

NEW TRADE STRATEGIES IN THE AMERICAS
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Losing a historical opportunity?

A major historical opportunity to create an economically integrated Western Hemisphere is in the process of being lost yet once again. The Western Hemisphere (WH) came closer than ever before to the realization of this two-centuries' old dream during its eight years of the process of negotiating the Free Trade Area of the Americas (FTAA) between July 1995 and January 2004, but over the past two years the opportunity and the momentum have been slipping through the fingers of the participating governments.

Why the stalemate in the hemispheric integration process?

As originally vetted, the FTAA is the most ambitious free trade initiative of the postwar trading system. Never before have so many countries of such widely diverse sizes and levels of development joined together to negotiate a reciprocal free trade pact. Under the best of circumstances, crafting such a pact would be extremely challenging. But negotiators have not been so lucky. Their task has been complicated by the financial crises and political turmoil that have beset many Latin American countries over the past decade, the new security imperatives of the post-9/11 world, and now the prospective expiry of US Trade Promotion Authority in June 2007.

Over the past twelve months pressing economic and political problems at home have beset Latin American governments; all face the challenge of adjusting to rapidly changing conditions in the global economy generated by technological innovation and by the emergence of the Chinese trading juggernaut. Not surprisingly, questions have been raised whether governments can fulfill their lofty Summit of the Americas promises—or whether they even still want to do so.

A battle of influence has also been underway between the two largest countries in the Hemisphere, Brazil and the United States, both of whom have changed their perspective on trade and hemispheric integration since the FTAA process began after the first Summit of the Americas in December 1994. More than a decade later, these two economic giants, whose support and leadership are necessary if the dream of integrating the Americas is to become a reality, find themselves less than fully convinced about the desirability of a hemispheric-wide free trade agreement. And other countries in Latin America have turned away from the FTAA to embrace other, rival paths to economic integration, such as the Boliverian Alternative for the Americas or ALBA, an initiative of created by Venezuela in 2004 that was and embraced at end in April 2006 in an expanded version form by Bolivia and Cuba in the form of a People's Trade Agreement. Under the ALBA vision, trade constitutes only one component of an economic relationship, of which the most important elements are economic cooperation and product complementarity². This alternative vision opposes neo-liberal theories of free trade and comparative advantage and eschews a market-driven approach in favor of a state-driven one. Under the agreements that have been concluded through ALBA, energy is a critical component.

The stalemate in the economic integration process derives from the fact that countries in the Hemisphere. no longer appear to define their trade priorities, which have now become an integral part of their foreign policy, in the same way. This definition

coincided at the time of the Summit of the Americas in Miami in December 1994 during the period of the “Washington consensus” and remained convergent for seven years, as the FTAA negotiations moved forward. However, two events occurred in 2002 that in hindsight represent a watershed in both countries and a turning point for the definition of their national interests in trade.

In the United States the summer of 2002 was marked by Congressional passage of Trade Promotion Authority – the first time that the President had been able to obtain this required legislative approval to engage in trade negotiations since it had expired at the conclusion of the Uruguay Round at the end of 1993, nearly ten years earlier. This gave US negotiators a new lease on life, but a very short lease within which to maneuver, as the content of any new trade agreement was already broadly defined by the terms of the TPA Act. With this in hand, the USTR turned to the pursuit of a very ambitious trade agenda in bilateral Free Trade Agreements (FTAs) – the post-NAFTA template - that required not only market opening but also the adoption of far-reaching rules in behind-the-border areas. Institutional transformation became one of the stated goals of U.S. trade policy. Additionally, US negotiators were given little room to compromise on sensitive issues such as market access liberalization for certain agricultural products, trade remedy procedures and mobility of labor as part of a services chapter.

In Brazil, President Lula da Silva of the Workers’ Party was elected in the fall of 2002, the first President from a working class background, running on a more populist platform than any previously seen.. Although President Lula’s government has followed an orthodox line with respect to monetary policy, it has preferred to adopt a more strident rhetoric on trade, associating the FTAA process with a perceived dominance by the United States and the imposition of a negotiating agenda and objectives that no longer fit national aspirations.

