

**THE ENVIRONMENT AND THE FTAA:  
CAUGHT IN THE CROSSFIRE**

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## **I. Introduction**

Growing acknowledgement of trade-environment linkages has given rise to considerable pressure for the inclusion of environmental issues in free trade agreements. An important step in this direction was taken in the North American Free Trade Agreement (NAFTA), where the United States, Canada, and Mexico addressed a number of issues in the NAFTA text and dealt with other pollution and resource management issues in a “Side Agreement.”<sup>1</sup> Although the environmental provisions of the NAFTA seem to have helped move collaborative environmental action in North America forward without causing trade disruptions, the launch of negotiations for a 34-nation Free Trade Area of the Americas (FTAA) has been marked by considerable hostility to the trade-environment linkage. Pressure not to have a “parallel” trade discussion of environmental issues has come not only from the developing countries of the hemisphere, who are traditionally skeptical of environmental initiatives, but also from important quarters within the United States. The decision not to take up environmental issues in the FTAA bodes badly both for the environment and for the future treaty’s prospects of ratification in the United States. Neglecting to address transboundary pollution spillovers and the risk of over-exploitation of shared resources threatens market failures that will result in economic inefficiency, reduced gains from trade, and lower social welfare – not to mention environmental degradation.<sup>2</sup> The recent difficulty in getting presidential “fast track” trade negotiating authority through the Congress suggests that trade proposals without an appropriate environmental dimension face tough sledding.<sup>3</sup>

This paper examines why the hostility toward the environment in the FTAA context has emerged within the United States. It also reviews what might be done to address these concerns.

## **II. Setting the Stage: NAFTA**

The initiation of negotiations for the North American Free Trade Agreement, intended to establish a liberal trading regime stretching from Alaska to the Yucatan, sparked one of the most heated American political debates of the nineties. The proposed agreement would unify under liberal trade rules three countries of vast geographic extension and very different economic and political dimensions. As different political parties and interest groups within the United States contemplated the implications of such an accord, they began to identify potential consequences and invoke concerns that fell outside the

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1 Daniel Esty. Making Trade and Environmental Policies Work Together: Lessons from NAFTA. *Aussenwirtschaft*, 49. (Zurich: Ruegger).

<sup>2</sup> see André Dua and Daniel Esty, *Sustaining the Asia Pacific Miracle: Environmental Protection and Economic Integration* (Washington, DC: Institute for International Economics, 1997).

traditional parameters of the free trade debate. The realization that NAFTA would have far-reaching effects outside the economic realm brought into the debate a “motley crew” of labor, religious, consumer, environmental, and other community groups, many of which had not previously had much to do with the question of US trade policy.<sup>4</sup> Especially prominent among these groups was the environmental community.

Early on in the debate, environmentalists expressed concern that the liberalization of trade relations through NAFTA – especially between the US and Mexico – could result in environmental degradation. The American Medical Association had already labeled the border region “a virtual cesspool and breeding ground for infectious disease.”<sup>5</sup> This situation could only be expected to worsen and spread given Mexico’s questionable commitment to environmental protection and the prospect that the US could be forced to water down its own environmental law in the name of fair trade – a prospect which found precedent in Mexico’s challenge to a US ban on dolphin-unsafe tuna under the General Agreement on Tariffs and Trade.<sup>6</sup>

NAFTA, EPA Administrator William Reilly has asserted, is the “greenest” trade agreement to be negotiated to date.<sup>7</sup> This result is readily understood in the context of the domestic controversy surrounding the agreement and the environmental community’s crucial position in the balance: US trade negotiators were obliged to take environmental considerations into account because they needed the support of pro-environment Democrats in order to push the deal through Congress. NAFTA negotiators addressed environmentalists’ concerns on several levels. Within the agreement itself, they managed to set technical environmental standards and sanitary and phytosanitary measures, providing for baseline regulation of substances ranging from pesticides and industrial chemicals to food additives and contaminants. In addition, where no disguised trade restrictions or discrimination against foreign interests was evident, the agreement granted to each country the right to set environmental standards higher than the baseline and to regulate against environmentally damaging new investments. NAFTA’s dispute resolution mechanisms were designed to be able to adjudicate any conflicts arising as the parties made use of these provisions. The burden of proof would rest with the challenging party, and proceedings would admit expert environmental counsel and representation. Furthermore, in cases where the NAFTA and

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<sup>3</sup> More broadly, pro-trade, pro-environment Congressmen and Senators have been a critical part of the narrow majority that passed recent trade bills.

<sup>4</sup> Frederick Mayer, *Interpreting NAFTA: The Science and Art of Political Analysis* (New York: Columbia UP, 1998) 77.

<sup>5</sup> Public Citizen’s Global Trade Watch, “NAFTA’s Broken Promises: The Border Betrayed,” 1996, online, <http://www.citizen.org/pctrade/nafta/reports/enviro96.htm>, 13 Jul. 1999.

<sup>6</sup> Mayer 75.

<sup>7</sup> William Reilly, Administrator of the US Environmental Protection Agency, “Testimony before the Subcommittee on International Trade of the Senate Committee on Finance,” 11 Sept. 1992, in Daniel C. Esty, “Making Trade and Environment

existing multilateral environment agreements (MEAs) implied different rulings, primacy would be given to the MEAs.

The most comprehensive treatment of the environmental issue took place in supplemental negotiations, conducted parallel to the trade negotiations, which produced the North American Agreement on Environmental Cooperation (NAAEC). This “side agreement” to NAFTA helped to assuage environmentalists’ concerns through the creation of several international environmental bodies. The Commission for Environmental Cooperation (CEC) was designed to foster discussion and dispute resolution in trade-environment matters and to provide an institutional mechanism for managing North American environmental challenges. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank) were designed jointly to study, promote, and finance border environmental improvement projects. The Clinton administration’s pledge of nearly \$1.5 billion in US government funds and another \$1.8 billion in World Bank and Inter-American Development Bank loans placated those concerned with the practical workings of these new institutions.

Some environmental groups, such as Greenpeace and the Sierra Club, remained unconvinced and opposed the NAFTA to the end. Other groups, however, including the National Wildlife Federation (NWF), World Wildlife Fund (WWF), Nature Conservancy, National Audubon Society, National Resources Defense Council, and Environmental Defense, recognized the significance of these initial trade-environment breakthroughs and lent their support to the agreement. NAFTA was ratified by the Congress in 1993 and went into effect on January 1, 1994.

### **III. The Current Scene: Outlook on the FTAA**

NAFTA’s positive environmental effects have been fewer in number and slower in coming than enthusiasts had hoped. But Mexican-American-Canadian progress in addressing shared environmental challenges has been real. Plans for the FTAA were launched at the 1994 Summit of the Americas in Miami. With 34 of the 35 leaders of the Western Hemisphere in attendance, many expressed hope that the negotiations and agreement process would give rise to hemispheric cooperation not only in the economic realm but also in the social, political, and environmental realms.

The FTAA idea is economically monumental, the most ambitious attempt at regional integration to date. Extending from Alaska to Cape Horn, the Area would encompass every nation of the Western

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Policies Work Together: Lessons from the NAFTA,” *Trade and the Environment: The Search for Balance*, Vol. 1, ed. James Cameron, Paul Demaret, and Damien Geradin (London: Cameron May, 1994) 379.

