The Future of Free Trade in the American Continent: The Canadian Policy*

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Abstract. In this article, the author describes Canada's pro free-trade philosophy from its participation in the foundation of GATT in 1947, to the signing of the free trade agreements with the United States in 1989 and with Mexico, within the context of NAFTA, in 1994.
The author then analyzes the effect of Canada's membership in the Organization of American States, in 1990, on the equilibrium of interAmerican relations which were until that time dominated by the United States and the after effects of the Monroe policy and the Cold War. Will the historical United States-Latin America bipolarization lead to a more balanced multilateralism by the time the Free Trade Area of the Americas is established? This is the challenge for Canadian policy at the regularly-held Summits of the Americas whose goal is to create such an area before the year 2005.

Introduction

Since obtaining its full sovereignty and in particular since the end of the Second World War, Canada has been an ardent defender of free trade and multilateralism. A founding member of the GATT in November 1947, Canada has never subscribed to the protectionist policy of import substitution, proposed by Raul Prebish and the United Nations' Economic Commission for Latin America and the Caribbean (ECLAC), which has been extensively applied by many other countries of the American continent.

In its commercial relations with the United States of America, its major trading partner, Canada has always tried to set the example by avoiding protectionism. The measures Canada implemented to control foreign investment between 1972 and 1983 were an exception to this rule. In fact, the idea of a free trade agreement between the two countries was initially proposed in 1888, by then Prime Minister John MacDonald. The proposal was later repeated in 1911 during Prime Minister Wilfred Laurier's administration. It finally became a reality in 1988 with the election of Prime Minister Mulroney in fulfilment of his electoral platform. The agreement came into force January 1st, 1989 and recognizes the trade agreement of 1965 on automotive parts, the AUTOPACT, as the most recent antecedent of a trade agreement between the two countries.

This sustained policy of openness has permitted Canada to develop a highly competitive economy in a constant manner. Canada is a member of the group of the seven most industrialized countries in the world (the G7). Moreover, this has not affected Canada's individual and national character. In spite of intense bilateral relations with its neighbour the United States, Canada has not, in any way, become a fiftieth state. On the contrary, it has maintained its own idiosyncrasies, a different political system, a distinctive economic and social (social democracy) system and has carried out its own foreign policy, in particular regarding Cuba. Furthermore, as we shall see further on, Canada has remained faithful to its own vision of the future of free trade in the American continent.

In its free trade dealings with the United States of America, Canada has acquired vast experience in dealing with protectionist measures. It has shared this experience with Mexico during the negotiations of the North America Free

* *Text, updated March 1998, of a speech given at: The 2nd Quadrilateral Canada, Chile, United States, Mexico Seminar on "The Future of Free Trade in The American Continet" Organised by the Institute of Legal Research of UNAM. Mexico City. September 27, 1996.*

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Trade Agreement (NAFTA). Surely, this abundance of experience will also benefit other Latin American countries when the time comes to design a free trade zone in the Americas by the year 2005. This paper will analyse the Canadian policy of openness and the experience acquired, first in the context of the Bilateral Canada-United States Free Trade Agreement, second the Trilateral Canada-United States-Mexico Free Trade Agreement, and finally with the negotiations for the creation of a Free Trade Zone in the three Americas.

I. The Bilateral Canada-United States Free Trade Agreement (1989-1993)

In order to evaluate the Canadian experience and its economic policy regarding free trade with the United States of America, we shall consider the following: 1) The Canadian objectives vis-à-vis the Agreement; 2) The designed institutional structure; 3) The results of this bilateral experience.

1. The Canadian Objectives

Canada's primary objective was to guarantee access to the United-States market in a predictable and constant manner. It's goal was essentially to protect itself against the protectionist barriers and other non-barrier measures which the United States had occasionally adopted under the pressure of some lobbyists in an attempt to keep their industries and products safe from the Canadian competition. The problem of facing the unforeseeable American barrier policies was especially noticeable in steel, wood, and agricultural products (pork meat, salmon, lobster, strawberry, etc.).

