

The FTAA after Quebec: What happened? What's next?

by Marc Lee

April 2001 was a crucial month for both supporters and opponents of the Free Trade Area of the Americas initiative. Greeted by 10,000 protesters, Trade Ministers met from April 5-7 in Buenos Aires, Argentina, to talk in detail about the state of the FTAA and the process to move it forward. Two weeks later, the Summit of the Americas in Quebec City made international headlines with pictures of protesters and police amid clouds of tear gas. Some 50-60,000 people protested at the height of the Quebec Summit, and many experienced the burn of tear gas for just showing up to voice their concern about the FTAA.

This briefing note does not address the very important issues related to the massive crackdown on civil liberties and the right to protest that occurred in Quebec, something that is currently being documented and processed in many other publications. Instead, this briefing note looks at the events behind the Wall and in the lead-up to the Quebec Summit, and what they mean for the FTAA project. It updates an earlier, more extensive CCPA analysis, *Inside the Fortress: What's going on at the FTAA negotiations*, in light of the Summit of the Americas and the Buenos Aires Trade Ministerial.

Releasing the Text

A significant step towards an FTAA was made earlier this year, when a draft text for the agreement was compiled based on the positions put forward in the nine FTAA negotiating groups. This highly bracketed text (bracket-

ets indicate areas of disagreement) was assembled by the Trade Negotiations Committee (TNC), consisting of Vice-Ministers of the 34 nations, and announced at the last TNC meeting in Lima, Peru, in January.

The secrecy surrounding this text quickly became a lightning rod for discontent. In response to public pressure, Trade Ministers agreed in Buenos Aires to publicly release the draft text—once it had been translated from English and Spanish to French and Portuguese. This was a shrewd manoeuvre to deflate a major criticism of the FTAA in the lead-up to Quebec, while keeping the text secret until after the Summit media buzz died down.

The draft text had still not been released at the time of writing. The long delay in producing the text raises concerns that negotiators may only produce a “scrubbed” version (for example, without identification of which countries have proposed which bracketed text). It is also unclear whether governments will update the public version of the text, keeping it current to reflect developments at the negotiating table. The FTAA negotiations are still far from a transparent process.

Nonetheless, it is significant that for the first time a draft text of a trade agreement will be made public by the drafters (both the NAFTA “Dallas text” and the MAI were leaked). Negotiating with a public text will make life much more difficult for trade negotiators. Critics of the FTAA are now very well versed in the arcana of trade agreements, and will be analyzing the draft text and tracking the most egregious elements as the process of “removing the brackets” gets underway.

In the interim, a leaked copy of the FTAA draft Investment chapter surfaced just prior to the Quebec Summit. In broad strokes, the draft Investment chapter shows that Ministers have not learned the lessons from NAFTA (in particular, from the numerous investor-state challenges to date). Indeed, it appears that negotiators are seeking to expand the scope of investor rights, and further handcuff governments, in the FTAA.¹

Setting the Timetable for the FTAA

Buenos Aires set the timelines for the post-Quebec negotiations. The FTAA negotiations are to be completed by January 1, 2005. The agreement is then to be ratified and implemented by December 31, 2005. These dates clarify the original vague wording of a 2005 deadline for the FTAA, over which there was some dispute. In Quebec, it was announced that the next Summit of the Americas will be held in Buenos Aires some time in 2005. This will allow leaders to bless the completed deal, or, if negotiations have stalled, to make the high-level trade-offs and do the necessary arm-twisting to complete it.

The 2005 completion date means that FTAA cheerleaders Canada and the U.S. will have to go to the polls prior to ratifying any trade deal. U.S. President Bush must also secure Fast Track trade negotiation authority (Fast Track enables the President to negotiate trade deals that are then put to a straight “yes” or “no” vote in Congress), which is considered necessary for the FTAA negotiations to proceed. Lobby groups have already turned up the political heat in Washington, as many analysts believe that Bush will seek Fast Track this Fall.