Hemisphere except Cuba and boast a population of over three-quarters of a billion<sup>8</sup> potential consumers, with a combined GDP of over \$9 trillion. Moreover, the FTAA effort seemed to come at a propitious time, when all of the region's major economies had undertaken significant liberal economic reforms.

The 1994 timing also seemed to be politically favorable, as the 34 nations party to the negotiations had all made the transition to democracy. The bonds of the FTAA were expected to reinforce and enrich the democratic system throughout the hemisphere. Enthusiasts also championed integration's potential to further social causes such as human rights and education.

Along with these political and social ramifications, the agreement's environmental ramifications surfaced in the FTAA debate. Environmentalists, who feared the deal's potential for inflicting environmental harm, as well as certain business, labor, and consumer interests, whose environmental leanings stemmed more from competitiveness concerns, favored following and improving upon NAFTA's example. These groups recommended that negotiators find ways to expand and deepen the incorporation of environmental considerations into the FTAA – an agreement which would apply to over eleven times as many countries as its predecessor.

At the Miami Summit, it appeared that the FTAA had been set upon just such a course. The Miami Declaration states plainly that “social progress and economic prosperity can be sustained only if our people live in a healthy environment and our ecosystems and natural resources are managed carefully and responsibly.” In this belief, the document's signatories resolved to “advance...social well-being and economic prosperity in ways that are fully cognizant of [human] impact on the environment.”<sup>9</sup> The Miami Summit's Plan of Action, in a similar vein, includes commitments to promote sustainable energy use, the preservation of biodiversity, and pollution prevention.<sup>10</sup>

Environmental language notwithstanding, the environmental component of the negotiations has failed to materialize. In San José, trade ministers specified nine areas of the proposed FTAA agreement for which negotiating groups would be created. The environment was not among them. Environmental issues, ministers thought, could be addressed satisfactorily in a different type of venue – the Committee of Government Representatives (CGR). The responsibility of this new institution would be to gather and analyze input from civil society, of which environmental groups are a part, and present its ideas to the negotiators in the core groups.

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<sup>8</sup> William T. Pryce, “Testimony Before the Subcommittee on Trade of the House Committee on Ways and Means,” Hearing on the Free Trade Area of the Americas, 31 Mar. 1998, online, [http://www.house.gov/ways\\_means/trade/testimony/3-31-98/3-31pryc.htm](http://www.house.gov/ways_means/trade/testimony/3-31-98/3-31pryc.htm), 24 Jun. 1999.

<sup>9</sup> “Declaration of Principles,” Summit of the Americas, Miami, Florida, Dec. 1994, online, [http://www.alca-ftaa.org/ministerials/miami\\_e.asp](http://www.alca-ftaa.org/ministerials/miami_e.asp)

<sup>10</sup> “Plan of Action,” Summit of the Americas, Miami, Florida, Dec. 1994, online, [http://alca-ftaa.org/ministerials/plan\\_e.asp](http://alca-ftaa.org/ministerials/plan_e.asp)

As was evident a month later at the Second Summit of the Americas in Santiago, Chile, the CGR has failed to promote the consideration of environmental issues in the FTAA negotiations. President Clinton's lack of fast track authority also contributed to the neglect of the environment in Santiago. Taking note of the congressional divide over the renewal of fast track trade negotiating authority and interpreting the debate as cause to question the US' commitment to free trade, the other leaders at the Summit opted to downplay FTAA negotiations altogether in favor of "second generation" issues such as education and health care. Without the weight of fast track behind him, Clinton found himself unable to push the trade talks at all, much less the incorporation of volatile environmental questions into them.

It appears now that the rhetoric of the Miami Declaration was grounded in little serious commitment to tackle trade and environment issues in the FTAA. Although U.S. Trade Representative Mickey Kantor hailed the emergence of an "international consensus" on the trade-environment linkage in 1995<sup>11</sup>, by 1996 this consensus had vanished. Traditionally preoccupied with the overarching goal of economic development, Latin America has shied away from environmental initiatives that could complicate their access to the North American market. At the Miami Summit, Latin American leaders fully expected that they would have to make concessions in the environmental arena to ensure US membership in the FTAA, as Mexico had had to do in the case of the NAFTA. By the March 1998 Trade Ministerial in San José, Costa Rica, however, this expectation had dissipated. The disintegration of the domestic pro-trade and environment majority had revealed that the US would no longer be able to exert the same kind of pressure. Led by Mexico, where officials feel bitter about environmental provisions to the NAFTA that they feel they were forced to accept, Latin America has taken the opportunity to lash out against the idea of a real environmental commitment within the FTAA.

Latin America has, to some degree, taken its cue from the United States. Kantor's trade-environment "consensus" has vanished even within the US Congress. On one side are those who demand the inclusion of environmental considerations in the FTAA. Among these are environmental groups who fear that increased trade will lead to increased industrialization and hence, without environmental guarantees, to increased pollution and resource consumption. Some environmental groups, such as the Sierra Club, are openly hostile to free trade. Joining the environmental community are those who invoke the environment for economic reasons: business interests who favor environmental regulation in order to "level the playing field" and Democrats who fear the economic consequences of free trade – especially those affecting organized labor – and merely couch their concerns in more politically palatable environmental language. On the other side are those who oppose attaching environmental safeguards to

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<sup>11</sup> Michael Kantor, "Testimony before the Ways and Means Committee and Rules Committee Joint Hearing," Federal Document Clearing House, 17 May 1995, online, LEXIS-NEXIS Academic Universe, 16 Jun. 1999.

the FTAA agreement. The Republicans, who took over the congressional majority after NAFTA was passed, have proved faithful to big business constituents looking to expand their market share without the added cost of environmental compliance. Many believe in free trade as an unmitigated good and fear that the inclusion of environmental considerations would jeopardize the achievement of this goal. Republicans are also skeptical about the true motivation of environmentalists, who they perceive to be using the FTAA as a vehicle to advance environmental interests that they do not support. Many even believe that certain pro-environment interests seek to use the environmental controversy to sink the FTAA altogether.

Given Latin American opposition to the idea, whether the environment is in fact incorporated into the FTAA negotiations will depend in large part on the United States – the most economically strong and politically influential of the agreement’s potential signatories. However, it is unlikely that the US will be able to pressure its trading partners into taking the environment into account in the absence of strong support for the effort at home. The fragile domestic consensus of the NAFTA era has degenerated into a heated debate among different factions of the environmental and business communities and their Democratic and Republican representatives.

#### **IV. In Comer One: Supporters of the Trade-Environment Linkage**

Those who favor the inclusion of environmental considerations in free trade agreements do not, by any means, do so for the same reasons or with the same ultimate goals in mind. Significant fracture lines have surfaced within this group. Many support the trade-environment linkage out of genuine concern for their natural surroundings; many others appear to do so as a means of achieving completely different social or economic goals.

Among those who support the trade-environment cause for environmental reasons are the approximately seven million-member environmental community<sup>12</sup>, which has followed its debut as a trade policy player in the NAFTA debate with a continued strong stance on the issue. Environmentalists are divided in their opinions, rallying behind two major flags, but both positions are rooted in a strong concern for the environmental side-effects of free trade.