These measures were incompatible with long-term marketing and investments and their effect of these measures on the Canadian economy can be better understood if we remember that at that time 75% of Canadian exports went to the United States. Consequently, it was a Canadian priority to define the bilateral market in a legal manner. Even though the market was otherwise economically integrated, it would have to function within the rule of law instead of continuing to act as if guided by the" law of the jungle", in which case the greater power dominates without any appeal or recourse against its protectionist actions.

Canada's other important objective was to achieve further integration with the United States' market equalling 250 million more consumers. Two methods were proposed to achieve this objective: first, the progressive elimination of all barriers to the point of arriving at zero barriers within 10 years, and second, including the liberalization of transborder commerce in the areas of services, agricultural products and investments, as well as a commitment to share energy in the Agreement. The final goal was to create a subregional market where trade liberalization was much broader than in the GATT, but which still respected the letter (Chapter XXIV), the spirit and the objectives of that agreement.

The negotiations between the two countries were difficult and long; what emerged is the legal structure which we will analyse below.

2. Legal Structure

The GATT, as perfected by the work of the Uruguay Round, served as a basic model for the Canada-United States Free Trade Agreement.

The result is that the Bilateral Canada-United States Free Trade Agreement is a pure mutual trade agreement. It does not imply the creation of a common market as in the case of the European Union, MERCOSUR or what is presently occurring in Central America. A common foreign barrier has not being contemplated, nor is a common foreign trade policy being delineated. Neither does the agreement create common supranational political or economic integration institutions, such as the Council of the Commission, the Parliament and the European Court of Justice.

There is, in fact, an American conception that the most efficient international institutions are similar to the GATT; institutions which have little infrastructure and depend more on pragmatism. The Bilateral Canada-United States Free Trade Agreement was elaborated on the basis of this concept: little infrastructure and substantial negotiations about very specific points which took the form of a very detailed and complex legal text.

The Bilateral Canada-United States Free Trade Agreement created a *Canada-United States Trade Commission* to undertake the creation of the various institutions designed by the Agreement in order to deal with the infrastructure issue. The secondary roles of the Commission is to control the proper functioning and development of the rules of Agreement, to revise the interpretation of its dispositions and to organize the dispute resolution system created in the treaty. The Commission is composed of either the Ministers of Foreign Trade of both countries or their delegates. The Commission is to meet in ordinary session at least once a year in an alternating manner in the two countries. The Commission establishes its own norms and procedure of functioning. Its decisions are taken by consensus.

The Commission can establish *Special or Permanent Work Groups* in order to delegate to them certain specific responsibilities. The same Agreement also provides for the creation of a Work Group with the specific mandate to establish more efficient rules regarding the use of governmental subsidies and the related price reduction.

As for dispute resolution, the Bilateral Agreement does not establish a supranational court of justice. Instead, the Agreement provides for the establishment of *ad hoc panels for dispute resolution composed of experts in the field of dispute.* In the hypothetical case where the defendant party would not respect the decision of the panel, the defendant would generally be sanctioned by an economic countermeasure equivalent to the violated right.

In order to facilitate the work of the Commission, the Work Groups and the Dispute Resolution panels, the Agreement calls for the creation of a *Secretarial*, which is composed of two permanent offices. The office located in Washington deals with those matters corresponding to the United States, while the office in Ottawa is in charge of affairs related to Canada.

The Canada-United States Bilateral Free Trade Agreement is very detailed regarding the content. Its 21 chapters are the result of concrete and specific negotiations and the wording corresponds to the Statutes of Common Law which can often perplex the civil law jurist. The basic foundations of this Trade Agreement are in great part those declared in the GATT, to which reference is made at various opportunities, and also to those principles elaborated in the works of the Uruguay Round. The Agreement itself is not very innovative; except that at the time it was negotiated, in 1989, the Agreement already contained chapters that where subsequently integrated in the new GATT (WTO) in 1995, such as the chapters on agriculture and services.

Such are the basis and the legal structure of the Bilateral Free Trade Agreement. We shall now look the results of the Canadian experience during the four years since the entry into force of the Agreement.

3. The Results of the Bilateral Agreement

The economic results of this Bilateral Agreement were definitively positive for Canada. Its export of goods to the United States increased by 24%, while its export of services rose by 18%. Canadian investment in the United States rose by 16% and American investments in Canada grew by 18%. The creation of this new free trade zone also turned out to be an attractive prospect for third country investors, who increased their operations in Canada during this period.