Numerous other countries will also face their electorates over the next four years. In Latin America, a crucial election for the future of the FTAA is the 2002 Brazilian election. This election will be influenced by widespread energy shortages in Brazil this year, which could undermine support for President

Cardoso’s ruling party (Cardoso himself cannot run again for election). In Venezuela, it is very likely that the FTAA will be submitted for referendum. The ratification process would likely take longer than the December 31, 2005 deadline, according to a Venezuelan official.²

In the medium-term, a deadline of April 1, 2002 was set to agree on “negotiating modalities”—the structure and format for how the rest of the FTAA negotiations will proceed. The main negotiations on market access, tariffs and non-tariff barriers will then begin on May 15, 2002. The aim of this next round of negotiations is to compile a “second draft” FTAA text by the end of October 2002. This will coincide with the next Trade Ministerial meeting to be held in Ecuador.

Extending the timelines for completing the FTAA and for starting the next phase of negotiations was a small victory for Latin American and Caribbean countries. The U.S. and Chile were pushing for November 2001 to start the next phase, and also wanted the FTAA negotiations to be completed by the end of 2003. This greater resilience on the part of Southern countries parallels dynamics at the WTO, and is a sign that it will not be easy for the U.S. and Canada to ram through rules that blatantly favour their corporations and interests.

Democracy Doublespeak

The Summit of the Americas was a carefully choreographed affair, providing a high-level endorsement of the work so far towards an FTAA. However, by the time of the Summit, the FTAA had become the target of a great deal of public criticism. As a result, the trade deal was downplayed during the Summit, with leaders instead falling back on a message track about democracy.

The major “deliverable” of the Summit was the announcement of a “democracy clause”. The Final Declaration states that:

[A]ny unconstitutional alteration or interruption of the democratic order in a state of the Hemisphere constitutes an insurmountable obstacle to the participation of that state's government in the Summit of the Americas process.

Foreign Ministers from the 34 nations were tasked with putting some meat on the democracy clause's bones at the annual Meeting of the Organization of American States, held June 3-5, 2001 in Costa Rica. However, the resulting draft Democratic Charter failed to win approval and will be reconsidered in the fall due to a number of contentious issues, including the definition of "democracy," the vague proposed criteria of what constitutes a transgression, and whether a transgression could lead to sanctions.³

Neither the Quebec democracy clause nor the draft OAS Democratic Charter specifically mention the FTAA. In any event, the *realpolitik* of hemispheric relations may undercut any meaningful usage of the clause, even if it is ultimately linked to the FTAA. As Paul Knox of the *Globe and Mail* commented:

Kicking Venezuela out of the FTAA would presumably expose its products to higher tariffs and other disadvantages. But it would also strip foreign firms of the 'investor-state' rights that are such a controversial aspect of recent trade pacts. Moreover, Venezuela is a major supplier of petroleum to both Canada and the United States. Would the democracy clause be enforced at the risk of disrupting supply?⁴

This suggests that a coup in a country during the negotiations *might* preclude that country from joining the FTAA until a democratic government was restored. Leaders did effectively put Haiti on notice in Quebec, due to elections last year that were mired in con-

troversy. But the question remains as to which countries are ultimately singled out for not being democratic enough, and under what criteria. It seems extremely unlikely that the business community would tolerate a provision to suspend a country that was already part of an FTAA from the agreement in the event of a coup or some other "alteration or interruption of the democratic order." The only predictable impact of the democracy clause at this point will be to keep out Cuba.

Talk of democracy clauses and charters clearly raises a number of questions and contradictions. To date, the FTAA process has been highly secretive, even if participating governments were elected (the FTAA was not raised as an issue for public consideration in either the 2000 U.S. or Canadian elections). Indeed, in many countries representative democracy is undergoing a crisis of legitimacy. This is evident in low voter turnouts, a growing lack of confidence in politicians and government, the influence of corporate donations, the sordid U.S. Presidential election, and the ability of political parties in Canada to win majority governments with much less than a majority of the popular vote, just to name some of the most pressing concerns. The Quebec Summit also demonstrated little tolerance for the right to peacefully express opposing views. If anything, this represents a large step towards the criminalization of dissent, and away from greater democracy.