Environmentalists tend to associate unregulated economic growth – a consequence of the market-opening trends of the post-World War II period – with the environmental degradation of the past half-century. In each new free trade agreement they perceive further potential for environmental harm. One class of threats stems from the economic growth that liberalization promotes. Economist David Pearce

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<sup>12</sup> Nancy Dunne, “Congress Warned on ‘Resurrected Fast-Track,’” Financial Times (London) 13 Aug. 1998.

identifies several such dangers. First, economic growth involves intensified use of scarce natural resources and more rapid transformation of wildlands to suit human purposes. Second, in increasing market activity, trade liberalization increases the frequency of market failures that tend to work against the environment.<sup>13</sup> As another author put it, “trade distortions and the simple volume and scale of trading activity may...result in environmental damages.”<sup>14</sup> In this line of reasoning, the FTAA, by virtue of its hemispheric scope, runs a high probability of causing environmental harm.

Another class of threats stems from country-to-country competitiveness fears sparked by differences in environmental policy. Environmentalists, echoed by Democrats in Congress, worry that free trade among nations with different environmental standards could give rise to a situation in which investing companies would be attracted away from the US toward countries with low environmental standards, so-called “pollution havens.” Environmentalists also protest that the US – as well as other countries – could be led to water down domestic environmental policies in attempts to level the playing field and enhance their competitiveness, possibly provoking a hemispheric spiral of downward harmonization.

The environmental community diverges on how to manage the potential for environmental harm that comes with trade liberalization. Some environmentalists still adhere to the limits to growth theory, popular in the 1970s, which leads them to oppose all trade liberalization in the belief that it must inevitably lead to environmental degradation and the depletion of natural resources. Although this theory has proven to be over-simplified, many environmental groups appear still to be influenced by its central tenet, that economic growth necessarily comes at the expense of the natural environment. Groups like these – including Greenpeace, Friends of the Earth, and the Sierra Club – conclude that trade liberalization, expediting the growth of the economy, must also expedite the deterioration of the environment.

At the other end of the spectrum are those who subscribe to the sustainable development paradigm. Central to this viewpoint is the assertion that poverty is a major cause of environmental degradation; any attempt to address environmental problems must address the underlying problem of poverty. Economic growth, capable of raising the standard of living, thus has a role to play in environmental protection within the sustainable development paradigm. With the proper safeguards in place, trade liberalization’s harmful effects can be avoided and its positive economic effects harnessed to

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<sup>13</sup> David Pearce, “The Greening of the GATT: Some Economic Considerations,” Trade and the Environment: The Search for Balance, Vol. I, ed. James Cameron, Paul Demaret, and Damien Geradin (London: Cameron May, 1994) 22-23.

<sup>14</sup> C. Ford Runge, Freer Trade, Protected Environment (New York: Council on Foreign Relations Press, 1994) 10.

the environmental cause. Liberalization can also promote sound environmental practices by facilitating access to clean and efficient technology.<sup>15</sup>

Mainstream environmental groups such as the National Wildlife Federation adhere to this position. They support free trade on the grounds that it is, as the NWF's Steven Shimberg asserted in testimony before the House Ways and Means Committee, "an important component of national and international efforts to better peoples' lives"<sup>16</sup> and, presumably, to reduce the need to exploit the environment at the same time. Such beliefs led the NWF and similar groups to support NAFTA in 1993.

These more moderate organizations thus reconcile their support for free trade agreements with their commitment to environmental protection on the grounds that trade liberalization is an opportunity. While maintaining that trade and economic growth can cause damage to the environment in the absence of appropriate safeguards, moderates suggest that with appropriate safeguards, trade and economic growth can actually benefit the environment.<sup>17</sup>

The critical factor, they assert, is balance. "We still believe in trade as an important component of national and international efforts to better peoples' lives," Steven Shimberg states, "but we have learned that lives are made better only when trade rules and environmental protection go hand in hand."<sup>18</sup> Environmental issues should be considered on par with current hot topics such as intellectual property rights and competition policy, and should be given equal attention in all stages of the FTAA game – from the elaboration of fast track legislation in the US to the multilateral trade negotiations to the agreement itself. As John Audley, formerly of the NWF and now of the EPA, has emphasized, it is when trade and environment priorities are "properly balanced" that free trade agreements can improve the quality of life.<sup>19</sup>

Unfortunately, this balance has yet to be achieved. NAFTA's widely hailed environmental components, significant as innovative first steps, have had only negligible effects after almost six years; the WTO's track record has been even worse. Disillusioned environmentalists have cited many cases in which existing free trade agreements have fallen short in the environmental realm. Among them are the shrimp-turtle case in the WTO, in which a panel overturned a US ban on imports of shrimp not harvested in a turtle-safe manner, and a case in which a US firm used NAFTA to overturn a Canadian ban on the import

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<sup>15</sup> Charlene Barshefsky, "Prepared Statement by Charlene Barshefsky, USTR, before the House Committee on Ways and Means Subcommittee on Trade; Subject – Trade and American Prosperity in 1999," Federal News Service, 11 Feb. 1999, online, LEXIS-NEXIS Academic Universe, 6 Jul. 1999.

<sup>16</sup> Steven J. Shimberg, "Prepared Testimony before the House Ways and Means Committee Subcommittee on Trade; Subject – Fast Track Authorization," Federal News Service, 30 Sept. 1997, Online, LEXIS-NEXIS Academic Universe, 16 Jun. 1999.

<sup>17</sup> Daniel C. Esty in Mayer, 83.

<sup>18</sup> Shimberg.

<sup>19</sup> John Audley, "Testimony Before the Subcommittee on Trade of the House Committee on Ways and Means," Hearing on the Free Trade Area of the Americas, 31 March 1998, online, [http://www.house.gov/ways\\_means/trade/testimony/3-31-98/3-31audl.htm](http://www.house.gov/ways_means/trade/testimony/3-31-98/3-31audl.htm), 24 Jun. 1999.

of a toxic gasoline additive. Free trade regimes, observers conclude, have not lost their ability to undercut domestic environmental policy.

Some environmental groups and their congressional allies have become skeptical about free trade as a result of their NAFTA experiences. Though the “greenest” of the trade regimes, NAFTA still fails to take a definitive stance on several fundamental trade-environment questions. For example, the agreement lacks a mechanism for harmonizing environmental policies to ease the competition imbalances that throw those policies into dispute. NAFTA also fails to stipulate when unilateral and extraterritorial trade-related environmental measures are appropriate; that is to say, it does not answer the questions raised in the controversial tuna-dolphin dispute.<sup>20</sup> The institutions created in the NAFTA side agreements have also failed to live up to expectations. The CEC, the BECC, and the NADBank have been slow in addressing their objectives, frustrated in large part by the Mexican economic crisis, and border environmental infrastructure needs remain unmet.

Requiring countries only to enforce their own environmental laws, the NAFTA side agreements have had similarly little impact. Many observers have suggested that side agreements can, by nature, be only partially effective in the first place: to what extent are they legally binding? To what degree are the signatories truly committed to complying?<sup>21</sup>

Now that NAFTA’s weaknesses have become manifest, environmental groups who opposed the agreement feel vindicated and view further free trade efforts with even greater suspicion. Sustainable development-oriented groups who approved of NAFTA, while they have not abandoned the idea that, with proper safeguards, free trade can respect the environment, have toughened the terms of their support. Their endorsement of the FTAA will be much harder to come by than their endorsement of NAFTA. If the shortcomings of the NAFTA are to be avoided, the FTAA’s environmental provisions will have to be farther reaching, more comprehensive, and more easily enforceable.