Moreover, the economists agree that the economic crisis through which both countries were going during that period, particularly Canada, would have had more devastating effects had it not been for the bilateral agreement. In fact, in Canada, the Agreement favoured the creation of jobs in a higher proportion then the decrease of jobs resulting from the crisis and from the restructuring of the enterprises which was undertaken in order to deal with the American competition. Finally, there was no exodus or massive relocation of businesses towards one side or the other side of the border.

The creation of an efficient dispute resolution mechanism is another major success of the Agreement. The established free trade zone did not eliminate protectionist tendencies in the American administration, which often acts under the intense pressure of that country's industrial lobbyists in sectors such as wood, pork, meat or steel. However, due to the efficiency of the dispute resolution system, Canada was often able to make claims to obtain the recognition of its rights and, in fact, won the majority of the disputed cases. The result is that a free trade zone has been established whose foundation is based on the rule of law which protects the weaker party from the "king of the jungle". This represents a monumental achievement for Canada since its manufacturing and export industries can plan their expansion into a market of 250 million consumers without particular risks. In addition, it favours long-term investment, specialization and research; leading to improved economic and social development, as well as, competitiveness at an international level.

The proliferation of conflicts, which has been duly reported and greatly amplified by the press, has contributed to the deterioration of the image of the Free Trade Agreement in the public's opinion. However, when objectively analysed these disputes are related to only 3% of the total commercial flow. While the other 97% of the transborder transactions take place without problems. This, without a doubt, permits us to qualify the Agreement and the Canadian experience with it as highly successful.

It is with these results and precedents that Canada entered into the subsequent trilateral negotiations of the Free Trade Agreement with the United States and Mexico (NAFTA).

II. The Free Trade Agreement Between Canada, the United States and Mexico: The North American Free Trade Agreement (NAFTA) (1994-)

Three fundamental elements will be analysed: 1) The Canadian objectives upon entering the trilateral negotiations. 2) The legal structure that materialized as a result of these discussions. 3) The preliminary results of the Agreement after two years in force.

1. Canadian Objectives

The prime Canadian objective was to extend its market and to be able to accede freely to some 85 million new consumers. For Canada, which is an eminently exporting country and where one in every four jobs depends on export, Mexico represented a market worthy of discovery. Especially, if one remembers that, upon entering the negotiations of the NAFTA in 1993, Mexico accounted for only 0.5% of total Canadian exports.

Canada was impelled to participate in the trilateral discussion in order to attain a second objective, possibly more important than the one mentioned above which was the creation of a Multilateral Free Trade Policy for the Americas as the viable alternative to the bilateral and unipolar policy which had been proposed by the United States. In 1990, then President George Bush used this approach as the basis for a series of bilateral free trade agreements for the American continent ("The Enterprise for the Americas Initiative") whose sole axis had to be the United States.

In fact, on June 11, 1990, one and a half years after the entry in force of the Bilateral Canada-United States Free Trade Agreement, then Presidents George Bush and Carlos Salinas announced that the United States and Mexico were to enter into bilateral negotiations to reach a free trade agreement. Sixteen days later, on June 27, 1990, President Bush announced his free trade initiative for the Americas policy. The basic principle of this initiative was to achieve bilateral framework agreements and later free trade agreements between the United States and every country or group of countries of Latin America and the Caribbean. With that idea in mind, President George Bush announced the start of bilateral negotiations with Mexico. Less than one year after his announcement, the United States had signed a dozen framework bilateral agreements with most of the countries of Latin America and the Caribbean.

The United States was the axis of a unipolar mechanism of free trade in the three Americas. This system was described by its critics are the theory of the "hub and spoke". According to this system, the bilateral agreements would benefit the hub which represents the United States and not the spokes which could be compared to each one of the other contracting parties. This is so because the spokes would communicate with the only hub but not between themselves. Therefore, the rules of origin allow free access of products between the hub country (the United States) and each spoke country with which it has a bilateral agreement. However, the rules of origin would not permit free access of the products of a spoke country to the market of another spoke country as they would be considered to be third parties to each other. Consequently, only the products of the spoke countries would enter in a free manner, without customs barriers, into the hub country. When a spoke country would contribute an important component (more that 60% of the total value) in a product further processed in another spoke country, according to the bilateral free trade agreement the final product would not be from the exporting third country, but rather from the processing third country. The most important consequence of this mechanism would be greater interest for investment in the hub, which would permit the investor to benefit from all the bilateral agreements with the "spoke" countries; a benefit which the investor would not obtain if it were to invest primarily in one of the spoke countries. Since the importance of investment for economic development, research and international competition for a recipient country is well known, the proposed unipolar system of the "hub and spokes" would have established unfair and unequitable competition and was, in fact, a new version of the Monroe Doctrine for the Americas designed to favour the United States.

