colombia, Ecuador, and Peru. The ATPA, which went into effect on December 4, 1991, expired on December 4, 2001. Often referred to as the trade component of then President Bush’s “war on drugs,” the ATPA attempted to encourage the economic development of Andean countries and economic alternatives to drug production and trafficking.

The Andean countries have asked the United States to extend the program beyond its expiration date for more than three years, and to reduce the list of products excluded from tariff benefits, and to add Venezuela as a beneficiary country. Colombian President Andres Pastrana in his February 27, 2001 visit to Washington urged the U.S. to expand coverage to agriculture, leather goods, apparel, and footwear.

The Clinton Administration did argue that the APTA has been successful in encouraging a move away from narcotics trade to legitimate business in the region and in increasing U.S. exports. Since APTA was passed in 1991, the four Andean countries have increased their exports to the United States by about 80%. Products benefitting from ATPA tariff preferences include cut flowers from Colombia, Ecuador, and Bolivia; precious metals and jewelry from Colombia, Bolivia, and Peru; and fish and fish products from Ecuador. By some estimates, the ATPA has created some 140,000 new jobs for these four countries since its inception.

ATPA countries hope that any extension will provide preferences for their textile and apparel products. They want unlimited duty-free access for apparel articles made from regional fabric and regional yarn, as well as duty-free treatment for other products currently excluded – such as tuna, dairy products, leather, meat, and sugar – could create an additional 200,000 jobs over the next four years.

On November 16, 2001, the House passed a bill (H.R. 3009) that extends the program through December 31, 2006, and provides similar, but more expansive benefits to those in the Senate version (S. 525). H.R. 3009 provides apparel items assembled in beneficiary countries from U.S.-made fabrics using U.S.-made yarn with unlimited duty-free access, as would processed tuna. Apparel items assembled from regional fabrics using U.S.-made yarn

would get quantity-limited duty-free access. Other product groups excluded from duty-free treatment, such as footwear and petroleum, would be eligible for duty-free treatment provided the President determines that they are not “import sensitive.”

On November 29, 2001, the Senate Finance Committee reported S. 525 with an amendment in the nature of a substitute for language in H.R. 3090, the Economic Security and Recovery Act. This would amend and extend the program through September 30, 2005. The bill allows new unlimited duty-free access to non-knit-to-shape apparel assembled in a beneficiary country from entirely U.S.-made fabrics and yarns. The bill awaits Senate action on the floor. In the meantime, the Bush Administration announced on February 14, 2002 that import duties on eligible products from the ATPA countries would be suspended for 90 days.

U.S.- Central American Free Trade Agreement

President Bush announced the administration’s interest in exploring a free trade agreement with five Central American countries – Costa, Rica, El Salvador, Guatemala, Honduras, and Nicaragua – on January 16, 2002 in a speech before the Organization of American States. The President stated that “our purpose is to strengthen the economic ties we already have with these nations, to reinforce their progress toward economic, political, and social reform, and to take another step toward completing the Free Trade Area of the Americas.” The President, however, gave no indication about the scope or timing of the negotiations. Nor did a subsequent meeting in San Salvador on March 24, 2002 between President Bush and the presidents of the five countries produce a firm timetable for the start of the negotiations.

For the United States, these Central American countries comprise a small trading partner. In 2001, both U.S. imports and exports to the region accounted for only around 1 percent of total U.S. trade. But for each of these Central American countries, the United States is their most important trading partner. For Costa Rica, the United States accounts for 40 percent of total trade; for El Salvador, 47 percent; for Guatemala, 48 percent; for Honduras, 63 percent; and for Nicaragua, 43 percent.

The five Central American countries benefit from a number of U.S. preferential tariff programs, including the Generalized System of Preferences (GSP) and the Caribbean Trade Partnership Act. These countries hope that a free trade agreement with the United States could provide greater assurance that these preferences would not be reduced or rolled-back in the future. Their hope is that a free trade agreement would produce more duty-free access for textiles and apparel products beyond what the preference programs now provide, as well as expand their access to the U.S. market for beef and sugar. Moreover, Central American leaders hope that an FTA with the United States would meet broader foreign policy objectives like strengthening democratic institutions in the region.

