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FOCAL's COMMENTS TO THE MEETING OF THE SPECIAL COMMITTEE FOR INTER-AMERICAN SUMMITS MANAGEMENT OF THE ORGANIZATION OF AMERICAN STATES

Washington, D.C.
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The Canadian Foundation for the Americas (FOCAL) welcomes this opportunity to comment on the current discussion paper "2001 Summit of the Americas: Themes", Chapter II, to Ambassadors of the OAS and government negotiators of the Summit. As you know, FOCAL is Canada's premier policy centre dedicated to studying foreign policy, trade policy and development policy issues of the Americas. We have invested considerable effort to promote the Summit of the Americas process as a principal engine of deeper hemispheric cooperation.

SUMMARY:

The comments of the Canadian Foundation for the Americas concentrate on four themes: the question of accelerating the deadline to conclude FTAA negotiations, the issue of smaller economies in FTAA negotiations, the environmental impact of the Free Trade Area of the Americas (FTAA), and the topic of corporate social responsibility.

COMMENTS:

ACCELERATE THE CONCLUSION OF FTAA NEGOTIATIONS

FOCAL believes that the deadline of 2005 to conclude FTAA negotiations, as agreed by the 34 countries of the hemisphere in Miami in 1994 should be respected, for the following reasons:

- The majority of countries have expressed their opposition to shortening the deadline on the grounds that they need time to prepare their economies to benefit rather than lose with free hemispheric trade.
- There is a risk that forceful insistence to changing the terms agreed upon all countries may backfire and jeopardize much of the vast technical work and negotiating consensus achieved so far.
- A lack of consensus about the deadline among leaders in the Quebec City Summit will necessarily be perceived as a failure of the FTAA process by the anti-trade segments of civil society protesters. Such a perceived failure may indeed be a self-fulfilling prophecy. Those groups wishing to accelerate the conclusion of negotiations should take into account the unintended consequences of such a decision.

Smaller Economies

FOCAL is deeply aware of the tremendous diversity that exists in the Americas. Diversity itself can be tremendously enriching when found in cultural, educational and literary endeavours to name a few. Nevertheless, economic diversity in the Americas presents a more troubling picture. Thirty-three of the thirty-five countries in the Americas are either developing or less developed countries. Leaders and Ministers recognized that within this context there existed another category of countries whose situation merited special attention, this being the smaller economies.

Such special attention, particularly in the combination of aid and differential treatment, have allowed smaller economies to adapt to changing conditions, often at a pace somewhat different from their larger neighbours. In a context in which trade negotiations involved largely the give and take of tariff negotiations, this was perhaps necessary. In a context of rapidly evolving technology, massive foreign investment flows, and the broadening of the basis of production, this approach is perhaps not sufficient. Reliance on timeworn approaches by the larger economies is having a tiring effect on both the general public and public policy makers in the smaller economies. Having been successful in firmly planting the issue on the Hemispheric agenda, many are dismayed at the lack of concrete progress since. A number may argue that the efforts required to retain the issue of smaller economies on the agenda are such that few resources, physical or intellectual, are available to actually address the issue in specific ways. These developments may pose a greater threat to the FTAA process, at large, than many are willing to acknowledge.

In this context, FOCAL respectfully puts forward the following recommendations (similar to what FOCAL submitted to the FTAA Committee of Government Representatives on the Participation of Civil Society in September 2000):

- Guidance is necessary from Ministers and the Trade Negotiations Committee (TNC) that would set out the basic principles by which the issue of smaller economies would be approached by the various negotiating groups. As matters stand, each negotiating group has the issue inscribed on its agenda, but without the guidance that would be provided by a set of agreed principles. Guiding principles have been arrived at for the FTAA negotiations as a whole (i.e., single undertaking, comprehensive, WTO plus, WTO compatible etc. etc.) yet the smaller economies remain without a similar set of guideposts.
- On an urgent basis, the TNC should take on the responsibility of arriving at a concrete definition of what constitutes a smaller economy in the FTAA context. The lack of progress in the crafting of rules is hampered by the absence of an operational definition of to whom such rules would in fact apply. It might be a consequence of the principles suggested in the first recommendation that the operational definition of smaller economies might very well differ from one negotiating group to another. In other words, smaller economies – and the presumed differential treatment that would consequently be accorded – might very well require a lesser degree of special attention in some negotiating groups (i.e., competition policy) than in others (i.e., market access).

