



STATUS OF THE TRADE
NEGOTIATIONS FOR THE
FREE TRADE AREA OF
THE AMERICAS - FTAA



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TECHNICAL CONSORTIUM OF IICA
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FOREWORD

Through its Area of Policies and Trade, IICA supports its member countries in their efforts to modernize their agricultural policies and all institutions associated with agriculture. In pursuit of this goal, it has developed three interrelated lines of action whose activities and products are mutually reinforcing: support for agricultural negotiations; support for institutional modernization; and development and modernization of agricultural markets.

As part of its efforts under these lines of action, the Directorate of the Area of Policies and Trade is pleased to present to all persons interested in agriculture, this series of technical documents written by highly qualified professionals associated with the Inter-American Institute for Cooperation on Agriculture (IICA).

This document analyzes the context surrounding the process to build the Free Trade Area of the Americas (FTAA), an initiative launched by the presidents of the 34 countries of the western hemisphere during the Summit of the Americas held in Miami, United States of America, in December 1994.

It addresses the most important aspects of the preparatory stage (1995-1998), as well as the principles, objectives, structure and organization agreed upon in 1998 for conducting the negotiations. It also summarizes the progress made by the Negotiating Group on Agriculture in all of its areas of interest: market access, export subsidies, other measures that distort agricultural trade, and the treatment of sanitary and phytosanitary measures within the FTAA.

Lastly, it analyzes the relationship between the agricultural negotiations of the FTAA and those of the World Trade Organization (WTO). The countries of the western hemisphere are involved in both of these wide-ranging processes, which will pose great challenges, but also great opportunities, for agriculture throughout the hemisphere.

We hope this document will be of use to researchers, specialists and others committed to agricultural development.

Dr. Rodolfo Quirós Guardia
Director, Area of Policies and Trade

INTRODUCTION

The hemispheric trade negotiations for establishing the Free Trade Area of the Americas (FTAA), with agriculture one of its main issues, got under way in September 1998. Multilateral agricultural negotiations under the World Trade Organization (WTO) began in March 2000.

Both processes have a complex agenda and aim to further reform world trade in agricultural products. While the FTAA will address the issue of market access for trade among the countries of the Americas, the guidelines for reducing agricultural supports and subsidies will be established at the multilateral level.

The features common to and the interaction between multilateral and regional negotiating processes have been evident since GATT was created. However, the geopolitical context surrounding the FTAA process has particular features and conditions that will be explained below.

This document examines the context which gave rise to FTAA, the background to the process (preparation and commencement of the negotiations and establishment of the Negotiating Group on Agriculture), and the progress of agricultural negotiations to date. Some of the challenges and opportunities posed by the FTAA negotiations to the hemisphere's agricultural sector are discussed in the last chapter.

THE CONTEXT SURROUNDING THE FTAA

Although the FTAA negotiations aim to achieve a comprehensive agreement on trade (including agricultural trade), it is important to keep in mind the political and economic motivations surrounding them, and the geopolitical aspects of the negotiating process at this time.

A retrospective analysis of integration processes in the hemisphere shows that they paralleled the different stages of European integration. Following the creation of the European Community (EC) in 1957, the following were established in the 1960s: the Central American Common Market (MCCA); the Andean Community; the Caribbean Free Trade Association (CARIFTA); and the Latin American Integration Association (ALADI), which led to the signing of limited trade agreements among its members.

In the early 1990s, and in reaction to the creation of the Single European Market, MERCOSUR was formed and the North American Free Trade Agreement (NAFTA) was negotiated and put into effect. It is interesting to note that many regional integration processes emerge or gather force when multilateral trade negotiations (GATT-WTO) have faltered or bogged down.

Following are some of the key points of the political and economic context which gave rise to the Free Trade Area of the Americas (FTAA):

- a) 1986: Start of the Uruguay Round, the longest and most complex negotiations in the history of the multilateral trading system, lasting seven years. The Uruguay Round consolidated

GATT's institutional framework with the creation of the WTO, and incorporated new issues, such as agriculture, services, intellectual property and investments.

- b) 1990: the Initiative for the Americas was fostered by the Bush Administration Bush as a unilateral initiative of the Government of United States to strengthen its trading relations with the countries of the western hemisphere.
- c) 1991: The collapse of the Soviet Union put an end to long standing bipolar, political-ideological confrontation and gave rise to trading blocs where confrontation was circumscribed to the trade arena.
- d) 1992: Economic and trade integration was consolidated in Europe with the creation of the Single European Market. Many analysts allege that this created the climate for promoting regional initiatives in the hemisphere.
- e) 1990-1994: The North American Free Trade Agreement (NAFTA), the first modern and comprehensive free trade treaty, was negotiated and entered into force. It incorporated many of the issues, disciplines and texts being negotiated under the Uruguay Round, at a time when it was not clear what the outcome of that process would be. When it entered into force, other countries of the hemisphere had high expectations for joining NAFTA. When this did not happen, a series of other NAFTA-based free trade agreements were negotiated, with Mexico playing a major role.
- f) 1994: The democratization and peace processes of the western hemisphere provided an opportunity for convening the first Summit of Presidents and Heads of State of 34 western hemisphere countries -Cuba was excluded- in December 1994. The aim was to construct and approve an agenda of principles and initiatives for preserving and strengthening democratic rule, promoting economic integration and free trade in the Americas, eradicating poverty and discrimination, and guar-

anteeing sustainable development and the conservation of the environment. Initiative N° 9 of the Plan of Action approved at the Summit paved the way for the Ministers of Foreign Trade of the Americas to take the first concrete steps, in 1995, to construct the Free Trade Area of the Americas.