Conversely, in multilateral free trade agreements all the member countries benefit equally with regards to market access. The products that are assembled by more than one of the member countries are considered originating from the same zone and enter without customs barriers in all of the zone's countries. Within the framework of a multilateral system, investors do not benefit more by being situated in a specific country as each country offers comparable economic prospects and equitable competition exists for all members. In view of the above Canada chose to structure its free trade policy on this system when it began negotiations with Mexico and the United States.

Given the implications of the unipolar policy proposed by the United States, Canada exerted strong pressure on the United States and Mexico to be included in the bilateral negotiations and indeed trilateral negotiations were announced seven months later, on February 5, 1991, began on June 12, 1991 and were concluded on August 12, 1992. The trilateral agreement was signed December 17, 1992 by Presidents Bush and Carlos Salinas and Prime Minister Mulroney as the North American Free Trade Agreement (NAFTA). However, due to the change in government in the United States and the subsequent adoption of parallel agreements, regarding labour and the protection of the environment, drafted under the influence of the recently elected President Clinton, the entry in force of the agreement between the three countries was postponed until January 1st, 1994.

One might ask what is the legal structure of the agreement that arose from these trilateral negotiations.

2. Legal Structure of the New Trilateral Free Trade Agreement (NAFTA)

Basically, the new Free Trade Agreement is based on the experience of the first years of the Canada-United States Bilateral Free Trade Agreement, the works and negotiations of the GATT/WTO and the defining of new policies for the integration of the Americas.

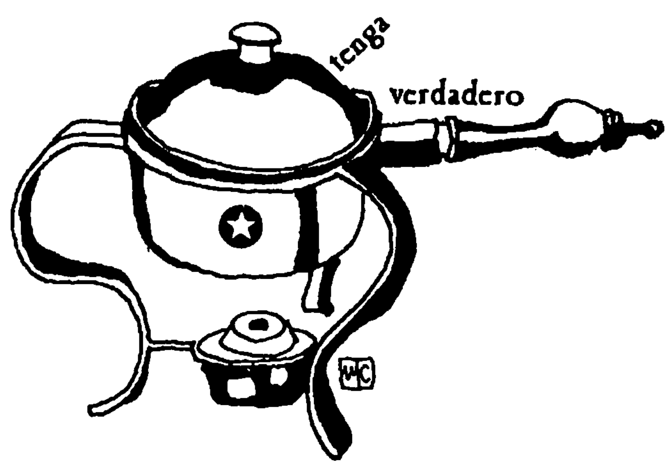
As such, the basic principles of the North American Free

Trade Agreement (NAFTA) are the same those of the GATT, and of the WTO which were integrated in the GATT text. However, NAFTA does go one step further in with its final objective of the total elimination of tariff barriers between the countries of the zone. Moreover, in certain aspects it is more complete and elaborate than the previous agreements; incorporating in its text, for example, dispositions on public sector purchases and dispute resolution. Furthermore, it deals with additional distinctive themes such as investments, protection of the environment and protection of workers.

In comparison with the Canada-United States Bilateral Free Trade Agreement, the new Trilateral Agreement includes stipulations that refer to both new themes, such as intellectual property and land transport, as well as to topics contained in the parallel agreements on environment and labour. The trilateral agreement deals with the rules of origin in more detail and perfects the dispute resolution system has been extended to investments and financial services. It also clarifies some norms regarding the limits of discretional administrative power which, in turn, will lead to more transparent proceedings in that area.

