

The Honorable Robert C. Byrd  
President Pro Tempore  
U.S. Senate  
Washington, DC 20510

Dear Senator Byrd:

At the direction of the President, I am pleased to notify the Congress of the ongoing negotiations on the Free Trade Area of the Americas (FTAA). This notification is in accordance with section 2106(b)(2)(A) of the Trade Act of 2002. Given the importance of our relations with the democratic nations of the Western Hemisphere, and to help restore America's trade leadership, it is crucial that we move forward on the FTAA.

President Ronald Reagan provided the inspiration for a Western Hemisphere free trade agreement in 1988. "Our goal," he said, "must be a day when the free flow of trade, from the tip of Tierra del Fuego to the Arctic Circle, unites the people of the Western Hemisphere in a bond of mutually beneficial exchange, when all borders become what the U.S.-Canadian border so long has been: a meeting place rather than a dividing line." President George H.W. Bush advanced the idea in 1990 with his Enterprise of the Americas Initiative. Then, in 1994, at the Summit of the Americas in Miami, the leaders of the thirty-four nations in the Hemisphere with democratically elected governments formally launched the FTAA negotiations to pursue the goal of regional economic integration.

Today, with the passage of the Trade Act of 2002, the United States is positioned to play a leading role in seeing that the FTAA negotiations are completed, on schedule, by January 2005. Indeed, beginning in November of this year, the United States, along with Brazil, will chair the negotiations.

The Administration is committed to bringing back trade agreements that open markets to benefit our farmers, workers, businesses, and families. With the Congress' continued help we can move promptly to advance America's trade interests. Concluding the FTAA negotiations is a key element of the Administration's agenda for trade liberalization on multiple fronts: globally, regionally, and with individual nations.

The FTAA negotiations offer the United States an opportunity to lead the Americas toward stable and continuing economic growth, improved living standards, and higher paying jobs in all FTAA countries. By reducing and then eliminating hemispheric trade barriers, the FTAA will provide substantial and growing foreign markets for U.S. goods and services. The FTAA agreement will also strengthen the rule-of-law, solidify economic reform throughout the hemisphere, and reinforce the democratic principles that unite FTAA countries.

The FTAA negotiations are being conducted in a transparent manner to ensure that businesses, the agricultural community, labor organizations, non-governmental organizations, state and local governments, and the public are kept informed and have ample opportunity to provide their views. We are conducting an environmental review of the proposed agreement and have sought public comments on all aspects of the negotiations. This and prior Administrations have consulted extensively with Members of Congress since initiation of the FTAA negotiations, and we believe that there is broad bipartisan interest in such an agreement. The Administration will continue to consult closely with Congress, including the new Congressional Oversight Group, as the negotiations progress.

Our specific objectives for the FTAA negotiations are as follows:

- *Trade in Goods and Agriculture Products:*
  - Seek to eliminate tariffs and other duties and charges on trade between the United States and other FTAA countries, subject to reasonable adjustment periods for import-sensitive products.
  - Seek to eliminate non-tariff barriers to U.S. exports in the Hemisphere, including licensing barriers on agricultural products, restrictive administration of tariff-rate quotas, unjustified trade restrictions that affect new U.S. technologies, and other trade restrictive measures that U.S. exporters have identified.
  - Seek to eliminate government practices in other FTAA countries that adversely affect U.S. exports of perishable or seasonal agricultural products, while improving U.S. import relief mechanisms as appropriate.
  - Seek to eliminate agricultural export subsidies on trade in the Hemisphere and pursue a mechanism that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, while maintaining the right to provide *bona fide* food aid and preserving U.S. agricultural market development and export credit programs.
  - Seek to have other FTAA governments eliminate exclusive export rights of agricultural state trading enterprises, to address other unfair or trade-distorting activities of such enterprises and their governments, and to increase transparency by requiring agricultural state trading enterprises to provide information on their operations.
  - Pursue fully reciprocal access to other FTAA markets for U.S. textile and apparel products.

- *Customs Matters, Rules of Origin, and Enforcement Cooperation:*
  - Seek rules to require customs operations in FTAA countries to be conducted with transparency, efficiency, and predictability and that customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.
  - Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under the FTAA apply only to goods eligible to receive such treatment and will promote hemispheric economic integration without resulting in unnecessary obstacles to trade.
  - Seek terms for cooperative efforts with FTAA countries regarding enforcement of customs and related issues, including trade in textiles and apparel.
  
- *Sanitary and Phytosanitary (SPS) Measures:*
  - Seek to have FTAA countries reaffirm their WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.
  - Seek to strengthen collaboration among FTAA countries in implementing the WTO SPS Agreement and to enhance cooperation between the United States and other FTAA countries in relevant international bodies on developing international SPS standards, guidelines, and recommendations.
  
- *Technical Barriers to Trade (TBT):*
  - Seek to have FTAA countries reaffirm their WTO TBT commitments and eliminate any unjustified TBT measures.
  - Seek to strengthen collaboration among FTAA countries on implementation of the WTO TBT Agreement and create a procedure for exchanging information among FTAA countries on TBT-related issues.
  