Brazil’s new government concluded that it had little interest in proceeding with the FTAA in the then existing framework of negotiations. Brazil’s redefinition of its national interest was also based in its political ambitions to retain leadership in South America and to give priority in the trade arena to the Doha Development Agenda, or the ongoing round of multilateral trade negotiations under the WTO, where it felt that the prospects for liberalization in agricultural trade were more promising. In parallel, Brazil pushed for a regional deal with the European Union over one in the Western Hemisphere where it felt that the United States would dominate the trade agenda.

Under the insistence of Brazil and its Mercosur colleagues, a new framework for the FTAA negotiations was developed at a meeting of Trade Ministers in Miami in November 2003. The framework departed from all previous trade negotiations and regional agreements in that it called for a core of concessions focusing on market access (lower tariffs and non-tariff trade barriers on goods, including agriculture) accompanied by minimum obligations that would be required of all countries in the other negotiating areas, alongside a discretionary adherence by countries to deeper and more far-reaching obligations in areas of their choice, such as trade in services, strengthened intellectual property provisions, government procurement rules, investment, and transparency, areas that have been highlighted in recent regional and bilateral free trade agreements (RTA’s) in the Hemisphere.

This two-tiered approach (a common tier of mutual but minimal obligations focused on market access, and an upper, voluntary tier of strengthened obligations in various

Under this approach, both tiers or both levels of disciplines were to constitute the FTAA. However, the notion of a "single undertaking" that had been one of the cornerstones of the FTAA negotiating process since the beginning was cast aside.

Problems immediately became apparent when FTAA participants tried to make this new framework operational, the main problem being that the interests of the U.S. and Brazil are very much at opposite ends of the spectrum. The lower tier, with its emphasis on market opening, particularly for agricultural products, is the important one for Brazil. But for the United States it is the upper tier of strengthened disciplines, especially in the areas of services and investment where U.S. competitiveness is deemed to be greatest. that are the focus. After one formal but unsuccessful attempt to develop procedures for the negotiations under this new approach in February 2004, it has since proved impossible to moved forward with the negotiations. The United States and Brazil, as co-chairs of the negotiations, have been unable to come to an agreement on how to proceed concretely.. Indeed, there has been no substantive FTAA negotiating meeting since the Miami framework agreement was agreed.

i) US response to the FTAA stalemate

The US and Brazil have both responded with active diplomatic initiatives to the stalemate in the FTAA talks. The main U.S. response has been a series of bilateral free trade negotiations with several Latin American countries. In its post-NAFTA trade agenda, as evident in the revised and updated template of FTAs that have been negotiated by the USTR since 2002, the U.S. has developed an elaborate structure of a large number of minimum prerequisites for domestic law in various trade-related areas that its FTA partners must accept (such as strengthened intellectual property laws and enforcement procedures, standards and technical regulations, procurement procedures, strengthened regulatory frameworks for telecommunications and professional services, transparency requirements in domestic laws for publication, prior comment and review, strengthened dispute settlement procedures. Although the U.S. prerequisites are not as extensive as those of the EU, they nonetheless constitute a major set of changes to internal laws and institutions that pose ambitious challenges to FTA partners.

The United States now has or is negotiating free trade agreements (FTAs) with the following countries in the Americas: Chile, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Panama, Peru, Colombia, and Ecuador. This is in addition to the NAFTA with Canada and Mexico. The countries missing in this FTA web are those in the Caribbean, along with Venezuela, Bolivia and the four countries of Mercosur (Brazil, Argentina, Paraguay, and Uruguay). All these separate agreements include, or will include if consummated, the provisions that were made discretionary under the Miami FTAA framework.

ii) Brazil's response to the FTAA stalemate:

For its part, Brazil has adopted a similar trade strategy; it has signed skeletal FTAs with most of its LAC neighbors (although these cover goods only and exclude both services and investment, as well as other trade-related issues); product-specific deals with Mexico and China; and is negotiating a free trade pact with the European Union (whose progress lags as well). To date, the Brazilian strategy has scored political points in Latin America but made little progress in advancing Brazilian export interests in major industrial markets.

Brazil has sought to expand MERCOSUR, it plus Argentina and Venezuela make up about half of Latin America's population and GDP. Venezuela was invited to become a full member of Mercosur on 9 December 2005. Later that month Evo Morales was elected president in Bolivia. The Argentinian Carlos "Cacho" Alvarez, chair of Mercosur's permanent representatives' commission, promptly announced a proposal for Bolivia to join Mercosur as a full member under the same conditions. With Chile and other members of the Andean Community already associate members, this expansion sets Mercosur on the way towards becoming the South American Community of Nations, an initiative launched in Cuzco, Peru, on 8 December 2004, by the Government of Brazil.