In institutional material, NAFTA maintains the same minimal operational structure of the bilateral agreement, although it creates three new institutions: a Secretarial in Montreal entrusted with the application of the parallel environmental cooperation agreement, another Secretarial in Mexico entrusted with the resolution of all problems related to the parallel agreement on labour cooperation and a North American Bank located in San Antonio whose function is to participate in the financing of environmental infrastructure projects in the border region of Mexico-United States.

The incorporation of an accession clause for future members is yet another positive innovation of NAFTA. The reason for this article is two-fold. First, it provides an open door for the extension of a multilateral free trade zone to other countries of the continent which makes it distinct from the unipolar system of the "hub and spoke". Secondly, it avoids having to renegotiate all the points of the agreement upon the incorporation of every new member; as was the case during the negotiations of the annexation of Mexico to the Bilateral Canada-United States Agreement. At the time of the negotiations to admit Mexico as a new member, the United States used the absence of an accession clause in the Bilateral Agreement to attempt to renegotiate the dispute resolution system of Chapter XIX. This chapter had proven to be very efficient at guaranteeing access of Canadian products to the United States market in spite of the unpredictable protectionist measures of the United States. Canada and Mexico united as a common front in order to maintain the same dispute resolution system in NAFTA. As a result of the accession clause this situation



will not occur again when discussing the admission of other countries to NAFTA.

Did NAFTA produce the desired results after two years in force?

3. Results

Since NAFTA's entry into force, trade within North America has increased by almost 65%. In 1993, Trilateral Trade between Canada, the United States and Mexico amounted to slightly less than US$ 300 billion. In 1997, trade between the three countries has grown to almost US$ 500 billion.

Trade between Canada and the United States continues to grow. The commercial flow between both countries at present reaches more than a billion dollars a day. This represents the highest bilateral commercial flow of the world. More than 97% of products benefit from free access between both countries. In 1997, 82.15% of Canadian exports were sent to the United States. Before the entry into force of the Canada-United States Bilateral Free Trade Agreement, that figure was 75%. This can be interpreted as proof that the two agreements have facilitated the growth of commercial exchange. As a result, the Canadian economy has become more dependent on the United States. This last point may be viewed as a negative consequence, which should be remedied by striving for greater diversification of the Canadian market, in particular towards Mexico and other Latin-American countries.

As for foreign investments in Canada, United States investments in Canada increased by almost 50% between 1993 and 1997. While Mexican investments in Canada quadrupled between 1992 and 1996. The Agreement has also attracted investors from other countries. In 1996, Canada was the world's third largest recipient of foreign direct investment by foreign multinational companies.

In regards to dispute resolution, NAFTA continues generating positive results. However, a bilateral agreement had to be used to resolve the eternal conflict of Canadian wood exports.

As for trade with Mexico, the commercial flow between that country and Canada has increased steadily during the

NAFTA years. Canadian exports increased by more than 50%. The import of Mexican products has also grown by 60%. Even though Mexico is now Canada's ninth largest export market and fourth largest import source, Mexico still only accounts for a small portion of total Canadian exports (0.47%) and imports (1.3%). For its part, Mexico exports only 1% of its total exports to Canada and its importation of Canadian goods and services constitutes 2% of its total imports. The dependence of the Mexican economy on the United States is obvious; 80% of Mexican exports are destined to that country's market. Both Canada and Mexico have the potential to increase trade with each other and to reduce their dependence on the American market.

Another positive, although indirect, result of NAFTA was Canada's and the United States' involvement in aiding Mexico to overcome the economic crisis of 1995, followed by the devaluation of the peso. The Mexican crisis, unfortunately, has reduced the flow of foreign investment and has negatively influenced the "swallow" capital. These events took place in spite of a special NAFTA incentive for investors. It would appear that the economic crisis has disillusioned the Mexican people with regards to the results of NAFTA.

In fact, given that the trilateral treaty has only been in force for four years and considering Mexico's economic and political crisis, it is too early to make definitive conclusions about the results of the NAFTA. Hopefully, the results will improve once the crisis has passed. It should be noted that the crisis would have been even harsher without the increase in Mexican exports which has occurred since the entry into force of the Agreement, a 55% increase in exports to the United States.

In order to measure the results of NAFTA, one must also observe the evolution of the diverse dispute resolution systems and their relation to the Mexican legal culture which is clearly different from that of Canada and the United States.