Prospects for winning environmentalists’ support are complicated not only by their demands that the FTAA do much more than NAFTA on the environmental score but also by the fact that, in its current form, the FTAA stands to do much less. Negotiators simply have not taken the environment into account. Environmental groups have also been alienated by trade ministers’ apparent failure to take their concerns seriously at all. The Committee of Government Representatives has done little to change this situation. The Committee solicited input from civil society through the FTAA webpage (<http://www.ftaa-alca.org>); the response deadline was March 31, in preparation for the next ministerial in October, 1999, in Canada.

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<sup>20</sup> Esty, “Making Trade and Environment Policies Work Together” 383.

<sup>21</sup> Robert Housman, Reconciling Trade and the Environment: Lessons from the North American Free Trade Agreement (Geneva: UNEP, 1994) 6.

Questions remain as to what the Trade Ministers will actually do with the information they receive. Given its lack of impact to date, the CGR seems to have been created in a token move to satisfy the democratic ideal of public participation, to give voice to environmental and other groups but not really have to listen to them. The Committee has been criticized as an insubstantial and ineffective voice for the public, as environmental NGOs and their concerns have effectively been sidelined in the negotiations by their confinement to the CGR. On March 18, 1998, during the Fourth Trade Ministerial of the Americas in San José, Costa Rica, a coalition of over twenty environmental groups and NGOs from around the hemisphere issued a declaration publicizing their concern that “economic integration has advanced without effectively integrating environmental, labor, social, cultural and political components which are indispensable [sic] to achieving sustainable development.”<sup>22</sup> These groups argue that as long as there exists no core negotiating group dedicated to environment and sustainable development issues, this shortcoming is unlikely to be remedied.

The environmental community has a clear idea of what achieving balance in the FTAA negotiations would require. As outlined in the Declaration by Non-Governmental Organizations of the Western Hemisphere on the Occasion of the IV Ministerial of the Free Trade Area of the Americas, necessary measures would include: 1) the creation of a negotiating group on trade and the environment, 2) an element of environmental awareness in all negotiating groups, 3) a mechanism for the harmonization of minimum environmental standards, 4) respect for the right of nations to implement higher environmental standards, and 5) equal status for multilateral environmental agreements. The NWF has also advocated the compilation of environmental impact statements for proposed trade and investment agreements.<sup>23</sup>

For other environmental groups and other Democratic factions, however, not even these measures make the notion of free trade completely palatable. Trade liberalization’s impetus toward deregulation and its tendency to impinge upon national sovereignty are unacceptable. Hence the likes of Greenpeace, Friends of the Earth, and the Sierra Club push violently for the inclusion of environmental provisions in free trade agreements – if there must be free trade agreements at all. The aforementioned groups all opposed NAFTA, even with its environmental provisions. Whereas the more mainstream, moderate environmental groups lend their conditioned support to free trade on faith in its potential “as an instrument to enhance environmental protection,”<sup>24</sup> the more conservative groups are unwavering in their

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<sup>22</sup> “Declaration by Non-Governmental Organizations of the Western Hemisphere on the Occasion of the IV Ministerial of the Free Trade Area of the Americas,” 18 Mar. 1998, online, <http://www.nwf.org/nwf/international/trade/031898dcev.html>, 23 Jun. 1999.

<sup>23</sup> “NWF Trade and Environment Program: Fast Track,” online, <http://www.nwf.org/international/trade/fastt.html>

<sup>24</sup> Shimberg.

equation of economic growth and pollution.<sup>25</sup> Whereas moderates argue for balance of trade and environment priorities, conservatives argue for the undisputed precedence of the environment.

These grassroots groups have found a high-profile voice in Representative Dick Gephardt (D-MO). Gephardt has been especially vocal in denouncing the negligible effects of the NAFTA side-agreements and joins with the broader green community in calling for an environmental negotiating group and the incorporation of environmental considerations in the core FTAA agreement. He also advocates a mechanism for the upward harmonization of standards. Gephardt, however, while giving voice to many of its concerns and demands, is widely considered to belong not to the environmental community proper but rather to a distinct group of trade-environment supporters – one that is less interested in the environment for its own sake than in using it as a means toward other ends. Another prominent member of this group is Ralph Nader's activist group, Public Citizen. Both are widely taken to have protectionist leanings. Both enjoy the financial and political support of organized labor, a force which has continuously and openly opposed free trade agreements; both opposed NAFTA, and Public Citizen also opposed the GATT and the WTO.

In making their cases against NAFTA, both before it was passed and after it came into effect, Rep. Gephardt and Public Citizen have invoked environmental considerations. As Frederick Mayer suggests, however, Gephardt's "central concerns" with the NAFTA had to do not with the environment but with wage disparities and possible surges in Mexican imports.<sup>26</sup> His main reservations about the agreement, in other words, were based on the potential dangers of open markets – typical protectionist fears. Similarly, Public Citizen's ongoing and high-profile criticism of NAFTA clearly springs just as much – if not more – from the deal's effects on the American economy than from its effects on the international environment. In its 1996 publication "NAFTA's Broken Promises," a scathing report on NAFTA's environmental progress, the group takes the opportunity to decry wage disparities as well as environmental problems and even to call for a transaction tax on all NAFTA-related trade.<sup>27</sup> In a December 1998 "report card," environmental shortcomings take a back seat to the many other criteria upon which the group bases NAFTA's failing grade. On balance, labor issues receive the most attention.<sup>28</sup>

Gephardt and Public Citizen have focused on setting and enforcing environmental standards not by encouraging cooperation, as would seem to be the method of choice for moderate environmentalists, but by arguing for recourse to punitive measures such as unilateral sanctions. Because most trading

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<sup>25</sup> Esty in Mayer, 83.

<sup>26</sup> Mayer 85.

<sup>27</sup> Public Citizen's Global Trade Watch, "NAFTA's Broken Promises: The Border Betrayed."

<sup>28</sup> Public Citizen's Global Trade Watch, "School of Real-Life Results: Report Card," Dec. 1998, online, <http://www.citizen.org/pctrade/nafta/reports/5years.htm>, 13 Jul. 1999.

nations are unlikely to agree to provisions so blatantly contrary to the spirit of free trade, that Gephardt and Public Citizen would demand them seems to corroborate the suspicion that they have ulterior motives for supporting the inclusion of environmental considerations in free trade agreements. It seems that their pro-environment stance is part of a strategy not to achieve sustainable development but rather to sink liberalization by burdening it with impossible conditions.

This possibility has put FTAA supporters, whether strictly opposed to environmental considerations or not, on the defensive. The suspicion that those who invoke environmental concerns have ulterior motives for doing so has led the pro-FTAA community to be wary of addressing the trade-environment question at all for fear that the negotiations would end in stalemate and the potential of the FTAA go unrealized. In sum, ambiguity in the position of certain pro-environment interests has damaged the prospects for understanding between supporters and opponents of the trade-environment linkage. Meaningful discussion and compromise within the US Congress, in the process, have become increasingly unlikely.