The geopolitical situation presently surrounding the FTAA process has certain characteristics that –in the short term at least– will have an impact on the negotiations in general and agricultural negotiations in particular:

- a) The suspension of the "Millennium Round" had two immediate consequences: i) to continue –and to a certain degree strengthen– the FTAA process, until such time as a global round of multilateral negotiations is announced by the WTO; and ii) in the case of FTAA agricultural negotiations, the progress of the multilateral negotiations on agriculture can be expected to set parameters for the hemispheric process, primarily in certain disciplines, as will be seen later
- b) The fact that this is an election year in the United States will delay the Administration's possibility of getting fast track approval by Congress for both the multilateral and hemispheric negotiations.
- c) Hopes of hemispheric integration and new markets has led to a proliferation of negotiations for free trade agreements among the countries of the Americas and with other countries or regions. These include: i) the negotiations already concluded between Mexico and the European Union; ii) Mexico's ongoing negotiations with Israel, Japan and Singapore; and iii) the recently started negotiations between MERCOSUR and the European Union.
- d) Investment and trade flows from some FTAA countries to Cuba has raised a controversial point in political and economic circles: is it advisable to exclude a western-hemisphere country from the trade negotiations?

PREPARATIONS FOR THE NEGOTIATIONS TO CREATE THE FREE TRADE AREA OF THE AMERICAS¹

As mentioned earlier, the Summit of the Americas held in Miami, Florida in December 1994 brought together the Presidents and Heads of State of 34 western hemisphere countries. A Plan of Action was approved, with 23 initiatives grouped under 4 principles: i) strengthening of democracy, ii) economic integration and free trade, iii) eradication of poverty and discrimination, and, iv) sustainable development and protection of the environment. Initiative No. 9 of the Plan calls for the promotion of free trade in the hemisphere with the construction of the Free Trade Area of the Americas (FTAA) by 2005.

Preparations were made for launching the FTAA negotiations between 1995 and 1998. This stage was chaired by four countries: the United States², which began the process with the first Ministerial Meeting in Denver, Colorado in 1995; followed by Colombia³, which chaired the Second Ministerial Meeting in Cartagena in 1996. Next was Brazil⁴, which chaired the Ministerial Meeting in Belo Horizonte, in 1997 and last was Costa Rica⁵, which chaired the meeting in 1998.

The main achievement of the Fourth Ministerial Meeting (San Jose, March 1998) was the definition of terms, i.e., the "what,"

1 See CORECA: "La Mesa Agrícola en el proceso de negociaciones del Area de Libre Comercio de las Americas." August, 1998.

2 See *Joint Declaration*, Summit of the Americas, Ministerial Trade Meeting, Denver, Colorado, June 30, 1995.

3 See *Joint Declaration*, Summit of the Americas, Second Ministerial Trade Meeting, Cartagena, Colombia, March 21, 1996.

4 See *Belo Horizonte Joint Ministerial Declaration*, Summit of the Americas, Third Ministerial Trade Meeting, Minas Gerais, Brazil, May 16, 1997

5 See *San Jose Ministerial Declaration*, Summit of the Americas, Fourth Ministerial Trade Meeting, San Jose, Costa Rica, March 19, 1998.

"how" and "where" of the negotiations.⁶ It was also agreed that these terms would be placed on the agenda of the Presidents of the Hemisphere, who were to meet in Santiago, Chile, in April 1998. One of the objectives of that summit would be to launch the FTAA hemispheric negotiations.

The preparatory process received support from the three international organizations making up the **Tripartite Committee**: the United Nations Economic Commission for Latin America and the Caribbean (ECLAC); the Organization of American States (OAS); and the Inter-American Development Bank (IDB).

During the preparatory stage (1995-1998), 12 working groups were set up, composed of representatives of the 34 countries of the hemisphere. The topics of these groups are: 1) market access, 2) customs procedures and rules of origin, 3) investment, 4) standards and technical barriers to trade, 5) sanitary and phytosanitary measures, 6) subsidies, antidumping and countervailing measures, 7) smaller economies, 8) government procurement, 9) intellectual property rights, 10) services, 11) competition policy and 12) dispute settlement.

During this first stage, agriculture and its related disciplines were not addressed by a specific working group, although the working groups on market access; subsidies, antidumping and countervailing measures; and sanitary and phytosanitary measures did deal with issues pertaining to agricultural trade, but not as a single unified topic or with common objectives.

