



Americas Trade and Sustainable Development Forum

ATSDF

A New Public Forum for the FTAA

At the Miami Trade Ministerial – November 17 – 18, 2003

Trade and Environment Tent

Organized by:

The Ecuadorian Center for Environmental Law – CEDA & the Environmental Law and Policy Institute at Tulane University



BACKGROUND INFORMATION

The opportunity for direct dialogue in Miami arose from a series of discussions that began after the last FTAA ministerial in Quito in November 2002. A modest yet important step forward was realized in Quito where ministers for the first time agreed to formally receive input from non-profit civil society groups. Moving beyond Quito, many organizations saw a need to open up an even greater public space for dialogue inside the ministerial (inside the “security perimeter”) to make public input more meaningful, interactive and organic.

In that spirit the American Trade and Sustainable Development Forum -ATSDF at the Miami FTAA Ministerial, took place to add the dimension of a full range of workshops and public events that deal with trade-related social, political, labor and environmental issues. The purpose of this Forum was:

- Encouraging the participation of the full range of governmental and non-governmental actors in a forum that affords the cross-fertilization of ideas around issues that reflect the values of democracy and sustainable development recognized in the official process.
- An attempt to eliminate the need for various civil society organizations to establish parallel forums outside the security perimeter that reflect an unfortunate perception that non-governmental organizations cannot or will not contribute productively to free trade process and that private business has better access to the official process.

- Inserting into the FTAA and the Western Hemisphere framework the need for transparency and meaningful citizen participation.

MAIN TRADE AND ENVIRONMENT TENT CONCLUSIONS

I. ENVIRONMENTAL ASSESSMENTS AND TRADE: METHODS, CHALLENGES AND EXPERIENCES

- In regard to *environmental assessments and the sustainability of the trade policies within the American Hemisphere* and in particular in the Latin American region, this panel concluded that among the different studies that have been reviewed - more than 30, the cause-effect relation between trade and environment has been established. What remains unclear is whether or not this information can be used by the different stakeholders, and in specific by the trade negotiators while negotiating the FTAA. Additionally, another matter of preoccupation is the fragmentation of the debate, while for US and Canada the debate has been placed towards the relation between trade and environment, for Latin American countries is preferable to speak about trade and sustainable development due to the various implications that socio economic conditions have on environment.

Nevertheless, the general conclusion pointed at the high environmental vulnerability of the region.

In the panel that addressed the “*Methodology for Impact Assessment*” these ideas came strongly:

- It is very difficult to evaluate the true environmental impact, right now it is more important to know the results and have them on time to feed negotiations.
- Work has to be done in order to find an effective methodology in the evaluation of impacts, case by case methodology adjust better to the countries` needs.
- We need to know affecting factors in order to establish results.

In the Panel on “Environmental Assessments, methods, challenges, and experiences”, these conclusions came through:

- It is very important to incorporate social and economic aspects.
- There is a lack of analysis and participation from the social actors, as well as a lack of transparency in certain sectors.
- These days, cross-country models are still controversial.
- There is an uncertainty of activity levels because, among other reasons, case studies don’t offer generalized and consistent results, and sectional models don’t capture cross-sectional effects.

- The uncertainty of environmental indicators responds to a limited ecological knowledge, and to the need to distinguish between potential vs. actual impacts.

In the panel on “*Environmental sustainability in trade*” we can mention the following conclusions:

- A model is required as well as methodology which describes what the analysis of economic scenarios must contain.
- In order to take good advantage of the opportunities of the region, a dialogue must be initiated followed by a regional “opening.”
- We need to raise the standards of the discussions, and look for useful topics.
- To have a multidisciplinary team should be mandatory.
- There is a lack of environmental data and resources, there for, there is not real analysis that integrate different experiences.

II. SUSTAINABILITY ASSESSMENTS, AND TRADE: EXTENDING THE ANALYSIS

Main Panels conclusions:

- The jobs rate in Latin America are explicit about the need for integrated analysis to be made.
- The evaluations should not only focus on monitoring, investigation and evaluation, it should also consider the consequences of the change in the ecosystem for the well being of the employees.

“Sustainability assessment of the trade or sustainable trade policy”

- The uncertainty of the results for case studies, minimum objectives must be diminished in order to identify the commercial measures.
- A study of trade measures must be and the impact on sustainable development must be sustained as common objectives in all of the studies.

“Social rules and sustainability in the Americas”

- To change the social conditions in America is a serious challenge.
- Something to consider in this process is the high rate of poverty in Latin America.
- There is the need to integrate the social dimension valuation with accurate mythology and involve governments in doing so.

III. INSTITUTIONAL MECHANISMS FOR COOPERATION

Main Panel Conclusions:

“Greening Trade in North America”

- The environment is something that needs to be monitored, but that monitoring should begin with social impacts.

- The goal of a Cooperation Mechanism is to make consistent the different policies adopted by Trade Ministers with those in the light of environment and social issues policies.
- A Cooperative Agreement must try to harmonize: market access, biodiversity, and investment agreements with environmental and social demands.
- A Mechanism for Cooperation should also bring technology transfer and funds to achieve compatibility between trade and environment policies in developing countries.