The conclusions to be reached regarding the Mexican experience will be of great usefulness when NAFTA will be extended to other countries of the continent. Perhaps, that will occur when the time comes to look for a structure for a free trade area in the Americas, in observance with the commitments agreed at the 1994 Miami Summit of the Americas.

III. Towards a Free Trade Area for all the Americas in the Year 2005

The Miami Summit held in December 1994 was the result of a worldwide movement to liberalize trade which took place within a panorama of important changes on the international scene (see 1). Furthermore, both the economic trends and the international changes should be analysed for two reasons. First, they explain Canada's objectives and policies regarding a free trade area for the three Americas (see 2). Second, they determine to a certain degree the structure of the future instrument which would give a legal form to the free trade zone (see 3).

1. International Context

At the international level, the Miami Summit took place in answer to a movement of international trade liberalization which was initiated at the Uruguay Round negotiations in Punta del Este on September 20, 1986. Some 116 countries took part, including almost all the Latin American nations. These Latin American countries decided to participate in the Uruguay Round; abandoning the protectionist system of substitution of imports which was the major cause of economic deterioration in Latin America in the 80's. The Latin American countries decided to adopt the GATT free trade system which in 47 years had multiplied the volume of world trade by 13 times. The negotiations, which were to finish in 1990 according to the Ministerial Declaration of Punta del Este, were far from being concluded in 1993 due to serious difficulties, particularly in the field of agriculture. Finally, the Agreement was signed in Marrakesh April 14, 1994. The new GATT entered into force under the denomination of the World Trade Organization (WTO) on January 1st, 1995.

Meanwhile, a regional trade liberalization movement developed. On one hand, it favoured the strengthening of existing blocs, such as the European Union with the Treaty of Masstricht in 1992, the Asian Block (ASEAN/APEC) and the Canada-United States Free Trade Agreement in 1989, NAFTA in 1994, the Bush Initiative for the Americas in 1990 which gave a new impetus to the existing free trade zones in Latin-America and the Caribbean (Central-American Common Market, CARICOM and the Andino Pact). On the other hand, this movement stimulated the creation of new groups such as the G3 (Mexico, Venezuela and Colombia in 1995) and MERCOSUR (Argentina, Brazil, Paraguay and Uruguay in 1991).

The Malta Meeting of then Presidents Bush and Gorbachev in 1989 marked the end of the cold war resulting in the unification of Germany, peace in Afghanistan, the incorporation of Canada in the Organisation of American States (which occurred in 1990), the dismemberment of the Soviet Union and the conversion of the United States' economy from an economy of war to an economy of peace obliging the United States to depend more on the export of goods and services.

In this international political and commercial context, what are Canada's objectives vis-à-vis such a free trade area and what are the policies it will implement to attain their goals?

2. Canadian Objectives

Canada's objectives are to extend its market and to ensure multilateralism for the benefit of all members countries.

a) Extension of the market

As we have seen above, Canada is an exporting country where one of three jobs depends on exports. Consequently, Canada needs to expand towards new markets. From a Canadian perspective, Latin America (including Mexico) represents a market of 500 million consumers. Although there has been a 111% increase, as a 5 year percentage change from 1992, in exports to Latin American, this amount represents less than 5% of Canada's total market. Latin America, therefore, represents for a substantial potential market opportunity for Canada. Canada, as well, is an important potential market for Latin America. Therefore, increased trade between them represents an interesting opportunity to diversify their export markets; especially considering that at present, Canada exports more than 80% of its products and services to the United States, and Latin-America exports 40% of its products to the United States.

The unidirectional concentration of trade of the two markets towards the United States is a sound reason to strive for legally guaranteed free access to the U.S. market. Nevertheless, it is equally important to discourage the unipolarization of the continent as per the American model of the "hub and spoke". Therefore, the second Canadian objective sought in a free trade zone for the Americas is to reject unipolarism and to institutionalize multilateralism.

b) The Institutionalization of multilateralism

Canada, a faithful defender of the multilateral free trade since the creation of GATT, has persisted in its efforts to achieve a trilateral Free Trade Agreement in North America which could later be transformed into a multilateral agreement using the accession clause. In this vein, Canada has used its diplomatic influence to convince Chile and the United States to work towards the building of a free trade area of the Americas.