6 Murillo, Carlos *El Proceso de Creación del ALCA. Lecture Series, 1997. Ministry of Foreign Trade of Costa Rica.*

INITIATION OF THE FTAA NEGOTIATIONS

At the Summit held in Santiago, Chile (April 1998), the Presidents agreed to initiate negotiations for creating the FTAA as proposed in the San Jose Ministerial Declaration (March 1998), which set out the principles and general objectives, structure and organization for the negotiations.

The 12 general principles established to guide hemispheric negotiations included: the FTAA Agreement will be consistent with the rules and disciplines of the WTO; decisions of the FTAA negotiating process will be made by consensus; the initiation, conduct and outcome of FTAA negotiations will be treated as parts of a single undertaking; and the FTAA can co-exist with bilateral and sub-regional agreements.

With regard to the structure and organization of the negotiations, it was agreed that the Ministers of Foreign Trade (Ministerial Meetings) would meet no less than every 18 months. The Trade Negotiations Committee (TNC) was established at the vice-ministerial level, with a Chair and vice-chair. The responsibilities of the TNC include orienting the work of the Negotiating Groups; deciding on the architecture of the agreement and institutional issues; and ensuring the full participation of all the countries in the FTAA process, in particular the smaller economies.

Nine Negotiating Groups were established, on the following topics: 1) market access; 2) investment; 3) services; 4) government procurement; 5) dispute settlement; 6) agriculture; 7) intellectual property rights; 8) subsidies, antidumping and countervailing measures; and 9) competition policy. In beginning the negotiations, each negotiating group drew from the results achieved by the working groups during the preparatory phase and the objectives established at the fourth meeting of the Ministers of Foreign Trade (San Jose).

A Consultative Group on Smaller Economies was established, involving the participation of all FTAA countries. Its functions include monitoring the process, advocating on behalf of the concerns and interests of the smaller economies, bringing them to the attention of the TNC, and making recommendations for dealing with such issues.

An Administrative Secretariat was created, the primary responsibilities of which are to provide logistic and administrative support for the negotiations; provide the document translation and simultaneous interpretation services required for the deliberations; and manage, publish and distribute documents. The Secretariat operates at the venue of the negotiations and receives local funding as well as resources from the institutions of the Tripartite Committee.

The meetings of the negotiating groups are held in a single venue, which rotates between the United States (Miami, from May 1, 1998 to February 28, 2001), Panama (Panama City, from March 1, 2001 to February 28, 2003) and Mexico (Mexico City, from March 1, 2003 until the conclusion of the negotiations).

As in the preparatory stage, the Tripartite Committee (ECLAC, OAS and IDB) continues to support and provide technical and analytical assistance to the countries of the hemisphere, particularly the smaller economies, relative to the negotiations.

Concerning the initiation of negotiations, the TNC of the FTAA held its first meeting in June 1998 in Argentina, where it established the overall work program and the rules and procedures to be followed by the TNC and the nine negotiating groups during the FTAA negotiations.

The rules and procedures address: i) composition of the delegations of governments and other institutions (specifically the Tripartite Committee), ii) who will represent the subregional groups (in order to participate as a bloc -i.e., Andean Community,

MERCOSUR, etc.- it was necessary to indicate this at the start of the meeting), iii) adoption by consensus of all decisions taken during the FTAA process, iv) creation of ad hoc groups and sub-groups, v) responsibilities of the Chair and the vice-chair, and vi) document preparation, translation, distribution and confidentiality.

ESTABLISHMENT OF THE NEGOTIATING GROUP ON AGRICULTURE

The Negotiating Group on Agriculture (NGAG) was established following a discussion that took place after Brazil assumed the leadership of the FTAA preparatory process. The subject was promoted by MERCOSUR, which, since the beginning of this process, acted as a bloc with a single spokesperson in the different fora and working groups.

It is worth recalling that Argentina, Brazil and Uruguay were charter members of the CAIRNS Group⁷ which advocated together with Australia in the Uruguay Round negotiations for agricultural trade free of distortions, in order to improve the competitiveness of prices for agricultural products and to improve market access.

During the discussions concerning the establishment of a negotiating group on agriculture, arguments were presented for and against its creation. Arguments in favor included the need for a specific negotiating group working with a common language and regulatory framework that could address very specific products, measures and instruments in world agricultural trade.

7 The CAIRNS Group was established in 1986, parallel to the start of the Uruguay Round negotiations. It is composed of Argentina, Australia, Brazil, Bolivia, Canada, Chile, Colombia, Costa Rica, the Fiji Islands, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, The Philippines, South Africa, Thailand and Uruguay.

Arguments against included the difficulty of preventing pressure groups, mainly in the protectionist countries, from undermining achievement of its objectives. Furthermore, political considerations deterred some governments from expressing strong support for a group on agriculture in the FTAA process.