## **V. In Corner Two: Opponents of the Trade-Environment Linkage**

Perhaps the most serious opponents of any FTAA trade-environment linkage hail from the business community and the Republican congressional majority. While some – for instance, small businesses and companies likely to suffer with increased foreign competition, as well as economic nationalists like Pat Buchanan – do oppose free trade, with or without environmental provisions, many big business interests, especially from the ever-expanding ranks of the multinational corporations, are solidly committed to the idea. They associate protectionism with the Great Depression<sup>29</sup> and liberalization with the economic growth, replete with increases in income and employment, of the post-WWII period.<sup>30</sup> These business interests have influential allies among Republicans who, with exceptions like Buchanan, overwhelmingly echo their economic reasons for supporting free trade. Liberalization also meshes well with the Republicans' traditional overall agenda of “deregulation, privatization, and downsizing government.”<sup>31</sup>

NAFTA has brought about an increased volume of US exports to Mexico and Canada, and the FTAA, these groups believe, could bring about similar increases in exports to 31 of the other 32 nations of the hemisphere. The Free Trade Area of the Americas is promising not only because of its sheer size but

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<sup>29</sup> Runge 3.

<sup>30</sup> Abraham Katz, “Statement of Abraham Katz, President, United States Council for International Business, before Senate Finance Committee,” 28 Jan. 1999, online, <http://www.uscib.org/policy/aksen128.htm>, 28 Jun. 1999.

<sup>31</sup> Claude E. Barfield, “Feuding over ‘Fast-Track,’” *Journal of Commerce* 9 Sept. 1998: 7A.

also because it encompasses a region with which the US already has dynamic trading relations. Latin America is one of the fastest growing markets for US trade, absorbing \$143 billion in US exports in 1998<sup>32</sup> and accounting for nearly twenty percent of all US exports during the first five months of 1999. However, while this seems like a large figure, the percentage is actually down from the first five months of 1998.<sup>33</sup> From a business perspective, continued and expanded access to these markets is crucial at a time when the US deficit in merchandise trade has been growing steadily: from \$131 billion in 1993 to \$198 billion in 1997.<sup>34</sup> The deficit for 1999 had climbed to \$111.7 billion by the end of May.<sup>35</sup>

To complicate matters further, with the FTAA currently on the back burner, Latin America is going ahead with other economic integration efforts both on a regional basis and with the EU. In recent years, trade talks have taken place between Chile and MERCOSUR, MERCOSUR and the EU, MERCOSUR and Canada, MERCOSUR and the Andean Pact, Chile and Canada, Chile and Mexico, and Mexico and the EU. Big business interests fear the proliferation and strengthening of these regional and bilateral trade agreements will make it “more difficult to establish uniform trade rules throughout the hemisphere.”<sup>36</sup> The US’ environmental hang-ups, alienating Latin American trading partners, can serve only to reinforce the trend toward regional rather than pan-hemispheric integration and keep the US on the periphery of the process. The opportunity cost of this isolation, free traders predict, will be high.

Companies who conduct business abroad have a strong interest in the creation of the Free Trade Area of the Americas. The financial stakes are high. For business groups such as the US Council on International Business and the US Chamber of Commerce and of the Republicans who represent these power players in Congress, trade is therefore a number one priority not to be conditioned upon environmental guarantees. To burden negotiators with the task of addressing controversial environmental issues, asserts the US Chamber’s Thomas Donohue, would be to ensure that “all future trade negotiations be held hostage...regardless of the economic consequences.”<sup>37</sup> To attempt to link environmental protection to free trade agreements would be to frustrate liberalization efforts and jeopardize potential gains from trade.

Business and Republican groups who oppose the trade-environment concept also object to the methods by which Gephardt and his allies propose to effect the linkage. Abraham Katz, president of the

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<sup>32</sup> Barshefsky, “Prepared Statement by Charlene Barshefsky, USTR, before the House Committee on Ways and Means Subcommittee on Trade; Subject – Trade and American Prosperity in 1999.”

<sup>33</sup> US International Trade Commission (USITC) Interactive Tariff and Trade Data Web, online, <http://dataweb.usitc.gov>

<sup>34</sup> I.M. Destler, “Trade Policy at a Cross Roads,” *Brookings Review* 17.1 (1998): 26, online, LEXIS-NEXIS Academic Universe, 30 Jun. 1999.

<sup>35</sup> USITC Interactive Tariff and Trade Data Web.

<sup>36</sup> “Clinton’s Trade Agenda,” *Journal of Commerce* 13 Nov. 1996: 6A.

<sup>37</sup> Thomas J. Donohue, “Fast-Track: Why Workers and Small Businesses Should Care,” *Voice of Business* 29 Sept. 1997, online, <http://www.uschamber.com/policy>

US Council for International Business, has made plain the business community's position on the use of sanctions. In testimony before the Senate Finance Committee, he asserted that a "sanction-based approach would undermine the rule-based system in which most countries have a stake, destroying the certainty and predictability that is essential to future growth."<sup>38</sup> Such a strategy would, for example, harm American companies who do business in countries targeted for sanctions. Resort to sanctions on environmental grounds, alienating future trading partners, could also compromise the terms of the US' participation in the FTAA, if not the future of the whole endeavor.

Trade-environment opponents believe, in sum, that clipping environmental objectives, on which consensus is not likely to be reached, to the negotiation and agreement process may threaten the larger goal of free trade. It is "a no-win diversion, a move into territory guaranteed to stir domestic controversy with little chance of international achievement."<sup>39</sup> Some have suggested also that restricting trade for assumed environmental benefit may be counterproductive, that the strategy may even cause environmental degradation by forcing over-exploitation of natural resources in the absence of imports.<sup>40</sup> Free trade Republicans add to the list of complaints the likelihood that including the environment in the FTAA negotiations could lead to a need to revamp US domestic environmental legislation. "Bureaucracies," one representative voice summarized, "should not be reintroduced in the name of labor or environmental upgrading."<sup>41</sup>

Unified Latin American opposition to the idea of an environmental dimension to the FTAA negotiations has reinforced the anti-environment-in-the-FTAA camp within the United States. In their estimation, including environmental considerations in the FTAA negotiations is a "pipe dream."<sup>42</sup> Much of Latin America remains within the developing world and considers membership in a free trade venture of this magnitude as a possible way out. As set forth in an August, 1997 statement by ministers from 14 Latin American nations, these countries do not wish to encumber the negotiations with labor, environmental, or other extraneous considerations. Latin America is loathe to include environmental provisions at all, and the recourse to sanctions that Gephardt, Public Citizen, and some of the more conservative environmental groups advocate as a method of enforcing them only makes the prospect more onerous. Such demands strike Latin American trading partners as antithetical to the very concept of free trade – blatantly protectionist and threatening to their sovereignty.

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<sup>38</sup> Katz.

<sup>39</sup> Destler.

<sup>40</sup> Pearce 23.

<sup>41</sup> Claude E. Barfield, "Politics of Trade and Fast Track in the United States" First Academic Colloquium of the Americas, University of Costa Rica, 12-14 Mar. 1998, online, <http://www.aei.org/sp/SPBARFLD.HTM>, 28 Jun. 1999.