Although Argentina under President Kirchner's government has been fairly lukewarm to the creation of the South American Community of Nations, preferring instead to focus on expansion of Mercosur, nonetheless it has gone along in sharing the principle of South American-wide integration. At the Cuzco summit, President Chávez had applied his flair for metaphor to the process, calling it a train with "a political locomotive and a social flag, rolling on economic rails with culture as its fuel". Brazil has thus countered the US negotiation of regional bilateral FTAs through focusing on creating a South American identity and economic space. It has however sought this regional expansion based more on a political and social platform, rather than an economic one. Like the U.S., Brazil's initiative also carries with it clear foreign policy overtones.

At one point Brazil and other of its Mercosur partners have suggested negotiating a bilateral FTA with the United States. This idea to date has been rejected, presumably because it would not include all of the areas that the US TPA requires in a regional agreement, and the United States would presumably not wish to provide an example within the hemisphere of an "incomplete" FTA. Additionally, such an agreement would eliminate any incentive for Mercosur members to move forward at some point with a revival of the FTAA negotiations.

iii) The Caribbean response

CARICOM has been concerned about the progress of the proposed 34-nation hemispheric free trade agreement, since negotiations broke down in February 2004. Because of energy concerns, Caribbean leaders are reconsidering the region's strategic alliances, including a possible free trade agreement with Venezuela as an alternative to the stalled Free Trade Area of the Americas (FTAA) negotiations, even as Venezuela has sought to extend its strategic position in the Caribbean with its PetroCaribe oil initiative.. This announcement was made by Prime Minister P.J. Patterson of Jamaica made in Port-of-Spain, Trinidad at a press conference in February 2006, following his chairing of the Caribbean Community (CARICOM) Prime Ministerial Sub-Committee on External Negotiations. Mr. Patterson also added that there was a need for current bilateral agreements with Cuba by CARICOM to be converted into a collective agreement with that country. "All of us are required to examine what are the prospects of ever reaching a Free Trade Agreement for the Americas. Simply put, is the FTAA on or is it just going to be a mirage," he said. The CARICOM Regional Negotiating Machinery (RNM) is already conducting a preliminary study on the region's options on the issue.

CARICOM members will soon need to define their trade relations as well with the

United States as they face the expiry of the Caribbean Basin Trade Partnership Act (CBTPA) in September 2008. Without an FTAA option at that point, they will have to decide if they wish to lobby for another extension of the CTPA or if they prefer to go into a bilateral negotiation of an FTA with the U.S. Bilateral negotiations that began with Canada in 2003 and that were to serve as a springboard for this have been proceeding very slowly.

The FTAA and the IV Summit of the Americas

The Summit of the Americas process, begun in December 1994, establishes the common agenda of the democratically-elected leaders of the hemisphere and the outcomes of the Summit meetings reflect their shared objectives values and responsibilities. The Summits provide a unique forum for the heads of state and heads of governments in the Western Hemisphere to discuss solutions to common political, economic, and social problems in a multilateral and comprehensive way, and to establish periodic work programs and priorities to work on these issues.

The Fourth Summit of the Americas was held on November 4-5, 2005 in Mar del Plata, Argentina. While the theme of the Summit was "Creating Jobs to Fight Poverty and Strengthen Democratic Governance," several countries led by the US, wanted to use the opportunity to re-ignite the stalled talks on the FTAA. Trade - more specifically the FTAA - thus proved to be the focus of much of the discussion and the most divisive issue at the Summit, nearly leading to a collapse of the final agreement in dramatic debate at all levels, including that of the heads of state.