At the San Jose Fourth Ministerial Meeting, however, the decision was taken to establish the Negotiating Group on Agriculture and its objectives were set. As can be seen in Inset No. 1, the objectives of this negotiating group are to: achieve greater access to markets of agricultural products; ensure that sanitary and phytosanitary measures are not applied in such a way as to constitute a means of arbitrary discrimination or a disguised restriction to trade; and eliminate agricultural export subsidies and achieve greater discipline for measures with an equivalent effect. The agricultural products covered by the NGAG are the same as those referred to in Annex I of the WTO Agriculture Agreement.

Since September 1998, the NGAG has met on eight⁸ occasions. The status of this NG is described below.

⁸ September 1998; January, March, May and September 1999; February, May and July, 2000.

Inset No. 1: Free Trade Area of the Americas

Objectives of the Negotiating Group on Agriculture

- a) The objectives of the negotiating group on market access shall apply to trade in agricultural products. Rules of origin, customs procedures and technical barriers to trade issues will be addressed in the market access negotiating group.
- b. To ensure that sanitary and phytosanitary measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries or a disguised restriction to international trade, in order to prevent protectionist trade practices and facilitate trade in the hemisphere. Consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), said measures will only be applied to achieve the appropriate level of protection for human, animal or plant life or health, will be based on scientific principles, and will not be maintained without sufficient scientific evidence.

Negotiations in this area involve identifying and developing measures needed to facilitate trade, following and examining in depth the provisions set down in the WTO/SPS Agreement.

- c. To eliminate agricultural export subsidies affecting trade in the Hemisphere.
- d. To identify other trade-distorting practices for agricultural products, including those that have an effect equivalent to agriculture export subsidies, and bring them under greater discipline.
- e. Agricultural products covered are the goods referred to in Annex I of the WTO Agriculture Agreement.
- f. Incorporate progress made in the multilateral negotiations on agriculture to be held according to Article 20 of the Agreement on Agriculture, as well as the results of the review of the SPS Agreement.

STATUS OF THE AGRICULTURAL NEGOTIATIONS

In September 1999, the Chair of the NGAG submitted a report to the FTAA Trade Negotiations Committee outlining the topics discussed during the first year of negotiations. A great deal of the agenda was given over to the discussion of and the disciplines related to market access, regarding which the FTAA is making more rapid progress than in relation to topics such as export subsidies, other practices with effects equivalent to export subsidies, or sanitary and phytosanitary measures.

The topics under discussion are described below. Many contain opposing positions but should be viewed as proposals at an early stage of ongoing negotiations.

Market access

According to the mandate of the NGAG, there is a close link between it and the Negotiating Group on Market Access (NGMA). Both address disciplines related to the trade in goods and, in the case of the NGAG, specific aspects of agricultural trade. This situation has made it possible to coordinate the progress achieved by both groups. The following table summarizes the topics and the different proposals -some of which are contradictory- presented by the delegations to the NGAG.

During its eighth meeting (July 2000), the NGAG decided that coordination between itself and the NGMA should continue, through ongoing coordination of the delegations at the national and regional levels. Because market access will be addressed at the next NGAG meeting, delegations had until September 19, 2000, to submit proposals on that topic.

Topic/Discipline	Proposals
a) Base tariff to be used in the tariff negotiations	<ul style="list-style-type: none"> n Bound in WTO lists n Applied (MFN) at a specific moment n The lesser of the preceding two n Need to determine a base year n Percentile preferential margins n Differentiated base tariff for smaller economies that receive preferential tariffs n Limitations on expanding access based on bilateral or subregional agreements
b) Methods, modalities and schedules for reducing tariffs	<ul style="list-style-type: none"> n Supply and demand of concessions n Tariff reduction formulas n 10-year timetable n Division of products into baskets, according to their degree of sensitivity n Differential time frames and pace of tariff reductions (possibility of exclusions) n Comprehensive negotiation without exclusions n Measures that eliminate tariff peaks, graduated tariffs, seasonally adjusted tariffs, no ad valorem, tariffs of less than 5%. n Zero-for-zero negotiating modalities n Different timetables for some products and countries
c) Structure of the lists of tariff concessions	<ul style="list-style-type: none"> n Single schedule for all the countries or individual (country/country) n Bound tariff preferences for beneficiary countries
d) Special and differential treatment (SDT)	<ul style="list-style-type: none"> n Broad and categorical presumptions should not be made with the granting of SDT n The Declaration of San Jose is only indicative and not exhaustive
e) Measures that affect the tariff applied, non-tariff barriers and measures with equivalent effects	<ul style="list-style-type: none"> n Identify, via notifications and counter-notifications, measures such as: non-tariff barriers, surtax levies, quotas, other taxes and duties applied to imports, price bands, reference prices and discretionary mechanisms for import licenses.