CHRONOLOGY

05/04/02 — El Salvador’s Ambassador to the U.S. said that the U.S. and five Central American countries have already begun informal negotiations toward a free

trade agreement, but that formal negotiations are unlikely to take place until Congress passed a trade promotion bill.

- 04/04/02** – President Bush urged the Senate to pass a fast-track bill and the Andean Trade Preferences Act by April 22.
- 03/22/02** – Fifty-four U.S. Senators wrote U.S. Trade Representative Robert Zoellick to seek elimination of Chile’s barriers to U.S. agricultural exports.
- 01/16/02** – President Bush announced that his administration wishes to negotiate a free trade agreement with Central America.
- 12/06/01** – The House approved a bill (H.R. 3005) by a vote of 215-214 to provide the President with trade promotion authority.
- 07/02/01** — A draft FTAA bracketed text of the nine chapters negotiated to date was released to the public.
- 05/01/01** — The Bush Administration announced that it supports an expansion of the Andean Trade Preferences Act to provide the broadest possible benefits for Colombia, Bolivia, Peru, and Ecuador.
- 04/22/01** — The Third Summit of Americas, held in Quebec City, concluded with an agreement to complete the negotiations by January 2005 and to implement the agreement by year-end 2005.
- 02/01/01** — U.S. Trade Representative Robert Zoellick stated that the U.S. would look for alternatives to the FTAA for promoting trade in the hemisphere if it proves impossible to revive the lagging initiative.
- 01/08/01** -- Chile and the United States begin formal negotiations to establish a free trade agreement.
- 05/18/00** — President Clinton signed into law (P.L. 106-200) legislation aimed at expanding U.S. trade with African and Caribbean Basin Initiative countries. The conference bill (H.R. 434) was approved by the House on May 4, 2000 by a vote of 309-110 and by the Senate on May 11, 2000 by a vote of 77-19.
- 05/04/00** — By a vote of 309-110, the House approved the conference report on H.R. 434, the Trade and Development Act of 2000. Title II expands trade preferences for Caribbean Basin exports of apparel products.
- 02/18/00** — Brazilian Foreign Minister Luiz Felipe Lampreia announced that Brazil is not going to commit to an FTAA until it sees what the final package is and whether the U.S. Congress will approve it.
- 08/10/99** — Chile’s Foreign Minister Juan Gabriel Valdes announced that Chile was ready to start preliminary work on a bilateral free trade agreement without U.S. fast-track negotiating authority in place.

- 09/25/98** — The House defeated H.R. 2621, a Republican leadership sponsored fast-track bill, by a vote of 180 to 243.
- 06/11/98** — Commerce Secretary William Daley expressed doubts that the 2005 deadline for completion of the FTAA can be met given an enormous negotiating agenda and the large number of diverse economies involved in the process.
- 04/19/98** — 34 Leaders meeting at the second Summit of the Americas in Santiago, Chile agree to formally launch FTAA negotiations.
- 03/19/98** — Trade ministers meeting in San Jose, Costa Rica agree on the principles, objectives, and venues that will guide the FTAA negotiations.
- 11/04/97** — The House defeated by a vote of 234-182 the United States-Caribbean Trade Partnership Act (H.R. 2644).
- 07/25/95** — Negotiations for Chilean accession to NAFTA officially began in Mexico City.
- 12/9-11/94** — Summit of the Americas held in Miami. Political commitment was made to negotiate a “Free Trade Area of the Americas” by the year 2005. In a separate action, the United States, Canada, and Mexico invited Chile to enter into negotiations to join NAFTA.
- 01/01/94** — The North American Free Trade Agreement entered into force.

FOR ADDITIONAL READING

CRS Issue Briefs

CRS Issue Brief IB95050. *Caribbean Basin Interim Trade Program (NAFTA/CBI PARITY)*, by Vladimir N. Pregelj.

CRS Reports

CRS Report RL30935. *Agricultural Trade in the Free Trade Area of the Americas*, by Remy Jurenas.

CRS Report RL30790. *The Andean Trade Preference Act: Background and Issues for Reauthorization*, by J.F. Hornbeck.

CRS Report 97-56. *Chilean Trade and Economic Reform: Implications for NAFTA Accession*, by J.F. Hornbeck.

CRS Report RS20864. *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by J.F. Hornbeck.

CRS Report RS20436. *Textile and Apparel Trade Issues*, by Bernard Gelb.