The response of Latin American leaders in Quebec to the democracy clause seems to be ambiguous. It is hard to oppose the concept of democracy. However, as Venezuelan President Hugo Chavez remarked: "If democracy doesn't provide land, if it's concentrated in the hands of 2% of the population, we can't speak of democracy."⁵ This opinion—that economic development, poverty reduction, and closing the gap between the rich and the poor are more pressing priorities—appears to be shared by many Latin American leaders.⁶

Chavez was the only leader who held out clear reservations about the democracy clause. He specifically objected to references to “representative democracy,” because in Venezuela representative democracy allowed élites in two political parties to monopolize power for four decades, leading to corruption, cronyism, and squandering of the nation’s oil wealth. Instead, Chavez prefers a “participatory democracy” of popular consultations and referenda, noting that representative democracy was responsible for “turning a people who live on top of oil, gold, fertile lands with water all around, into one where 80% are poor.”⁷

Ultimately, the democracy clause is more than just cynical window dressing. Combined with a free trade agreement, a democracy clause or charter is seen by the U.S. as a better tool to protect U.S. interests in the hemisphere than sponsoring military coups. The free trade side of the deal reduces the power that governments have to influence social and economic affairs in ways that go against foreign corporations. In this context, a representative democracy, weighed down by powerful financial and commercial interests, offers people little real choice, and in any event serves to lock in place a system where those elected have little room to pursue independent policies. The vague wording of the proposed Democratic Charter would exacerbate the pitfalls of this dynamic because it could be invoked by the U.S. to serve its own geopolitical interests.

Alms for the Poor

While the photo-ops and speeches painted a congenial portrait of the Summit, there was some dissension in the ranks behind closed doors, captured by Radio-Canada when the translation equipment feed was mistakenly left on. The discussion by Latin American leaders openly questioned U.S. President George Bush’s assertion that unbridled capitalism is the answer to their problems.⁸ Ear-

lier in the week, Bush had commented that free trade “applies the power of the market to the needs of the poor.”⁹

Latin American and Caribbean leaders put on the table demands for funds directed towards poor countries to make the transition to a free trade zone viable. Some Latin American leaders are interested in development funds along the lines of the transfers provided by the European Union to its poorer regions, although this appears to be a non-starter with the U.S.

Instead, in Quebec, the Inter-American Development Bank announced \$40 billion in new project loans for the region over the next five years. Given that 509 million people live in Latin America and the Caribbean, and the scope of poverty and inequality, this is not a lot of money—just over \$15 per person per year—certainly not enough to meet the ambitious goal of the Summit Declaration to halve poverty in the hemisphere by 2015. Furthermore, only part of these loans would go to projects in the area of poverty and inequality, while other parts of the money are dedicated towards numerous other projects and “technical assistance” in support of regional integration.

Caribbean and Andean countries also pushed for some legal form of special and differential treatment in the FTAA. They were successful in putting language into the Buenos Aires Ministerial Declaration recognizing the need for “specific provision to meet the needs of those countries with different levels of development.” However, it is unclear whether differential treatment would be limited to delays in implementing the FTAA’s disciplines, or something more substantial and permanent. This issue is significant for many Caribbean governments that rely heavily on tariff revenue.

Assembly of First Nations Chief Matthew Coon Come attended the Summit and was allowed to make remarks from a First Nations perspective. He raised the legacy for indigenous peoples of 500 years of colonialization:

Since our first contact with Europeans, our position and condition in the Americas has failed to improve. For us, the taking and theft of our lands and resources, and the imposition of alien forms of governance and economic activity, has meant mass poverty, ill-health, marginalization, loss of language, and often, extinction.¹⁰

As a result, the final Summit Declaration and Plan of Action pay lip service to indigenous peoples. Unfortunately, the language is in the context of participation and integration of indigenous peoples in the hemisphere, without addressing the fundamental issues about rights to land and to self-determination. It offers little cause for optimism that after 500 years there will be considerable changes that benefit indigenous peoples. Combined with an FTAA that strengthens corporate and investor rights, the overall thrust of the Summit's Plan of Action will likely make indigenous peoples worse off.

South American Resistance

At the Summit and in the lead-up to it, Venezuela's President Hugo Chavez came out of the shadows and onto centre stage. Before Quebec, Chavez met with Brazilian President Henrique Cardoso, and the leaders agreed to bring Venezuela into Mercosur by the end of the year. This move represents an important bridge for a proposed South American Free Trade Agreement, and would strengthen the Mercosur bloc's influence in the FTAA (and WTO) negotiations.