Topic/Discipline	Proposals
f) Safeguards	<ul style="list-style-type: none">• Analyze the characteristics of the trade liberalization process and the overall safeguards system• Opposing positions on the need for a special safeguard for agriculture.• Duration of the safeguard mechanism (temporary or permanent)• Define whether the mechanism should be selective or automatic, whether injury or the threat of injury should be considered, and whether or not it should involve compensation• Application (mechanism must be flexible and take into account the sensitivity of agricultural production and marketing)
g) factors conditioning the liberalization process	<ul style="list-style-type: none">• Tariff liberalization must go hand in hand with the elimination of: export subsidies; trade-distorting domestic measures; tariff peaks; graduated tariffs; certain aspects of credit subsidies, export insurance and credit guarantees; distorting practices of state trading enterprises.• Some issues must be addressed at the multilateral level (WTO)• Liberalization is a comprehensive commitment that must not be subjected to pre-existing conditions.

Export subsidies

As regards agricultural export subsidies, there has been considerable discussion regarding definitions, coverage and treatment vis-a-vis trade with non-FTAA countries. In support of the negotiations, the decision was made to develop a hemispheric data base, supplied through a process of notifications and counter-notifications. Listed below are some of the proposals submitted by the delegations, by topic or discipline:

Topic/Discipline	Proposals
a) Definition of export subsidy	<p>Consider the definitions contained in:</p> <ul style="list-style-type: none"> n Article I (e), 9 and 10 WTO-Agreement on Agriculture, n Article 1, 3.1, and Annex I of the WTO Agreement on Subsidies and Countervailing Measures
b) Methodology and timetable for eliminating export subsidies	<ul style="list-style-type: none"> n Immediate elimination upon FTAA's entry into force, or n Elimination in accordance with a multilateral program n Linear reduction formula only for the FTAA n Elimination by a set date n Longer periods of time for elimination in smaller economies and developing countries n No exceptions should be accorded in this area
c) Mechanism for treating within FTAA, export subsidies of non-FTAA countries	<ul style="list-style-type: none"> n Achieve full elimination of all export subsidies under WTO agricultural negotiations n Secure commitment from non-FTAA countries to not use subsidies on exports to FTAA countries n Apply countervailing measures
d) Treatment of the export subsidies of FTAA countries in third-country markets	<ul style="list-style-type: none"> n As a comprehensive solution, achieve a total elimination of export subsidies under WTO n Establish a hemispheric consultation mechanism and a prior agreement among FTAA countries regarding the application of subsidies to exports to non-FTAA countries; and agree that funds no longer used to subsidize exports in the hemisphere will not be used to subsidize exports to third countries. n Restrict the elimination of export subsidies to the trade of agricultural products in the hemisphere, as per the mandate of the NGAG.

In this connection, the NGAG presented to the world a hemispheric declaration, endorsed by the Trade Ministers, at the meeting of FTAA Trade Ministers in Toronto, Canada (November 1999), calling for the elimination of export subsidies, in light of the coming Third WTO Ministerial Conference to be held in Seattle, Washington, and the upcoming multilateral negotiations on agriculture.

To date, two groups of countries (MERCOSUR and the Andean Community) plus five countries (Canada, Costa Rica, Chile, Guatemala and the United States) have presented comprehensive proposals consisting of articles for the chapter on export subsidies. Below are some of the sub-topics shared by the FTAA countries or that introduce specific concepts on certain disciplines.

Despite certain differences, the Andean Community, Canada, Chile, Costa Rica and MERCOSUR are coming closer to reaching agreement on a definition of export subsidies.⁹

Chile, the Andean Community and MERCOSUR emphasize that the definition must include measures related to export credits, export credit guarantees and insurance programs, as well as food aid not covered by Article 10.4 of the Agreement on Agriculture (AoA). The United States, however, does not consider any of those to be export subsidies, provided they are compatible with the rights and obligations of WTO members.

Canada, Costa Rica, Guatemala and the United States agree on reaching a multilateral agreement for the elimination of export subsidies and ensuring that same are not re-applied later. MERCOSUR establishes as a principle non-application of export subsidies in intra-zone trade, without reference to a multilateral agreement for eliminating them within the FTAA.

⁹ Article I (e), 9 and 10 of the WTO-AoA; Articles 1, 3.1 and Annex I of the WTO Agreement on Subsidies and Countervailing Measures.

Costa Rica, Chile and Guatemala insist that the final FTAA agreement include a commitment by the countries to waive their rights under GATT 1994 regarding the use of export subsidies, as well as any rights to make use of such subsidies that may be accorded under WTO agricultural negotiations. Guatemala proposes that a clause be incorporated to grant an exception for the time developing countries will need to rollback export subsidies. Chile, on the other hand, considers that no exception should be granted for any category of country, including the developing and the least developed countries. The Andean Community reserved the right to present a later proposal on special and differential treatment vis-à-vis export subsidies.

Only MERCOSUR has tied implementation of the tariff elimination program to the elimination of export subsidies.

The proposals presented regarding the treatment of export subsidies in trade with non-FTAA countries are complex, and range from the application of the mechanisms established by the WTO, to transitory agreements that would be applied until export subsidies are eliminated at the multilateral level. The United States proposes, among other things, the application of export subsidies to offset subsidies applied by non-FTAA countries to their exports within the hemisphere. It can be expected that it will be difficult to reach agreement on the language to be included in the final agreement and to administer any provision regarding this topic.