Government officials argued over whether the final declaration would include key language on when high-level FTAA negotiations might resume. The turning point came when President Vicente Fox of Mexico suggested that the FTAA negotiations go forward with those "like-minded" countries that were prepared to negotiate a full-fledged agreement, as per the original objectives of the San Jose Ministerial Declaration. Indeed, it seemed that several countries had made this suggestion before the Miami framework was accepted at end 2003.. The paragraph on the FTAA finalized in the Summit Declaration of Mar del Plata (reproduced below) was agreed in the evening of the last day and includes two options or points of view with respect to the FTAA – the first time that such a compromise has occurred at the Summit level since its inception. The first option reflects the position of 29 countries that wish to go ahead with the FTAA negotiations and instructs officials responsible for trade from these countries to:

"..... resume their meetings, during 2006, to examine the difficulties in the FTAA process, in order to overcome them and advance the negotiations within the framework adopted in Miami in November 2003. "...

This expression of will by the large majority of countries in the Hemisphere to move forward in the FTAA talks, even without the four Mercosur countries and Venezuela, is an important development, as it paves the way for the possibility that the FTAA negotiations could resume among like-minded countries. It also is important in proving wrong the assertion that most Latin American countries see no value in a future FTAA agreement.

The question now will be what happens next. Will the countries that expressed this opinion really be prepared to act upon it. Will Mexico or Colombia be prepared to act

as the catalyst to move this process forward among the 29? And will the United States really go forward without Brazil and the other Mercosur countries in the most important trade initiative of this century?

What next? – After the Mar del Plata Summit

In this new world of the 21st century, with the proliferation of bilateral FTAs and with the option of the FTAA still on the table, as well as the ongoing Doha Development Round under the WTO, Latin American and Caribbean countries find that their trade agenda must be a much more complex one than in the past. The regional options appear to be at the top of the list for many, as they pursue bilateral FTAs primarily with the United States and secondarily other LAC countries.

Text from the Declaration of Mar del Plata:

19. Recognizing the contribution that economic integration can make to the achievement of the Summit objectives of creating jobs to fight poverty and strengthening democratic governance:

A. Some member states maintain that we take into account the difficulties that the process of the Free Trade Area of the Americas (FTAA) negotiations has encountered, and we recognize the significant contribution that the processes of economic integration and trade liberalization in the Americas can and should make to the achievement of the Summit objectives to create jobs to fight poverty and strengthen democratic governance. Therefore, we remain committed to the achievement of a balanced and comprehensive FTAA Agreement that aims at expanding trade flows and, at the global level, trade free from subsidies and trade-distorting practices, with concrete and substantive benefits for all, taking into account the differences in the size and the levels of development of the participating economies and the special needs and special and differential treatment of the smaller and vulnerable economies. We will actively participate to ensure a significant outcome of the Doha Round that will reflect the measures and proposals mentioned in the previous paragraph. We shall continue to promote the established practices and activities in the FTAA process that provide transparency and encourage participation of civil society.

We instruct our officials responsible for trade negotiations to resume their meetings, during 2006, to examine the difficulties in the FTAA process, in order to overcome them and advance the negotiations within the framework adopted in Miami in November 2003. We also instruct our representatives in the institutions of the Tripartite Committee to continue allocating the resources necessary to support the FTAA Administrative Secretariat.

B. Other member states maintain that the necessary conditions are not yet in place for achieving a balanced and equitable free trade agreement with effective access to markets free from subsidies and trade-distorting practices, and that takes into account the needs and sensitivities of all partners, as well as the differences in the levels of development and size of the economies.

In view of the above, we have agreed to explore both positions in light of the outcomes of the next World Trade Organization ministerial meeting. To that end, the Government of Colombia will undertake consultations with a view to a meeting of the officials responsible for trade negotiations.

a) Growing Adherence to the Bilateral Option

The temptation to bypass the difficulties inherent in multilateral and regional negotiations and open a direct path to the giant US market has led many countries to approach the United States for a bilateral FTA, and they have often found a willing partner. Even on the fringe of the Miami Ministerial Meeting in November 2003, the United States announced that it would open bilateral negotiations with some members of the Andean Community - Colombia, Peru and Ecuador. In some ways this announcement could be considered as important an outcome in Miami as the changed vision of the FTAA.

The United States accounts for three-fourths of hemispheric trade on the whole and for the largest share of total trade of the North American, Central American, Andean and Caribbean countries. Moreover, much of that trade has already been or will be liberalized under existing and prospective FTAs. The United States already has implemented FTAs with Canada, Chile, and Mexico and has ratified pacts with the five Central American countries and the Dominican Republic (negotiations which were ongoing at the time of the Miami Ministerial Meeting). The treaty known as the DR-CAFTA was approved by the U.S. Congress in 2005 and was to come into effect on 1 January 2006. There have, however, been delays in its implementation. An FTA between the U.S. and Panama was near completion in early 2006.