The United States, however, manifested its intention to follow the bilateralism route signing a Free Trade Agreement with Chile, in spite of the NAFTA accession clause.

In the end, Canadian diplomatic pressures had a positive effect and at the December 1994 Miami Summit, Canada, the United States and Mexico announced, in the words of Prime Minister Jean Chrétien, that "the three friends are now four" indicating their intention to initiate conversations with Chile for its possible accession to NAFTA.

3. In Search of a Legal Structure for the Free Trade Area of the Americas

NAFTA was the first economic integration framework that Canada and the United States have created with a Latin American country. It was hoped to be used for the further integration of other Latin American countries, for example Chile. It remains to be seen what structure will be chosen by the 34 countries of the Americas for the Free Trade Area of the Americas.

a) NAFTA as a framework for the economic integration of Chile and the Americas

Representatives of the NAFTA countries met with Chilean negotiators in Toronto on June 7, 1995 to begin negotiations for the accession of Chile to NAFTA as a direct result of the Miami Summit. A second meeting was held in Mexico City in August 1995.

Unfortunately, Chile halted negotiations, not wishing to continue until the President of the United States of America could obtain the «Fast Track» mandate from Congress. This authority would allow the President to negotiate free trade agreements and to present them to Congress in a form that is either accepted or rejected in bloc. Without this authority, Congress has the power to accept and reject parts of the agreements at will.

Chile did not wish to face that risk considering the hostility of the congressional republican majority towards President Clinton and its clear opposition of Chile's accession to important NAFTA clauses, particularly the dispute resolution clauses and the parallel agreements on labour and environment.

Chile's fears were well founded; President Clinton did not obtain Fast Track authority from Congress before the end of his first mandate. As a result, the quadrilateral negotiations were stalled. Canada and Chile, for their part, felt that the internal political problems of the United States were not enough of a reason to suspend negotiations completely. The two countries decided to continue discussions via a bilateral route, using NAFTA and the parallel accords as the base for their talks. As Mexico had already signed a bilateral agreement with Chile in the recent past, it saw no immediate necessity to join the negotiations. The bilateral Canada-Chile Free Trade Agreement was written in a NAFTA compatible form so as it allow its possible integration into NAFTA.

The bilateral Canada-Chile negotiations began in January 1996. The United States and Mexico were regularly consulted as to the content of the negotiations. Both Canada and Chile considered this agreement to be a preparatory exercise for Chile's accession to NAFTA rather than a simple bilateral agreement.

The bilateral Canada-Chile Free Trade Agreement was signed on November 18, 1996 and came into force on February 1st, 1997. It is similar to NAFTA except in the areas of anti-dumping and countervailing matters and foreign investments.

In the meantime and in spite of great efforts, re-elected President Bill Clinton was not able to obtain the Congressional mandate to negotiate a free trade agreement in November, 1997. The Canada-Chile Agreement, therefore, remains a bilateral agreement for the time being.

The Miami Summit, however, proposed another route for the creation of a free trade zone in the Americas: the creation of the Free Trade Area of the Americas (FTAA).

b) Towards the Creation of a Free Trade Area of the Americas (FTAA)

The main objective of the *Declaration of Principles,* which was adopted by the 34 countries who participated at the Miami Summit, is the creation of a Free Trade Area of the Americas. Certain measures were proposed in order to achieve this objective, such as the progressive elimination of trade barriers between the different countries in the areas of goods, services and investments.

The *Declaration of Principles* did not create a legal structure. The Declaration only mentions that the structure should be compatible with GATT/WTO principles and be based on the different agreements and economic integration structures that already exist on the continent. Two complementary methods could be used to that end.