“TCLAN and environment”

- The problem of the research is not only the methodology, but also the lack of information and real data.
- We need alternate policies in order to protect individuals.
- Do we want citizen cooperation and/or citizen petitions? What process would give citizens a voice?
 - What kind of evaluation?
 - What are the advantages to certain mechanisms?
 - Who has accountability?

“FTAA & Cooperation”

- The subject of cooperation is creating a lot of resistance.
- What are the principle problems?
 - Inequity
 - High levels of poverty
 - Weak democracies
 - Insufficient incentives due to low incomes
- Creative farming deserves subsidies.
- One of the main problems in Latin America is that most countries produce the same products, what makes them compete with each other and lower prices.
- We should consider the experience of the European Union as an example for the FTAA.
- One of our major problems is that we don't know how to negotiate.
- We have not been successful in the integration of environmental and social-environmental policies.

IV. FINDING SYNERGIES IN THE FTAA BETWEEN THE CONVENTION OF BIOLOGICAL DIVERSITY AND INTELLECTUAL PROPERTY RIGHTS

- It was noted, that so far the FTAA is the most advanced international discussion on issues in the context of a trade agreement.
- Some of the States involved in these negotiations have adopted advanced national legislation ensuring that IPRs are supportive of biodiversity and protect traditional knowledge.
- Any discussions within the FTAA should not undermine current negotiations in multilateral forums such as WTO, CBD, WIPO and FAO.

- The disclosure/certificate of origin is an important tool for securing compliance with national access and benefit sharing laws and for the prevention of biopiracy. However a more comprehensive approach is required to support full synergies between the CBD and the IPR regime.
- The issues addressed in this workshop relating to Access and Benefit Sharing and Traditional Knowledge should not only be covered under Chapter 6 relating to patents of the FTAA, but adequate consideration should be given throughout the entire agreement.
- Technology Transfer should move towards implementation related especially to Access and Benefit Sharing of genetic resources.
- CBD and the new ITPGRFA principles, together with adequate legal mechanisms for assuring legal access, are incorporated
- Protection of traditional knowledge and folklore is provided and fully developed.
- There is flexibility to chose and use the most convenient system to protect plant varieties through a *sui generis* system.

V. ENVIRONMENTAL GOODS AND SERVICES: A DEFINITION FROM THE LATIN AMERICAN PERSPECTIVE

- There is neither a comprehensive definition of environmental goods or services (EGS) at a multilateral level, nor any agreed criterion for their classification.
- Market imperfections and inefficiencies mean benefits are not straightforward.
- In terms of tariffs, it is important to highlight the disparity between the situation for traditional environmental goods and non-traditional ones.
- The credits extended by some industrialized countries to acquire certain EGS, the practice of conceding “tied” credit is of particular interest, i.e. it is offered if products are acquired from an exporter from the country providing the credit.

VI. BIOSAFETY AND FOOD SECURITY

“On genetically modified organisms (GMOs) in agriculture, the Forum called for the implementation of the "precautionary principle." The Cartagena Protocol on Biosafety, which already sets international rules on GMOs, should take precedence over the FTAA. "We therefore oppose the proposed strengthening of the SPS Agreement that is reflected in the FTAA negotiating text, which would further restrict the rights of countries to implement the precautionary principle," the ATSDF forum concluded.”

What is biosafety?

- Genetically engineered organisms pose specific risks for the environmental and human health.
- Therefore, biosafety is the adoption of regulatory measures to protect humans and the environment from harm posed by the deliberate or accidental release of GMOs /LMOs.
- Countries impose conditions on the import (trans-boundary movement) of engineered organisms equivalent to the conditions placed on domestically produced GMOs.

What exactly is risk assessment?

- Risk assessments are carried out to evaluate and estimate potential impacts on the environment and human health.
- Risk assessments provide valuable information to decision-makers, but they don't provide an objective answer on how much risk should be tolerated – that is a political decision.
- The effects of GMOs are difficult to predict – they are living organisms that reproduce and migrate.
- The long term ecosystem effects of GMOs are unknown.
- Countries may decide a precautionary approach to GMOs is appropriate, particularly those countries with high amounts of biological diversity.

CONCLUSIONS

The Trade and Environment Tent, as part of the ATSDF called for a systematic implementation of sustainability assessment by countries as a valuable tool to integrate environmental and social concerns into trade negotiations. Made a special effort to call the attention of the delegations on the need to introduce and start a negotiation on a Cooperation Mechanism that tends to harmonize the different levels of development reflected in more technology transfer, more environmental compliance and funding to help countries cope with the adjustment cost reflected on their weak environmental and social institutions.

Additionally the Tent results made emphasis on the delicate issues related to intellectual property rights and biodiversity, as well as the risk of undermining “Cartagena Protocol” provisions and in particular the precautionary principle. It called for a transparent negotiation that takes into account the different Multilateral Environmental Agreements in the light of International Law and made a call to developing countries to negotiate Access and Benefit Sharing and Traditional Knowledge Protection.