Negotiations for bilateral FTAs between the U.S. and some of the Andean Community members began in May 2004 with Colombia, Ecuador and Peru, and Bolivia as an observer. These negotiations have taken longer than envisaged. While Peru was able to finalize its FTA with the U.S. in November 2005, as of early 2006 the negotiations with Colombia and Ecuador were still ongoing, though expected to conclude no later than mid-2006.

For CARICOM members, the Caribbean Basin Trade Partnership Act of 2000 (CBTPA) extends US unilateral tariff preferences to most Caribbean exports not covered by the Caribbean Basin Initiative (CBI) through September 2008. What will soon be left as not covered by free trade commitments or preferential arrangements with the largest hemispheric market will be US trade with Mercosur and with Venezuela.

In fact, if the United States successfully concludes ongoing FTA talks with Panama and the Andean countries of Colombia, Ecuador and Peru, it will have achieved free trade with countries that already account for 88 percent of its two-way trade in the Hemisphere.

This growing web of bilateral FTAs in the Western Hemisphere negotiated by the United States is leading rapidly to the development and legal consolidation of a hub-and-spoke arrangement, in which the largest market – the US market – serves as the hub with the other countries being the spokes. The main spokes still missing to this wheel are the Caribbean countries and the Mercosur members.

b) The New Template for FTAs

The form, complexity and depth of bilateral agreements has evolved considerably over the past decade since NAFTA first blazed the trail in 1994.

- ***Pre-NAFTA type Agreements*** – “Old Vision” These agreements were simple in structure, focusing only on trade in goods. There were no provisions on Rules other than for Goods and no provisions related to dispute settlement.
- ***NAFTA type Agreements*** – “New Vision” these FTAs, largely modeled on NAFTA, have been negotiated in the Western Hemisphere since 1994. Comprehensive in their scope and approach to trade liberalization, these FTAs cover goods, services and investment. They provide for ambitious and far-reaching objectives for behind-the-border integration, including substantive disciplines in new areas such as investment, government procurement, intellectual property rights, and competition policy, along with sophisticated dispute settlement mechanisms. Such agreements posed a major challenge to Latin American and Caribbean countries as they eliminated the rationale for the old type of integration among countries of similar levels of development. A new cost-benefit logic emerged for developing countries to link up with very large and competitive markets, propelled by the NAFTA experience and its beneficial impact on Mexico’s growth. A concept of “new regionalism” began to emerge, typically involving small countries attempting to link up with larger ones (Canada, the United States or the European Union).
- ***Post-NAFTA template for RTAs*** - Post-NAFTA FTAs or those signed after the U.S. obtained Trade Promotion Authority (post 2002) go even further than NAFTA in providing for deeper disciplines, greater transparency and levels of economic integration. The new FTAs have pushed the envelope in their inclusion of new and deeper rules on trade-related issues: Examples of such disciplines include: i) elimination of Antidumping disciplines and substitution of Safeguard disciplines (Canada-Chile FTA); ii) inclusion of chapters on Services, Investment, Government Procurement, and Competition Policy; iii) inclusion of provisions related to Transparency, Labor and Environmental issues either in the form of side agreements or more recently through the inclusion of full provisions within the body of the treaty; iv) experimentation with different types of instruments to enforce the latter provisions, including cooperative actions, the possibility of monetary fines, mediation or formal dispute settlement. A detailed analysis of this new template for FTAs is found in a comparative study of the Chile-US FTA and the CAFTA-DR-US FTA that was carried out by the Tripartite Committee (IDB, ECLAC, OAS) and that can be found at www.sice.oas.org/TPCStudies/Default.htm

Interestingly, the bilateral FTAs based on this newer post-2002 template, go further than do the well-established custom unions in the Western Hemisphere (Mercosur, the Andean Community, the Central American Common Market and CARICOM) to bring about economic integration, though in theory this should be a contradiction. While custom unions in the Hemisphere have focused more heavily on political aspects of integration (especially Mercosur; Central American Common Market; Andean Community), the economic content of trade liberalization has been much more

curtailed and perfunctory. Whether or not this will continue, or whether the existing customs unions will make a new push to deepen their own levels of integration will remain to be seen.