The first method would be improve, reinforce and to closely follow the foundations of the different existing sub-regional agreements. This would allow the extension of free trade on the continent while respecting the GATT/WTO principles and perhaps allowing us to go beyond them. These sub-regional agreements would continue to respond to the specific needs of the particular region to which they were adapted; therefore, allowing a certain leeway based on the level of economic development of each country. The second method is the creation of a Free Trade Area of the Americas where rules should be created from common principles found in existing sub-regional agreements, greatly facilitating the possibility of the accession of the different countries. Consequently, the Free Trade Area of the Americas would constitute an effective trade union treaty between all countries of the continent. This multilateral «umbrella agreement» is supposed to take form around the year 2005 according to the time frame established in the *Declaration of Principles.*

Considering that all of the countries of the continent are members of the WTO, this «umbrella agreement» would not be of particular interest except if it were to go beyond the GATT principles. Otherwise, it would only be a restatement of that which already exists. At present, NAFTA is the most advanced free trade agreement in such areas as: investments, services and government procurement. However, these new NAFTA rules would most probably be difficult to apply in many Latin American and Caribbean countries given the different levels of development. In the end, the common denominator which should be used in the constitutive agreement of the FTAA should be an intersection of the GATT/WTO and NAFTA obligations.

The *Action Plan* which is annexed to the *Declaration of Principles* foresees that the common denominator agreement should include, at the minimum, the following sectors: market access of goods and services, agriculture, government subsidies, investments, intellectual property, government procurement, technical norms, safeguards, rules of origin, anti-dumping and countervailing duty matters, sanitary and phyto-sanitary norms and dispute resolution. This list indicates to some degree the scope of the new Free Trade Area of the Americas.

Different work groups have already been created in order to formulate rules compatible with the different existing sub-regional agreements. The groups began their preparatory works after the Ministerial Meetings in Denver (1995) and Cartagena (1996) which followed the Miami Summit. Two other meetings took place, one in Brazil in 1997 and another in Costa Rica in 1998. The different groups received technical assistance from: the Inter-American Development Bank (IADB), for market access and rule of origin issues, the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), for problems of developing nations and the Trade Unit of the Organisation of American States, for all other issues.

The preparatory works of the various groups are supposed to be sufficiently advanced by April 1998 to allow the 34 leaders of the Americas to meet for the 2nd Summit of the Americas in Santiago, Chile. Formal negotiations for the creation of a Free Trade Area of the Americas will be launched at that time in order to be concluded by the 2005 deadline.

Will the United States' lack of negotiating mandate endanger this project or modify the proposed schedule? It is obvious that interest in NAFTA will diminish considerably with the absence of such an important partner as the United States who alone accounts for 40% of all Latin American exports.

The internal political crisis surrounding President Clinton's difficulties in obtaining the free trade agreement negotiating mandate from Congress could be seen as a question of political challenges between the democratic president and the republican majority Congress. It is hoped that once the crisis has passed, the United States will once again be guided by its national interest. This interest is linked with market development and free trade because 1/3 of the economic growth of the United States, in the past few years, is dependant on exports. Recent events in the Asian market should also convince the United States to look to the American markets more closely as trading partners.

This state of affairs should make Canadian politico-economists optimistic. On the basis of the positive results of the Miami Summit and of the high credibility it has acquired with its new Latin American partners, Canada should continue to work towards the creation of a Free Trade Area of the Americas. In this regard, Canada should play the role of catalyst so as to insure that the present free trade momentum and the hope of socio-economic development on the continent not be lost. This hope is in fact the linchpin for long-term political stability and democracy in several countries of the continent.

In preparation for the 2nd Summit of the Americas, Canada should encourage the United States to participate full and actively, as well as to obtain «Fast track» negotiating authority from Congress. After all, the United States did not have this authority at the beginning of the Uruguay Round negotiations. It was only once the negotiations were underway that the Congressional accord was given. Therefore, in the context of the Free Trade Area of the Americas, there is still hope up until the year 2005. Nevertheless, one must be wary of the risk that the political crisis in the United States does not have a hampering effect or cause in certain parties to question the works already undertaken for the creation of the Free Trade Area of the Americas.

Conclusion

Free Trade is undergoing rapid evolution and expansion in different regions of the Americas. Nevertheless, it is still necessary to create new instruments and to continue the work undertaken to date in the Western Hemisphere. It is hoped that the need for economic development will sustain the political will required to finish the task particularly at the 2nd Summit of the Americas. As a member of the Organisation of American States since the end of the Cold War (1990), Canada has made a priority of its international trade policy. It continues to try to stimulate the trade liberalization movement and has shared the benefits of its experience in this domain, particularly with regards to the United States, with other countries. It would, in fact, be favourable for the economic and social prosperity of the continent and the maintenance of political stability to reach a free trade structure for all the Americas by the year 2005.