Other measures and practices that distort agricultural trade, including those with an effect equivalent to export subsidie

A number of trade-distorting measures and practices have been identified that cannot be categorized as tariff or para-tariff barriers or export subsidies. The NGAG has agreed on the need to conduct a hemispheric inventory of such measures and practices,

through the preparation of data sheets and notification and counter-notification procedures. Such measures and practices include:

- 1 Subsidized agricultural export credits
- 1 Types of domestic support (amber, green and blue box measures)
- 1 Certain practices of state trading enterprises
- 1 Tax differentials on exports
- 1 Certain funding schemes
- 1 Tariff reductions and exemptions
- 1 Tax exemptions
- 1 Export promotion programs
- 1 Export taxes and duties
- 1 Exchange-rate transactions
- 1 Debt cancellation

Once such measures and practices have been identified, it will be necessary to define the meaning of "distortion" within the context of the NGAG, and how each should be brought under discipline or treated. To date, two groups of countries (Andean Community and MERCOSUR) and five countries (Canada, Costa Rica, Chile, Guatemala and the United States) have presented proposed text in article form for identifying and treating other measures and practices that distort agricultural trade, including those that have an effect equivalent to agricultural export subsidies. Summarized below are the key aspects of said proposals, which revolve around domestic support measures as defined under the WTO Agreement on Agriculture.

The Andean Community defines such measures as any practice that distorts agricultural trade and production, except for general services, domestic food aid, and payments for disaster assistance. It proposes, furthermore, that such measures not be re-established, that a notification system exist for countries to report annually on measures applied that do not distort trade, and that the mechanisms in place for addressing subsidies and countervailing measures and dispute settlement be used for resolving any difference that may arise as a result of the undue application of such measures.

Canada proposes working within the framework of the multilateral agricultural negotiations to eliminate or reduce to the extent possible "blue box" measures, to establish a ceiling on all kinds of domestic aid (amber, yellow and blue); to review the criteria for the application of "green box" measures; and to eliminate Article 13, regarding the "peace clause."

Chile proposes elimination of all domestic support measures, except those covered in Annex 2 of the WTO-AoA, and to act together in the multilateral negotiations to review and redefine permissible measures for said annex.

Costa Rica advocates reaching a multilateral agreement that will make it possible to discipline domestic support measures that distort agricultural trade, including those contained in Annex 2 of the WTO-AoA; it proposes that the final FTAA agreement consider eliminating all domestic support measures that distort trade, even those contained in said annex.

The United States proposes that domestic support measures be reduced substantially in the multilateral negotiations, and that all support that distorts agricultural trade be strictly regulated. It considers that differences between the taxes on exports of raw materials and those on processed products using the same raw materials should be eliminated.

MERCOSUR's proposal is based on the domestic support commitments Argentina, Brazil, Canada, Colombia, Costa Rica, the United States, Mexico and Venezuela have in the WTO bound schedules, and offers a proposed timetable for eliminating them. The countries that did not present domestic support commitments would only be able to apply the "de minimis" level.¹⁰ MERCOSUR considers that governmental measures applied in developing

¹⁰ The "de minimis" level equals 5% of the value of the production of an agricultural product. When such support is not limited to specific products, the 5% is calculated on the basis of total agricultural production. For developing countries, the "de minimis" level is 10%.

countries, such as direct or indirect technical assistance, agricultural inputs for low-income producers, and other inputs for developing infrastructure, should be exempted from reduction commitments. Its proposal also contains measures to prevent circumvention of commitments, particularly those related to export credits and the concession of food aid. It also establishes a system of penalties based on the cancellation of tariff preferences.

As in most of the topics analyzed, the delegations are not in agreement as to NGAG's jurisdiction in dealing with these topics vis-a-vis the other FTAA negotiating groups or with the WTO multilateral negotiation process.

Sanitary and phytosanitary measures

NGAG discussions have focused on the disciplines associated with agricultural trade, specifically: tariffs, export subsidies and other measures of equivalent effect and (marginally) sanitary and phytosanitary measures. This explains why some delegations consider that negotiations on sanitary and phytosanitary measures should be handled by an *ad hoc* or other type of group, and that the FTAA should have a specific agreement on that subject.

There is consensus, however, that the FTAA countries must fully implement the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (WTO/SPS Agreement). The point was raised that a greater understanding of the following areas is necessary for application of the WTO/SPS Agreement:

- 1 Cooperation and technical assistance
- 1 Dispute settlement
- 1 Institutional issues
- 1 Harmonization
- 1 Equivalence
- 1 Regionalization
- 1 Transparency

- 1 Risk assessment
- 1 Control, inspection and approval procedures

At its last meeting, the NGAG discussed at length what a chapter on sanitary and phytosanitary measures of the FTAA agreement should contain. The Andean Community, MERCOSUR, Nicaragua, Canada, Chile, Mexico, Jamaica and the United States submitted proposals.