c) Underlying Objectives for pursuing FTAs

With such a wide array of FTAs coming into existence during the past decade and currently under negotiation, it is useful to examine the various reasons that might compel countries to favor the regional, especially bilateral or small-set FTA over a multilateral or a hemispheric option. Objectives that countries in the Western Hemisphere have for entering into regional trade arrangements are of course varied and may include:

- The consolidation of market-oriented policy reforms
- The enhancement of competitive positions on world markets
- The attraction of investment
- The advancement of foreign policy objectives

For many countries, the primary value of their bilateral FTAs is to obtain secure access to the US or the North American market since these agreements turn their unilateral preferences into contractual obligations. By “locking in” open access to markets, FTAs help to considerably reduce uncertainty about the future course of trade and regulatory policies and thus facilitate business planning and investment. For many developing countries, this benefit is a key to the success of their investment-led development strategies.

For small economies, particularly those in the Caribbean and Central America, the stakes are even greater. For them, the issue is not whether to integrate with their hemispheric trading partners, but how to do so. Given their size, heavy reliance on the production and trade of a single commodity or service, underdeveloped physical infrastructure, and limited human and technological resources, these countries cannot afford to isolate themselves from their major markets since they are unlikely on their own to reap sufficient economies of scale and scope to compete effectively in global markets. The challenge for these countries is threefold: encouraging growth in trade and inward investment from their hemispheric trading partners; restructuring their economies to diversify the mix of production and expand employment opportunities; and managing the political backlash that inevitably will be provoked by the substantial adjustment burdens required to implement obligations under free trade agreements.

Thus on the part of developing Latin American and Caribbean countries, bilateral trade agreements with developed economies are viewed on the whole as providing an important venue for increased and stable access to large markets, as well as instruments for positive signaling to potential foreign investors. These agreements are also used as development tools, to push forward programs of domestic policy reform and to strengthen national institutions.

Although these same objectives can be achieved through negotiating a trade agreement at the multilateral level, movement here has been proving to be much slower. Prospects for concluding the Doha Development Round at end 2006 are still very uncertain. In terms of perceived benefit for effort, the bilateral option appears quite attractive to many policy makers who need to finalize a “trade deal” and show concrete results while in office.

The objectives for developed economies to engage in bilateral FTAs in a North-South

context are clearly different from the objectives of their developing partners. More developed-country governments look for to trade agreements as first and foremost a foreign policy tool, helpful in solidifying political, security or strategic objectives. FTAs are perceived as one of the most effective instruments for creating political allies through binding economic ties. Additionally, the provisions of FTAs allow for the developed-country partner to participate in institution strengthening along the lines that it perceives to be most useful. Having trading partners conduct trade relations according to the rule of law is a useful precedent for enforcing the rule of law in other areas as well.

In South-South FTAs, trade agreements appear to be used much more as vehicles to strengthen political processes or to weaken historic tensions. They may also be used as leverage to increase bargaining power vis-à-vis third countries on the multilateral arena.

d) Economic Effects of FTAs in the WH?

What have been some of the economic effects of FTAs in the Western Hemisphere? Have these been positive and beneficial for members? Evidence for many agreements is mixed or still inconclusive. However, some general statements can be made, particularly about the NAFTA-type FTAs.

- **Faster and deeper liberalization for goods and services**

FTAs have succeeded in achieving greater market access for the following reasons: tariff phase-out programs are based on quick, automatic and nearly universal schedules; the base rate for liberalization coincides with MFN applied rates for nearly all FTAs; most agreements carry out liberalization over ten years; the scope of liberalization is nearly universal liberalization, as contrasted with that of the various multilateral trading rounds under the WTO.

- ***Positive effects on rule-making***

Recent FTAs have had far-reaching effects on rule-making in trade-related areas behind the border such as services, investment, competition policy, government procurement and intellectual property rights, going beyond the WTO Agreements. They have also brought about a modest amount of mutual recognition for trade in goods and professional services, and regulatory harmonization for services.

- ***“Locking in” reforms***

The robust dispute settlement mechanisms included in FTAs allow these agreements to be used as commitment mechanisms for institutional strengthening and for ensuring that reforms are not reversed by future governments.