Like Cardoso, Chavez supports a go-slow approach to the FTAA and prefers regional trade bloc initiatives within Latin America: "If something needs to be accelerated, it's not the FTAA, it's the integration of Latin America. We have to increase our own productivity before going to the big leagues."¹¹ Chavez has also been very critical of the neoliberal policies pushed onto Latin America over the 1990s

(and that would be cast in stone by an FTAA), arguing that these policies have worsened poverty in Venezuela and around the world.

Venezuelan interest in Mercosur helped shore up a trade bloc that was shaken when Argentine Economy Minister Domingo Cavallo broke ranks with Mercosur's common external tariff by announcing an emergency package in March that raised tariffs on consumer goods to 35% and reduced tariffs on capital goods to zero. Argentina's move was an effort to stimulate its economy, which has been in recession for close to three years, amid serious foreign debt problems and a currency rigidly pegged to an overvalued U.S. dollar.

Brazil remains the key country in terms of completing the FTAA. Deeper penetration of U.S. corporations, the U.S. push for tougher intellectual property rights, and the degree of market access Brazil would receive in return are important considerations for Brazil. President Cardoso has taken a particularly strong stand in the area of U.S. trade remedy laws that are used unilaterally by the U.S. to protect its domestic producers.

At the Buenos Aires Trade Ministerial, the U.S. agreed to "discuss" its trade laws (a source of irritation for almost every country), although it seems highly unlikely at this point that the U.S. would entertain meaningful changes for the FTAA. These trade laws are considered sacrosanct by a Congress that has yet to grant Fast Track trade negotiating authority to President Bush, and that would ultimately have to ratify the deal.

The more flexible Buenos Aires position was likely a gesture to keep the negotiations moving forward in the lead-up to Quebec. Domestic political pressures are now building in the U.S. to head off any concessions the U.S. might make in the FTAA negotiations with regard to U.S. trade laws, agricultural market access, and agricultural export subsidies. Speaking to the Congressional Ways and Means Committee, U.S. Trade Representative Robert Zoellick indicated that there would be

little U.S. movement on these issues.

Failure to get meaningful changes in these areas could be a deal-breaker for Brazil. However, U.S. tactics in the past have been to iron out most of the deal, then leave the most contentious issues (like U.S. trade laws) until the completion date nears and the other country has so much political capital invested that it cannot easily pull out of the negotiations.¹² Repeating this tactic would allow the U.S. to skirt changing its trade laws.

Continental Energy

Energy is a very hot issue on the international scene through negotiations at the WTO and the FTAA, and domestically in response to deregulation debacles in California and Alberta. The Summit's Plan of Action endorses hemispheric and regional integration of energy markets, noting that "market reform and stability, regulatory reform and trade liberalization will be addressed," but does not provide more in the way of details.

After the Summit officially concluded, Canada, the U.S. and Mexico met to talk about U.S. proposals for a continental energy pact. The U.S. is a net importer of energy, and access to cheap energy is vital for its economy. The three countries agreed to set up a North American Energy Working Group tasked with follow-up work.

A danger for Canada is being tied to the U.S. market via the proportional sharing arrangements of NAFTA. These require that Canada continue to supply the U.S. market in energy at a level in proportion to levels prior to any policy reversal. That is, the more we export to the U.S., the less flexibility we have to turn off the taps in the future, and to set an independent energy policy in Canada. Yet the Canadian government is all too eager to pump up the volume, and does not even seem to have considered that U.S. energy needs could be a point of leverage in other negotiations with the U.S. (such as the ongo-

ing dispute over softwood lumber).

U.S. President Bush also hinted to Mexico that it must pursue the "right policies" in energy to spur development. This may refer to privatization of Mexico's state-owned oil and gas company, Pemex, which was nationalized in the 1950s to the dismay of U.S. oil interests. Privatization would facilitate a U.S. re-entry into the Mexican oil and gas sector. It is unclear whether de-nationalization is part of Mexican President Fox's agenda, but if so the involvement of Canada in the negotiations might make this more politically palatable.