An analysis of the proposals reveals four trends:

- i) Some countries do not believe a specific SPS agreement is appropriate under the FTAA, since efforts should focus on implementing the WTO/SPS Agreement and on providing support for the preparation of rules, directives and recommendations by the relevant international organizations: Codex Alimentarius, the International Plant Protection Convention, and the World Organization for Animal Health (United States, Canada).
- ii) Some countries believe it is necessary to include articles on SPS, and intend to implement some of aspects of the WTO/SPS Agreement (Andean Community, MERCOSUR)
- iii) Some countries want an agreement that provides for greater cooperation and technical assistance for the purpose of overcoming inequalities among the FTAA countries (Andean Community¹¹, Jamaica, Nicaragua) and;
- iv) Some countries believe a chapter on SPS is of strategic importance, in order to take into account and incorporate emerging issues and address in more detail certain principles of the WTO/SPS Agreement (Mexico, Chile).

11 The Andean Community, which presented a text of proposed articles, has underscored the need to coordinate the technical assistance and cooperation programs for implementing the WTO/SPS Agreement, for the purpose of overcoming inequalities among FTAA countries in this area.

The Chair of the NGAG accepted new or revised proposals related to sanitary and phytosanitary measures through September 10, 2000.¹²

The progress made in the NGAG negotiations, from its first meeting in September 1998 until the present, can be summarized as follows: i) the focus has been on presenting and discussing proposals (several of them with opposing positions) on market access, export subsidies and other trade-distorting measures and practices; ii) the subject of sanitary and phytosanitary measures has not been addressed in depth; iii) progress in the organization of the agricultural negotiations at the WTO has been closely monitored; and iv) the Chair of the NGAG submitted a proposal with the elements of a chapter on agriculture for the FTAA agreement.

It should be noted that, as in the case of the other negotiating groups, the NGAG must have its first draft text no later than three months before the next FTAA Ministerial Meeting, which is scheduled to take place in Argentina in April 2001.

RELATIONSHIP BETWEEN THE AGRICULTURAL NEGOTIATIONS OF THE FTAA AND THE WTO

Throughout this document, we have been associating the hemispheric negotiations of the FTAA with the multilateral negotiations of the WTO. In this regard, more than any other FTAA negotiating group, the NGAG is directly affected by developments of the recently begun multilateral agricultural negotiations. One reason is because of the relevance and influence of the disciplines addressed in the Agreement on Agriculture and other multilateral

¹² Mexico, Chile, Panama, the Dominican Republic and the countries of Central America are working to harmonize a proposal that will be submitted to the Chair of the NGAG.

agreements¹³ on regional negotiation processes such as the FTAA. Another reason can be found in the mandate of the Negotiating Group on Agriculture: "*incorporate progress made in the multilateral negotiations on agriculture to be held according to Article 20 of the Agreement on Agriculture, as well as the results of the review of the SPS Agreement;*"¹⁴ and in the spirit of the FTAA process, of achieving an agreement that is "*balanced, comprehensive and WTO-consistent...*"¹⁵

Also, agriculture is a sensitive sector in the FTAA member countries for two different reasons. FTAA countries whose agriculture is heavily protected have no interest in moving beyond the commitments acquired under the WTO, especially in regard to export subsidies and other measures of equivalent effect. In contrast, net food exporting countries, represented by the members of the CAIRNS Groups in the Americas,¹⁶ are pushing for an expansion of commitments at the hemispheric level, in accordance with the definitions and terms established by the WTO. In both cases, although the positions are opposing, there is a close relationship between these positions and what is happening at the multilateral level.

Although the multilateral agricultural negotiations began in March 2000, not all WTO member countries are convinced that they should be conducted as sectoral negotiations rather than as part of a round involving all sectors, which would therefore afford greater balance for participants' interests. Some member countries (United States, European Union, Japan) have reservations about holding sectoral negotiations on a subject as complex as agriculture, as this excludes a number of areas of interest for which concessions could be exchanged with other economic sectors.

13 For example, the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and the WTO Agreement on Subsidies and Countervailing Measures

14 FTAA Objectives of the Negotiating Group on Agriculture

15 See *San Jose Ministerial Declaration*, Summit of the Americas, Fourth Trade Ministerial, San Jose, Costa Rica, March 19, 1998.

16 In the Americas, the members of the CAIRNS Group are Argentina, Bolivia, Brazil, Canada, Colombia, Costa Rica, Chile, Guatemala, Paraguay and Uruguay.

In light of the above, very close ties can be expected between the two processes. The FTAA will follow the WTO as it furthers its discussion on the agenda and text. The negotiating schedules of both processes are similar, making possible a "wait and analyze" approach. For some topics of the agricultural agenda, it will be possible for the FTAA to "export" some specific proposals to the agricultural negotiations under the WTO. For certain disciplines and subjects such as export subsidies, domestic support (dealt with in FTAA as other trade-distorting measures and practices for agricultural products) and sanitary and phytosanitary measures, the multilateral context will define, to a great extent, the scope of the hemispheric agreement.