- ***Reducing domestic price distortions***

Domestic reforms undertaken as result of FTAs have brought in more competition and reduced domestic price distortions, for example as the Dominican Republic moved to reduce tariffs because of the FTA with Central America.

- ***Inspiring behavioral changes:***

Transparency disciplines in recent FTAs have reduced the scope for rent-seeking in the private and public sector. They have also inspired behavioral changes over time in the functioning of political economy processes and in government-private sector interaction.

Are FTAs the best trade strategy for Latin America and the Caribbean?:

Some have argued that FTAs are easier to realize, easier to defend at home and more flexible than global trade agreements; but are they the best trade strategy for Latin America and the Caribbean? A certain amount of considerations, as outlined below, may throw some sobering light on the pursuit of FTAs although these are unlikely to dampen the enthusiasm of policy-makers to conclude them.

- Regional deals require a great amount of additional negotiating capacity, which is not always available, especially in Latin America and the Caribbean. On the other hand they provide valuable experience for developing country negotiators and policy makers, particularly where most of the issues are overlapping issues.
- Regional agreements may weaken the bargaining power of developing nations in subsequent trade negotiations, particularly at the WTO level
- Improved market access to developed markets, in particular for agricultural products and for the temporary movement of workers, is very difficult to achieve given the little bargaining power that most developing countries have when dealing individually with economic superpowers such as the U.S. or the EU.
- With the proliferation of RTAs with the US as the Hub, Congress has to vote more often on trade issues, which may generate a sort of 'liberalization fatigue'.
- The more FTAs are negotiated with questionable economic impacts, particularly in the short run, makes it that much more difficult to justify subsequent trade agreements domestically.
- The complexity of recent FTAs makes them challenging to implement and administer, and requires considerable institutional sophistication as well as human capital. Trade deals also become more complex, because the different parts of the political spectrum and interest groups can add concerns as a price for their support. (labor and environment on the one side, and capital movements and intellectual property rights on the other).
- Provisions on intellectual property rights contained in North-South FTAs are often more stringent than those in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). For Latin American and Caribbean countries this may mean the loss of some policy space (e.g. in addressing public health problems).

- On the other hand, as previously stated, governments in developing countries may use the more easily realized and defended FTAs as a tool to justify difficult policy changes that may be in the best interest of their economies and that they otherwise could not have managed to push through.
- FTAs may boost intra-regional trade, but they may also reduce incentives to further liberalize at the multilateral level. Developing countries that enjoy preferential access to developed markets are likely to resist further most-favoured-nation (MFN) tariff reductions.

Fitting the many FTAs into broader hemispheric integration

With the ever-growing web of bilateral and plurilateral FTAs in the Hemisphere, the future of trade relations is becoming increasingly complex. How can these individual agreements be fit into some broader, coherent framework and how could the coexistence of the FTAA and other trade agreements be reconciled? Currently there are more than 40 trade agreements in the Western Hemisphere, apart from the ones under negotiation. This presents a challenge as to make this complex set of trade agreements compatible. Three possible scenarios can be envisaged, assuming that at one point the FTAA negotiations again move forward. These are the following:

- Growing spider web of RTAs
- À la carte two-tiered approach along lines of Miami Ministerial Declaration
- FTAA as a docking station for basic market access

i) Growing spider web of RTAs

Under this scenario the United States would continue to negotiate bilateral or sub-regional agreements, and reinforce its position as the center of a hub-and-spoke arrangement in the Hemisphere, with the other signatories as the spokes. In this scenario, the Latin American and Caribbean partners of the U.S. will not be able to accumulate origin in their exports to the biggest market in the world. If the FTAs currently under negotiation are successfully concluded, then the result of the U.S. piecemeal approach to trade relations in the Hemisphere will be to unite all the Pacific Coast countries of North, Central and South America together in free trade with the United States, if not among themselves. The same would apply to agreements negotiated by Brazil with countries in the Southern Hemisphere, though on a smaller scale.

ii) À la carte two-tiered approach:

Under this scenario there would be a common set of rights and obligations (mandated from the Miami Ministerial Declaration 2003), with countries undertaking different levels of commitment. There would be two set of rights and obligations that would coexist: A common set shared by all countries; and, Plurilateral arrangements for participants willing to assume additional, deeper commitments.