<sup>42</sup> Tim Shorrocks, "Fast-Track Foes Look Beyond Vote to Wider Agenda," *Journal of Commerce* 13 Nov. 1997: 1A.

It must be stated that many within the business-Republican free trade coalition do acknowledge the importance of the environmental problem and its relevance to trade and development issues. Abraham Katz, for example, has affirmed the business community's stake in sustainable development. Another writer even conceded that Dick Gephardt has asked the "right questions." She asserts, however, that in attempting to condition trade upon environmental protection he has advocated the "wrong strategy."<sup>43</sup> A better strategy, according to free trade Republicans and the 1991 Business Charter for Sustainable Development – an initiative of the International Chamber of Commerce – would be to further trade liberalization in the realization that economic growth will have to precede the improvement of labor and environmental conditions.<sup>44</sup> This position resembles that of sustainable development environmentalists in the value that it attaches to economic growth as a step toward environmental protection. Multinational business and its Republican allies, however, stop short of agreeing that environmental safeguards should be incorporated into free trade agreements. They assert instead that environmental considerations should be addressed through independent institutional channels.

To business and Republican free traders, attempts to link environmental policy to free trade smell of protectionism. The very idea of setting preconditions to trade – much less ones not belonging to the conventional economic sphere – is an anathema. The means by which the environmental community proposes to enforce the trade-environment linkage are also objectionable. The right to set domestic environmental standards higher than agreed-upon minimums, for example, could be used as a loophole for the establishment of non-tariff barriers. Unilateral sanctions can be expected to have the serious trade-distorting effects whether used as instruments of environmental protection or of plain old economic protection.

Trade-mediated environmental protectionism and economic protectionism respond to different consequences of trade liberalization: the former is meant to guard against environmental degradation while the latter is meant to guard against foreign competition. However, both strategies come at the expense of access to foreign markets and incentives for productive efficiency. Potential environmental benefits aside, the only difference between economic protectionism on the one hand and environmental protectionism via trade measures on the other hand is one of purpose.

Part of the multinational business community's skepticism of the trade-environment linkage may be traced to this question of purpose. "True motives"<sup>45</sup> are always hard to ascertain, and still harder when parties seem to emit mixed messages. The protectionist-sounding arguments of Gephardt, Public Citizen,

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<sup>43</sup> Susan Ariel Aaronson, "Who is the Real Mr. Gephardt?" *Journal of Commerce* 29 Jan. 1998: 6A.

<sup>44</sup> Katz.

and environmentalists who demand recourse to trade-related enforcement measures lead business and Republican free-traders to suspect that these groups' interest in linking trade and the environment is little more than a guise for protectionism. Their suspicion extends even to environmental groups which have, as long as the environment is taken into account, supported free trade agreements. Their failure to distinguish between the attitudes of the different environmental factions is understandable; true motives are particularly hard to discern when parties with differing priorities and objectives use similar discourse. The moderate environmental agenda has been obscured first by the alliance of these groups with Gephardt and the conservatives, whose real commitment to environmental improvement has been questioned. Though their positions differ fundamentally (moderate environmentalists are ultimately prepared to accept free trade, while conservatives are more skeptical), the two groups are united if not by genuine mutual concern for the environment, then at least by common use of trade-environment rhetoric.

Further contributing to confusion over the moderate environmental agenda, mainstream trade-environment advocates have resorted to arguments with protectionist overtones. Consider, for example, the assertion by NWF spokesman Steven Shimberg that "US based businesses should not be forced to compete with foreign companies that pollute the water, soil, and air to secure a competitive advantage" and his claim that harmonizing high environmental standards would level the playing field.<sup>46</sup> Also consider the argument that incorporating environmental safeguards into free trade agreements would prevent US businesses from relocating elsewhere, taking US jobs with them, in efforts to avoid the costs of complying with environmental regulations. For environmentalists, these would be side benefits; for protectionists, these would be main goals. Unfortunately, in invoking side benefits such as these in efforts to attract support from a broader range of interest groups, environmentalists run the risk of being lumped together in the debate with unabashed protectionists. This does little to foster a spirit of cooperation between the environmental community and the powerful business community, instead precluding meaningful debate and possible compromise.

## **VI. Stuck in the Middle: The Clinton Administration**

### *The Fast Track Debate*

The Clinton Administration has been faced with the formidable task of mediating between supporters and opponents of the trade-environment linkage, both representing significant sectors of the US population, in search of any semblance of a domestic consensus upon which to base a coherent

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<sup>46</sup> Sidney Weintraub, NAFTA at Three: A Progress Report (Washington, DC: The Center for Strategic and International Studies, 1997) 22.

strategy for the FTAA talks. The intractability of the problem has been particularly apparent in the fast track debate.

As set forth in the Constitution, Congress has the authority to set tariffs and write legislation regarding international trade while the President is empowered to negotiate international agreements. He must, however, obtain Congressional approval for any agreements necessitating changes in US tariffs or laws. In the current era of ever more frequent international trade agreements, often involving the reduction of tariff barriers and the harmonization, at least to some extent, of the parties' domestic laws, fast track has been used to expedite the approval process. Under this legislation Congress must either ratify or reject outright any agreement negotiated by the presidential administration, without amending any of its provisions.

Granted to every president since Gerald Ford, fast track has become a critical instrument in international negotiations. Other countries must have faith in the US' commitment to the endeavor at hand. The assurance that their work will go straight to an up or down vote and not be unraveled by a contentious Congress gives foreign negotiators confidence in dealing with the United States. Clinton was granted fast track authority in 1991; without it, US Trade Representative Mickey Kantor has affirmed, the Administration "could not have brought home the Uruguay Round agreement or the NAFTA."<sup>47</sup>

The pre-NAFTA fast track debate pitted Republicans and Democrats, loyal to constituencies with very different takes on the trade-environment question, against each other. For the most part, Congressional Republicans supported the bill while Democrats opposed it in the absence of explicit environmental provisions. Both parties' stances stemmed from a clear understanding of fast track's implications: if the environment was not taken into account in the fast track legislation, it would not be taken account in the NAFTA, and vice versa.<sup>48</sup>

Controversy resurfaced along the same lines when fast track came up for renewal in 1994. As in the previous debate, the parties' views were divided on fast track just as they were divided on the likely outcome of the FTAA given the nature of the fast track bill in question.

The first bill to be proposed, submitted by Mickey Kantor, named labor and the environment among seven major negotiating areas in which fast track authority would be exercised. Giving Administration negotiators the power to include environmental objectives in trade agreements not subject to Congressional amendment, this version of fast track would have made it possible for environmental issues to move beyond the realm of side agreements and become an integral part of trade liberalization

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<sup>46</sup> Shimberg.

<sup>47</sup> Kantor.

efforts. In short, including environmental issues under the fast track umbrella would have meant putting the environment on equal footing with conventional trade priorities.

Democrats and their environmental supporters, to the extent that they approved of free trade in the first place, approved of this fast track legislation as a necessary precursor to the kind of trade-environment integration they favored. Republicans and the multinational business community, on the other hand, considered Kantor's bill ill-suited to their goals, as it set the stage for the incorporation of volatile environment and labor questions that could bog down the negotiations and jeopardize the central objective – free trade. Such influential groups as the Business Roundtable and the US Council for International Business, as well as their Republican representatives, fiercely disagreed with the organization of priorities reflected in Kantor's proposal. Obstacles to liberalization, environmental goals should be secondary and merited little, if any, part on the US trade agenda.