- *Intellectual Property Rights:*
  - Seek to establish standards to be applied in the Hemisphere that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property and other international intellectual property agreements, such as the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty and the Patent Cooperation Treaty.

- In areas such as patent protection and protection of undisclosed information, seek to have other FTAA countries apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.
- Seek to strengthen the other FTAA countries' procedures to enforce intellectual property rights, such as by ensuring that authorities in other FTAA countries seize suspected pirated and counterfeit goods, equipment used to make such goods or to transmit pirated goods, and documentary evidence. Seek to strengthen measures in other FTAA countries that provide for compensation of right holders for infringements of intellectual property rights and to provide for criminal penalties under the laws of other FTAA countries that are sufficient to have a deterrent effect on piracy and counterfeiting.
- *Trade in Services:*
  - Pursue disciplines to address discriminatory and other barriers to trade in other FTAA countries' services markets. Pursue a comprehensive approach to market access, including any necessary improvements in access to the telecommunications, financial services, and other sectors.
  - Seek improved transparency and predictability of regulatory procedures in FTAA countries, specialized disciplines for financial services, and additional disciplines on measures in other FTAA countries governing telecommunication services and other sectors as necessary.
  - Seek appropriate provisions to ensure that other FTAA countries will facilitate the temporary entry of U.S. business persons into their territories, while ensuring that any commitments by the United States are limited to temporary entry provisions and do not require any changes to U.S. laws and regulations relating to permanent immigration and permanent employment rights.
- *Investment:*
  - Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in other FTAA countries, while ensuring that investors of other FTAA countries in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in other FTAA countries important rights comparable to those that would be available under U.S. legal principles and practice.

- Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in other FTAA countries and to address unjustified barriers to the establishment and operation of U.S. investments in those countries. Provide procedures to resolve disputes between U.S. investors and the governments of other FTAA countries that are in keeping with the Trade Promotion Authority goals of making such procedures expeditious, fair and transparent.
- *Electronic Commerce:*
  - Seek to affirm that other FTAA countries will allow U.S. products and services to be delivered electronically to their markets and seek to ensure that they do not apply customs duties to digital products or unjustifiably discriminate among products delivered electronically.
- *Government Procurement:*
  - Establish rules that enable the suppliers of U.S. goods and services to compete, on a non-discriminatory basis, for a broad range of government procurement contracts in FTAA countries.
  - Establish disciplines based on the WTO Agreement on Government Procurement and the NAFTA that require procurement rules in other FTAA countries to provide transparency and predictability throughout the procurement process, particularly in establishing supplier qualifications and tender specifications, evaluating tenders, and awarding contracts.
  - Ensure access to timely and effective bid protest procedures in other FTAA countries.
- *Transparency/Anti-Corruption/Regulatory Reform:*
  - Seek to make the administration of other FTAA countries' trade regimes more transparent, and pursue rules that will permit timely and meaningful public comment before other FTAA countries adopt trade-related measures.
  - Seek to ensure that other FTAA countries apply high standards prohibiting corrupt practices affecting international trade and enforce such prohibitions.

- *Trade Remedies:*
  - Provide a safeguard mechanism during the transition period that would allow for a temporary revocation of FTAA tariff preferences.
  - Preserve the ability of the United States to enforce rigorously its antidumping and countervailing duty laws.
  
- *Competition Policy:*
  - Establish disciplines on government-designated monopolies and state enterprises in FTAA countries to ensure that such monopolies and enterprises do not discriminate against the products and companies of other FTAA countries or otherwise act in a manner inconsistent with the agreement.
  - Establish mechanisms that will foster cooperation among FTAA countries on competition law and policy.
  - Establish a competition policy review mechanism to allow for peer review of FTAA country practices on competition-related issues.
  
- *Environment:*
  - Seek to promote trade and environment policies that are mutually supportive.
  - Seek an appropriate commitment by FTAA countries to the effective enforcement of their environmental laws.
  - Establish that FTAA countries will strive to ensure that they will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in their environmental laws.
  - Help other FTAA countries strengthen their capacity to protect the environment through the promotion of sustainable development, such as by establishing consultative mechanisms.
  
- *Labor, including Child Labor:*
  - Seek an appropriate commitment by FTAA countries to the effective enforcement of their labor laws.

- Establish that FTAA countries will strive to ensure that they will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in their labor laws.
  - Based upon review and analysis of the labor law and practices of other FTAA countries, establish procedures for consultations and cooperative activities among the FTAA countries to strengthen the capacity of FTAA countries to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor, building on U.S. Department of Labor technical assistance programs and taking into account the consultation, information exchange and cooperative activities of the Department of Labor in the Inter-American Conference of Ministers of Labor.
- *State-to-State Dispute Settlement:*
    - Encourage the early identification and settlement of disputes through consultation.
    - Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement.

In addition, the FTAA will take into account other legitimate U.S. objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests.

We are committed to concluding these negotiations with timely and substantive results for U.S. workers, ranchers, farmers, businesses, and families, by pursuing these specific objectives and the overall and principal U.S. negotiating objectives and priorities set out in the TPA Act. We look forward to continuing to work with the Congress. Working together we can reach a successful conclusion that will benefit the United States and the other FTAA countries and support our broader objectives.

Sincerely,

Robert B. Zoellick