- Smaller economies frequently encounter difficulties in complying with transparency or information notification requirements during the negotiations themselves. This is evident from the gaps that exist, for example, in the Hemispheric Trade and Tariff Data Base. While responsibility for the provision of such information will ultimately rest with national governments, individual Negotiating Group Chairs should be charged by the TNC with the responsibility for assisting to a) define the problems; b) suggest solutions; and, c) provide written recommendations to the TNC on such matters.
- Enhanced technical assistance from the Tripartite Committee, in particular, would also be of benefit to the smaller economies in their efforts to meet their transparency and notification obligations. It should be recalled that enhanced capability in this area would also provide benefits in terms of the compliance record of smaller economies with multilateral obligations as well.

The Environment and the FTAA

Civil society groups have raised key concerns relating to substantive matters in the FTAA negotiations, specifically in areas such as the environment. In this context, a major weakness of the FTAA process is the failure to acknowledge, let alone create, a mechanism to consider environmental issues in the negotiations. Economic activity has environmental consequences that must be effectively managed, and of course, the purpose of the FTAA is to increase economic activity. While we agree that economic growth is a fundamental need for the Hemisphere, it is also critical that countries ensure that effective environmental management systems are in place to cope with economic growth. This environmental management capability varies a great deal across the countries of the region, and we believe that Hemispheric cooperation on environmental management should form a part of the Hemispheric integration process.

This is not to say that the FTAA negotiations are solely responsible for environmental issues. Rather, a two track approach is necessary, one which ensures that the FTAA itself takes environmental issues into consideration; the other which establishes a means whereby environmental management systems throughout the Hemisphere can be made effective enough to deal with the increased economic activity and the accelerated resource extraction that the FTAA will stimulate.

Therefore, FOCAL submits the following recommendations for clauses that should be incorporated within the text of the FTAA final document itself:

- The FTAA should include a strong statement in the objectives section that the States will undertake all activities under the agreement in a manner consistent with environmental protection and conservation.
- The FTAA should include a commitment not to lower environmental standards to attract investment.
- A commitment should be included that trade measures embodied in multilateral environmental agreements take precedence over trade provisions in the FTAA.

- The FTAA should include language that preserves the right of States to establish levels of environmental protection that they deem appropriate. This should include provisions stating that a country challenging an environmental measure should bear the burden of proving the measure is inconsistent with the agreement.
- A mechanism should be created to develop a parallel agreement, linked to the FTAA, which fosters the improvement of national environmental management, including, at a minimum, that effective environmental laws are in place, and that they are effectively enforced. While this agreement need not be negotiated by FTAA negotiators, it should be explicitly linked to the FTAA, as one of the platforms of the broader Hemispheric integration process.

CORPORATE SOCIAL RESPONSIBILITY

Although the issue of corporate social responsibility is not in today's agenda, at a most recent public discussion with Ambassador Boehm and Summit Sherpa March Lortie in Canada, FOCAL learnt that there is a Canadian initiative regarding corporate social responsibility. We understand that it is an attempt to bring the private sector into the all-consuming fight against corruption. In particular, to involve business in safeguarding the health and safety of their workers, protecting the environment, eliminating bribery and corruption, responding to natural disasters and ensuring human rights are respected in communities where they do business.

While FOCAL supports the deepening of the corruption agenda in the Hemisphere, we have not seen any specific language pertaining to corporate social responsibility and we are only assuming that there will be a call for codes of conduct, guidelines for good corporate citizenship as well as specific initiatives to foster corporate social responsibility in the hemisphere.

Our word of caution is, however, that an initiative that does not have specific follow up mechanisms remains, as many Summit initiatives, left in the "nice to have" column.