For all its vehemence, though, their opposition was reluctant, stemming from disapproval not of the fast track concept but merely of the bill's specific environmental and labor clauses. These groups strongly support trade liberalization and have strongly supported fast track for its ability to expedite the process. However, they believe that a fast track bill which mandates attention to the environment has largely lost this ability. Extending the scope of fast track authority past core trade issues could lead negotiations to stall over secondary considerations when free trade is the prime concern. Furthermore, in the case that an agreement was reached in spite of environmental complications, congressional Republicans could be forced to reject it altogether simply because it contained environmental provisions of which they did not approve but could not amend. Loathe to put themselves in this situation, yet unwilling to forego fast track altogether, both the Senate Finance Committee and Representative Bill Archer (R-TX), Chairman of the House Ways and Means Committee, produced revised versions of the bill.

As the months of intense debate dragged on, it became painfully apparent that fast track would not pass without significant modifications. President Clinton therefore adopted in September, 1997, a modified version of the bill. Faithful to the Archer edition, the new proposal limited the labor and environmental issues subject to fast track authority to those "directly related to trade" and that "decrease market opportunities for United States exports or distort United States trade." Two negotiating objectives within the environmental realm were specified: first, "to promote sustainable development," and second,

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<sup>48</sup> Mayer 98-99.

“to seek to ensure that trade and environmental protection are mutually supportive, including through further clarification of the relationship between them.”<sup>49</sup>

Though some expressed discomfort at the inclusion of labor and environment language at all, the new bill won the support of most Republicans. Democrats, however, could not bring themselves to accept the alterations. For many, the scope of authority on labor and the environment was too narrow and the negotiating objectives pertaining to the environment were too vague. The new version of fast track would simply not permit the central role they had in mind for the environment in the FTAA negotiations. As Michael McCloskey of the Sierra Club put it, the proposal was “a giant step backward”<sup>50</sup>; the bill seemed to lay the foundations for ignoring rather than building upon NAFTA’s environmental precedent. Even moderate Democrats such as Robert Matsui (D-CA), who take a pro-free trade, pro-fast track stance, came out in opposition. More dedicated environmental voices within the environmental-Democratic coalition were outraged. George Miller (D-CA) declared, “protection for workers rights and the environment are not safe because under these bills they can only be addressed...in side agreements that will not receive the same privileged treatment as legislation to protect the rights of corporations and foreign interests.”<sup>51</sup>

Confronted with a seemingly unbridgeable difference of opinion, President Clinton asked Congress to adjourn for 1997 without voting on fast track. Newt Gingrich finally brought the bill to a vote in the House on September 25, 1998. At that time, only 170 Republicans and just 25 of 80 free trade Democrats supported the fast track proposal<sup>52</sup>; supporters numbered even fewer in the final count as the legislation was defeated 243 to 180.

### *Presidential Strategy and Priority*

With the NAFTA, President Clinton concluded one of the most environmentally progressive free trade agreements to date. It is true, too, that his original fast track bill took the environment carefully into account. However, the Administration’s strategy in the free trade debate over the long term suggests that addressing environmental concerns – while perhaps a good idea – does not yet share priority one status with conventional trade goals, especially in the face of opposition in Congress.

President Clinton is considered a champion of the cause of free trade and an impressive record backs up this belief: in his two terms in office, he has taken the lead in successful negotiations for NAFTA, the Uruguay Round, and the Asia Pacific Economic Cooperation Forum (APEC) and concluded

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<sup>49</sup> “Export Expansion and Reciprocal Trade Agreements Act of 1997,” online, <http://www.whitehouse.gov/Initiatives/FastTrack/bill.html>, 15 Jun. 1999.

<sup>50</sup> Michael McCloskey in Kathleen Kenna, “US groups fight bid to broaden NAFTA,” *Toronto Star* 22 Oct. 1997: A14.

<sup>51</sup> George Miller, “New Environmental Opposition to Fast Track,” press release, 8 Oct. 1997.

smaller-scale agreements with countries such as Japan (with regard to automobiles) and China (with regard to intellectual property rights). He is, however, somewhat less of a champion of the trade-*environment* cause. His efforts to win approval of fast track no matter what, even if he had to circumscribe the environmental scope of the legislation in order to do so, reflect his priorities for the FTAA that fast track was intended to facilitate. Clinton seems clearly to sympathize with the opinion of D. George Harris, a member of his advisory group on trade policy and negotiations: the environment is an important trade-related issue, but if no consensus can be forged on this point, it is better to skip it than to risk progress in trade liberalization.<sup>53</sup> He was willing to dilute the bill's environmental focus because, in the end, he would prefer to see an environmentally limited FTAA than no FTAA at all.

In the 1995-1998 debate, the environmental focus generated enough opposition to put both fast track and the entire FTAA in danger: fast track perished because supporters and opponents of the trade-environment linkage were unable to reach a mutual understanding; achievement of the FTAA, without fast track, will be complicated. The demise of fast track has damaged the credibility of the US commitment to free trade in general. The rest of the Western Hemisphere perceives that "without fast track, any trade pact would become a special-interest bazaar in the legislative branch"<sup>54</sup> as dissenting groups – environmentalists, businesspeople, labor leaders, politicians – attempted to mold the agreement, if not the very concept of free trade, to suit their particular interests. Because the US appears not to be unified behind the free trade banner, it is no longer considered a pillar around which to frame the bold integration effort embodied in the FTAA. Potential trading partners cannot proceed confidently in negotiations with the US.

With the hemisphere's largest economy as a question mark, prospects for the FTAA as a whole – let alone its environmental potential – are bleak. The picture darkens still further when one considers that Congress' failure to pass fast track suggests to many Latin American officials that the US is unwilling or unready to deal seriously with their countries. Lack of fast track exacerbates Latin America's latent distrust of the United States, a distrust rooted in many years of foreign relations history. US policy in the region has, until recently, consisted of "politically driven initiatives in [an] effort to encourage democracy."<sup>55</sup> Officials within the United States would say that with the triumph of democracy US-Latin American relations now take place on a different footing. However, for many within Latin America, it would be no great stretch of the imagination see the FTAA as yet another imperialistic attempt by the US to impose its priorities – economic, environmental, or otherwise – in their countries.

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<sup>52</sup> William Roberts, "House Rushing to a Vote on Fast-Track," *Journal of Commerce* 25 Sept. 1998: 1A.

<sup>53</sup> D. George Harris, "Fast-Track Trade Authority: Two Views; Keep Labor, Environment Out," *Journal of Commerce* 19 Sept. 1997: 9A.

<sup>54</sup> Albert R. Hunt, "Fast or Fatal Track for Democrats?" *Wall Street Journal* 31 Jul. 1997, eastern ed.: A19.