The discussions on energy took place in the context of a Bush administration that is turning its back on energy conservation and environmental protection (for example, pulling out of the Kyoto protocol) to pursue supply-side "solutions" with huge ecological downsides. For the FTAA, this U.S. position likely means seeking new and unfettered rights for U.S.-based energy corporations to roam the hemisphere in order to exploit energy resources.

While much attention has been placed on U.S. energy needs, Brazil is also in the midst of an electricity crunch that will hurt both industrial users and households for at least the next year, and is expected to shave up to 1.5 percentage points off Brazil's GDP in 2001. Regional integration of energy markets through an FTAA would also bring large benefits to Brazil, South America's largest and most industrialized economy.

The Road Ahead

A behind-the-scenes look at the Quebec Summit shows that there are numerous pitfalls on the road ahead, and that an FTAA is by no means a sure thing. Internally, FTAA boosters Canada and the U.S. must contend with Brazil and Venezuela as counterforces, plus with numerous smaller countries that have banded in blocs to bolster their negotiating positions. The more unity Latin American and Caribbean countries muster, the stronger they

will be in the negotiations. The U.S., on the other hand, would like to isolate countries through parallel bilateral trade negotiations to head off this possibility. The Chile-U.S. free trade negotiations are an example, and the U.S. may attempt to break off a weakened Argentina to undermine the Mercosur bloc.

Even in the event of greater solidarity among Southern countries in the negotiations, if a deal is completed it will likely move Canada further down the path of privatization and deregulation. The FTAA is legally required to go deeper than the WTO as a liberalizing force, and this raises vital issues around the future of public services, Crown corporations, and the ability to regulate in the public interest. It is important that Canadians show solidarity with the peoples of Latin America and the Caribbean, but ultimately this means opposing any FTAA deal rather than settling for minor concessions that will prove meaningless when it comes to decisions made by trade panels.

To date, the U.S. and Canadian governments seem undeterred by the mass mobilization against the FTAA, and have tended to dismiss the concerns of opponents. They see the problem as a need for a beefed-up public relations effort to sell the deal, while moving to co-opt certain NGOs with promises of enhanced civil society access to the FTAA negotiators. The good news is that the tide of protest and resistance against the deal continues to rise in both North and South America, and that it is fuelled by the creativity and energy of a new youth movement.

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Endnotes

- ¹ A more detailed analysis of the Investment chapter is being completed by the Hemispheric Social Alliance. They will also be analyzing the rest of the draft text when it becomes available. See also a CCPA briefing note by Scott Sinclair on investor-state developments and the shifting Canadian government position.
- ² "Summit countries except Venezuela endorse FTAA 2005 deadline", *Inside US Trade*, April 27, 2001.
- ³ Associated Press, "OAS debates definition of democracy" and "Americas give up democracy standard" in *New York Times*, June 6, 2001.
- ⁴ Paul Knox, "Locking in Democracy" in *Globe and Mail*, April 23, 2001.
- ⁵ Quoted in CP wire story, "Summit leaders taped during closed-door session" in *Toronto Star*, April 22, 2001.
- ⁶ See "Region: Third Summit of the Americas Focuses on Democracy Clause" in *NotiCen*, vol. 16 no. 5, published by Latin American Data Base, April 26, 2001
- ⁷ Annette Hester, "Each of them a winner" in *Globe and Mail*, Wednesday, April 25, 2001.
- ⁸ CP wire story, "Summit leaders taped during closed-door session" in *Toronto Star*, April 22, 2001.
- ⁹ Quoted in CBC News electronic version, April 17, 2001.
- ¹⁰ National Chief Matthew Coon Come Remarks on Behalf of Indigenous Peoples "Contribution of Civil Society", Summit of the Americas Quebec, April 20, 2001, Assembly of First Nations web site.
- ¹¹ "Presidents of Venezuela, Colombia and Mexico revive G-3" in *NotiSur*, vol 11 no. 14, published by Latin American Data Base, April 20, 2001.
- ¹² See Gordon Ritchie, *Wrestling with the Elephant: The Inside Story of the Canada-U.S. Trade Wars*. Toronto: Macfarlane Walter and Ross, 1997, for an insider perspective on the Canadian experience.

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