iii) Docking station

Under this scenario there would be hemispheric disciplines for trade in goods, but the rest of the agenda would be bilateral. The docking station would be a free trade zone (FTZ) for goods, based on accumulation of origin, and would include a dispute settlement mechanism and institutional arrangements. Countries of the hemisphere would progressively link themselves to the docking station through bilateral negotiations. Other disciplines such as investment, services, GP and IP would be part of the bilateral relations between members of the FTA but would not be included in it. Three main consequences can be imagined as the result of these scenarios:

- A future FTAA would have its own set of negotiated rules, tariffs and requirements while the exporter decides on a case-by-case (*à la carte*) whether to opt for FTAA treatment or treatment under another sub-regional agreement;
- The FTAA overrides pre-existing agreements on tariffs, rules of origin and rules in other common issue areas, becoming the only valid legal agreement governing hemispheric trade, with the other agreements continuing in effect but retaining essentially their political character;
- The FTAA does not step into in to regulate tariffs, origin or technical requirements among countries, which already have a trade agreement in force.

Why then bother with the FTAA?

The short answer is that an FTAA yields both economic and foreign policy benefits. First, the FTAA would have beneficial effects on the conduct of overall economic policy in and economic relations among the participating countries. Second, the FTAA initiative covers the one big gap in the free trade matrix of the Western Hemisphere, linking the major economies of North and South America, whose bilateral trade, as projected by gravity models, could expand two or three-fold in response to FTA-type reforms. At the same time, the hemisphere-wide FTA would help harmonize over time the separate free trade regimes that have been negotiated among regional trading partners. Third, and perhaps most importantly, the FTAA is the economic engine that drives hemispheric cooperation on more than 20 initiatives undertaken by leaders at the Summit of the Americas involving a number of political, socio-economic, and cultural issues (e.g., promoting education, strengthening the rule of law, protecting the rights of indigenous peoples).

Conclusion

The policy of concluding individual FTAs in lieu of a hemispheric agreement has the merit of continuing to further the process of trade liberalization within the hemisphere, albeit on a piecemeal basis. However it has the defect of developing into a hub-and-spoke structure in which the United States has bilateral free trade with many countries, but this freedom of movement for goods and services cannot be generalized as between the Latin American signatories. Likewise, Brazil's creation of a South American free trade space might stimulate trade among South America, but omits other sub-regions of the Hemisphere (Caribbean, Central America, North America). Neither approach serves to stimulate intra-hemispheric trade or investment on the whole, instead continuing to fragment the various trading partners and regions

within the Americas.

The proliferation of bilateral economic integration agreements as a trade strategy in the hemisphere may also serve to complicate trading relationships. Rules of origin often differ among the many agreements. Exporters find themselves searching for the proper country from which to export goods in order to ship from a country that has preferential relations with the destination country. The merit of having a single preferential agreement in the hemisphere to cover trade flows and trade relations would certainly be more desirable than the proliferation of the many and varied agreements that now exist.

Fostering economic development is the most important objective of most Latin American and Caribbean countries. They have been anxious to conclude bilateral FTAs with the United States because of the access they would gain to the largest hemispheric market. However, for most countries in the Hemisphere, their ultimate ambition remains the creation not of a bilateral market but of a hemispheric one, that promotes south – south trade and investment flows as well as north-south flows. They will realize that the main beneficiaries of an FTAA would be the countries of Latin America and the Caribbean, primarily because they would achieve free trade at last with each other by removing their own barriers (often quite substantial) to intra-hemispheric trade.

The communiqué of the recent Summit of the Americas in Mar del Plata shows that most countries in the Americas wish another opportunity to move forward together to create an arrangement that would both enhance their trade with the United States as well as with each other. However, the growing ideological rift that is opening in Latin America as between those countries embracing trade liberalization and globalization and those who would appear to be turning inwards towards populism and greater self-reliance may well impede the resumption of the FTAA negotiations in the near future. At some point in the 21st century the FTAA may become a reality, but it will not do so without the necessary political will and leadership. The worthy vision of a free trade area encompassing all 34 of the democratic countries in the Hemisphere deserves to be reconsidered before the web of smaller sub-regional agreements becomes too entangled and this historical opportunity slips away.

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2 - See explanation of the ALBA on the official website
<http://www.alternativabolivariana.org/>

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