In his liberalizing endeavors Clinton has had to surmount the obstacles of two unhappy constituencies – labor and environmentalists – and a party divided on the issue of free trade. The incorporation of environmental safeguards has, in the past, served to generate enough support for free trade agreements within these groups to propel them through Congress. During the NAFTA debate, the Administration eased concerned minds with side accords on labor and the environment, which included practical measures to address potential problems – for example, aid to workers left unemployed by labor shifts to Mexico or Canada and the various institutions to promote environmental projects along the border.

Clinton set aside this strategy in the FTAA fast track debate. Instead, he placed – or misplaced, as the case may be – his faith in his ability to placate labor and environmental interests with pledges to focus attention on their concerns in fora such as the World Bank, International Monetary Fund, and Inter-American Development Bank. This strategy did little to win these groups over and fast track lost in Congress, as trade-environment Democrats demanded for the environment a more central role.

The President has recently redoubled his efforts to build support for fast track in order to set the stage for renewed US influence in the FTAA negotiations. In order to succeed, he will need backing from a broad range of sources, including Republicans, Democrats, multinational business, and the labor and environmental communities. This support will be hard to come by. Furthermore, because “the most significant factor behind the dramatic loss of support for trade liberalization from NAFTA to fast track was the striking decline in support from House Democrats,”<sup>56</sup> the endeavor will require a sincere effort to address this group’s environmental concerns. The public has heard the warnings and seen the examples of free trade’s dire environmental consequences, and as Daniel C. Esty has observed, without substantial environmental safeguards support for fast track and for “continued trade openness cannot be assured.”<sup>57</sup> The Clinton Administration realizes this; as US Trade Representative Charlene Barshefsky has stated, “labor and environment issues are very, very important because, ultimately, the greatest threat to hemispheric integration is not the difficulty of negotiations but a loss of public confidence in freer trade.”<sup>58</sup> Reflecting the need to bring the environmental community into the free trade fold, the trade-environment linkage has become a focus of official rhetoric once again.

Barshefsky has taken a sustainable development tack. She hails liberalization’s potential to further environmental causes through, for example, expanding access to efficient technologies, and affirms that to

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<sup>55</sup> Kantor.

<sup>56</sup> Barfield, “Politics of Trade and Fast Track in the United States.”

<sup>57</sup> Daniel C. Esty, “Trade and Environment Mix,” *Journal of Commerce* 7 Nov. 1997: 6A.

<sup>58</sup> Barshefsky in Danielle Knight, “U.S. Pushing Eco-Agenda at Americas Summit,” Inter Press Service, 10 Apr. 1998, online, ProQuest Direct, 23 Jun. 1999.

“ensure that trade policy complements our efforts to protect the world environment and promote core labor standards overseas” is a high priority on the US’ agenda in the FTAA negotiations.<sup>59</sup> Key points on the Clinton trade agenda include the reduction of tariff barriers to trade in environmental goods, services and technology, the elimination subsidies on fisheries and agricultural exports, which provide incentive for unsustainable practices.<sup>60</sup> On November 16, 1999, Vice President Gore declared that “America can and should use its trade policy to strengthen environmental protection both at home and abroad” and Clinton signed an executive order requiring domestic “environmental reviews” for all new trade accords.<sup>61</sup> However, Clinton has sacrificed environmental considerations before. It may be difficult to convince those who remember his environmentally compromised 1997 fast track bill that it is true dedication, and not simple politicking, which underlies pronouncements such as these.

## **VII. Conclusion**

Caught in the crossfire of international opposition and domestic confusion, environmental considerations have yet to be folded into the FTAA. Future Latin American members are traditionally wary of environmentalism, viewing it as a potential impediment to economic growth. The United States position is less clear. In one pro-environment corner are those who support the FTAA on condition that environmental safeguards are included: moderate environmental groups and sustainable development-oriented Democrats. In another are those who seem to support environmental safeguards as a means of counteracting the heightened competition that the FTAA would bring and, many suspect, would rather see no FTAA at all: some of the more conservative environmental groups, such as the Sierra Club, organizations like Public Citizen, and certain business interests – small businesses and industries, like the textile industry, which would be hardest hit by the relaxation of trade rules.

Positioned against both of these factions are those who oppose attaching environmental provisions to the FTAA agreement. This contingent, including a significant sector of the Republican congressional majority and the expansion-minded multinational business community, has been put on the defensive by signs that certain pro-environment groups may have more interest in sabotaging the FTAA than protecting the environment. They reject the notion of linking trade and the environment on the

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<sup>59</sup> Barshefsky, “Prepared Statement by Charlene Barshefsky, USTR, before the House Committee on Ways and Means Subcommittee on Trade; Subject – Trade and American Prosperity in 1999.”

<sup>60</sup> “Declaration of Principles on Trade and the Environment,” Nov. 1999, online, <http://www.ustr.gov/new/finpol.html>, 1 Dec. 1999.

<sup>61</sup> Al Gore, “Statement by Vice President Al Gore on Trade and the Environment,” King County Airport, Seattle, 16 Nov. 1999, online, <http://www.ustr.gov/new/vp.html>, 1 Dec. 1999.

grounds that free trade is the overriding objective of the FTAA, and that the added weight of environmental considerations can only bring the whole endeavor down.

It seems, though, that this lack of consensus itself may bring the FTAA endeavor down just the same. Unless some middle ground can be found, prospects for congressional ratification of the FTAA look grim. With many big business interests, most Republicans, and the Clinton Administration heavily in favor of trade liberalization and environmental groups, most Democrats, and two thirds of the American people demanding environmental safeguards,<sup>62</sup> a compromise stance would necessarily be both pro-trade and pro-environment. This is the position that worked during NAFTA; deviation from it brought about the demise of fast track – and of the US' negotiating credibility – in 1998.

Clinton has of late made motions to rebuild a pro-trade, pro-environment coalition. With just months remaining to his presidency, though, he has refrained from throwing his whole weight into the effort. Perhaps it is just as well to wait; the current Congress has shown itself more interested in judging the morality of one man's private life than in developing a coherent trade policy for the nation. Furthermore, with the 2000 elections just around the corner, the country's present and future leaders are too involved in party politics to examine serious issues from a nonpartisan point of view. In any case, the Free Trade Area of the Americas' 2005 deadline is not considered pressing.

While the deadline may not be pressing, though, it is a reality. The FTAA is a monumental undertaking, one which promises to have far-reaching social, political, and environmental as well as economic effects. Without coherent US leadership, "other countries that are prepared to negotiate will set the terms of integration in the region – terms that are not likely to coincide with US objectives."<sup>63</sup> Relations between the US and Latin America, in their environmental as well as their economic dimensions, will be left to the "vicissitudes of the international market."<sup>64</sup> The FTAA holds incredible promise for business and the environment alike. If the United States wishes to see its objectives fulfilled in either area, however, it must first decide what its objectives are. The business and environmental communities must acknowledge their common stake in the FTAA and turn sincerely to reconciling interests currently perceived to be conflicting. It is therefore to be hoped that the new class of leaders to take office in 2000 will be able to focus objectively on the many issues involved and forge the pro-trade, pro-environment consensus needed to anchor a strong and consistent approach in the FTAA negotiations.

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<sup>62</sup> "Fast Track's Low Road," *Nation* 265:10 (1997): 7.

<sup>63</sup> Kantor.

<sup>64</sup> W.M. LeoGrande, "Central America's Agony," *Nation* 25 Jan. 1999.