Finally, analysts agree that both processes will need an "accelerating" factor. In the case of the FTAA, this could be the firm interest and participation of the United States in the negotiations. In the case of the WTO,¹⁷ the inclusion of agricultural negotiations in a farther-reaching process may make it possible to continue on toward a true worldwide reform of agricultural trade. In any event, both negotiations are complex and require effective, responsible and ongoing participation. Moreover, both affect the greatest part of the trade of the countries of the Americas, in terms of volume, value and target markets.

17 An interesting essay "The FTAA and the WTO: Thoughts on their Interaction" (Working Document No.4 IDB-INTAL, 1999) by Jaime Granados analyzes the types of interaction between multilateral and regional processes, specifically between the WTO and FTAA.

SOME CHALLENGES AND OPPORTUNITIES FOR THE AGRICULTURAL SECTOR OF THE HEMISPHERE UNDER THE FTAA

The greatest challenge facing the FTAA is to maintain the hemispheric commitment to continue forward until reaching a final agreement in the year 2005 among the 34 countries of the Western Hemisphere (countries that vary considerably in size, wealth generation, production structure, human development, etc.) even when the political setting is not the most favorable.

As concerns agriculture, some countries or groups of countries such as MERCOSUR will strive to fulfill the objectives proposed by the NGAG for achieving a true liberalization of agricultural trade in the hemisphere. MERCOSUR, presently considered a net exporter of food and, at the world level, the region with the greatest potential for growth in food production, the greatest water reserves and the highest per capita amount of productive land, should find that this "single undertaking" of FTAA affords it a positive agricultural trade balance at the hemispheric level.

In general, the FTAA can be expected to open up new opportunities for agrifood trade in the hemisphere. There will be improvement in the capacity to compete resulting from the elimination of export subsidies and other measures of equivalent effect, and from clear and transparent rules that will enable the countries to develop to the optimum their trade relations in the hemisphere. But great challenges also exist, including competing effectively with other countries of the hemisphere for target markets and at home with imported products. In both cases, the FTAA should provide a positive balance by stimulating the creation of new businesses and markets for countries participating in the process.

The foreign trade policy orientation in the hemisphere, whether of countries organized into blocs or individual countries, reveals a consistent effort to consolidate traditional and nontraditional markets, develop global businesses with production

processes situated in more than one customs territory, and attract foreign investment, much in the agrifood sector. The number of free trade agreements and the improvement and modernization of customs unions are apparently first steps on the path to hemispheric integration.

It is worth underscoring the fact that ten countries of the Western Hemisphere (Canada, Guatemala, Costa Rica, Colombia, Chile, Brazil, Uruguay, Paraguay, Argentina and Bolivia) are members of the Cairns group, a group of countries that, together, represent large-scale producers and suppliers of grains, oilseeds, meat, sugar, fruits, vegetables, coffee and bananas. This situation provides an opportunity for strengthening their positions vis-a-vis the elimination of distortions and protectionism in agriculture in the Western Hemisphere and for reaching consensus on their positions in the WTO agricultural negotiations.

As suggested in this document, the FTAA can serve as a "laboratory" for developing proposals for the WTO negotiations process. Therein lies the importance of national-level discussions and coordination in each country for organizing and involving the different sectors and stakeholders of society in this negotiation process.

FTAA has also advanced in its efforts to identify measures for facilitating business (expected to be implemented during 2000), with a view to eliminating constraints to hemispheric trade at an early stage and creating effective conditions for business and trade before the FTAA enters into force.

In the case of agriculture, opportunities for expanding markets or attracting investments can only be tapped if the necessary conditions are created for making it competitive and for increasing knowledge on potential markets. To this end, it is necessary to identify what is being done and what is still pending relative to such issues as agricultural research, technology development, support infrastructure for production and export, trade information

systems, market intelligence, etc. Moreover, joint efforts must be strengthened and the responsibilities of the States, trade associations and agricultural businesspersons defined.

The FTAA is a large market with preferential conditions of access that the countries can tap if they expand their exportable supply and differentiate their products for the international market. This will enable them to boost their earnings, which have already been affected by the international prices for most agricultural commodities.

Currently, the tariff structure of many target markets are more favorable for exported raw materials than for goods having valued added, which are penalized through high tariffs. This situation would be reduced and eliminated under FTAA. Moreover, as indicated earlier, domestic agriculture will only be able to lower the risks of competing imported products if it develops products that meet the quality, quantity, price and timeliness requirements of increasingly demanding consumers.

The agricultural sector of the hemisphere (both public and private) should accord the FTAA agricultural negotiations -like the WTO negotiations- a strategic priority, establishing dynamic mechanisms of coordination to facilitate the adoption of coherent, timely and technically sound decisions. While it is a complex, long and cumbersome process, steps should be taken to foster both national and regional dialogue and to participate effectively in the negotiations process, so that the interests of each country and the agricultural sector in particular are taken into account.

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