

## ALTERNATIVES TO THE FTAA: LESSONS FROM EUROPE

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The debate over economic integration in the Western Hemisphere is more volatile today than at any time since former President George H.W. Bush first announced a grand plan for a free trade zone stretching from the port of Anchorage to Tierra del Fuego in 1990.<sup>1</sup> For nearly 10 years, negotiators have been working to make Bush's dream a reality through a hemisphere-wide Free Trade Area of the Americas ("FTAA"). Until recently, the model for the FTAA, as evidenced by draft texts, has been the North American Free Trade Agreement ("NAFTA"). However, while the official deadline of January 2005 for completing the FTAA is fast approaching, the U.S. government's goal of a NAFTA-style agreement appears more remote than ever.

During the past few years, resistance to "neo-liberal" or free market-oriented policies has driven changes in leadership in several countries. In two of the largest economies in the region, Brazil and Argentina, new Presidents are sharply critical of the proposed FTAA. Brazilian President Luiz Inacio "Lula" da Silva has often described the proposed FTAA as an "annexation project" rather than an integration project.<sup>2</sup> At a recent summit of heads of state in Mexico, Argentine President Nestor Kirchner made a jab at the United States government's approach to the FTAA, reportedly saying "not just any Free Trade Area of the Americas will do. The deal should acknowledge economic differences. It cannot be a one-way street and it cannot be imposed."<sup>3</sup> In Venezuela, President Hugo Chavez has also been a consistent critic, once reportedly describing the FTAA as the "cauldron of hell itself."<sup>4</sup> Leaders of Caribbean nations have demanded strong concessions for small economies. Their proposals for special treatment include longer timelines for implementing FTAA rules, waivers of reciprocity requirements, and special technical

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<sup>1</sup> George H. Bush, Policy Address Concerning the Economies of Latin America (June 27, 1990) (transcript available at [www.fednews.com](http://www.fednews.com)).

<sup>2</sup> *Brasil/ Lula: ALCA es un proyecto de anexion, no de integracion*, DEUTSCHE PRESS AGENTUR, June 21, 2002.

<sup>3</sup> *Bush Scrambles to Keep Free Trade Plans on Track at Americas Summit*, CHANNEL NEWS ASIA, Jan. 14, 2004, available at <http://www.channelnewsasia.com>.

<sup>4</sup> *Chavez Urges Venezuela, Cuba "Single Team" Against FTAA 'Cauldron of Hell'*, BBC MONITORING LATIN AMERICA, Sept. 7, 2001.

## Alternatives to the FTAA

assistance to help them negotiate and implement FTAA rules and make use of the dispute settlement mechanism.<sup>5</sup> Even Mexican President Vicente Fox, one of the United States' closest economic allies, has suggested that he is dissatisfied with the NAFTA model. In a press interview, Fox stated, "If we were going to do it all over again today, I would insist on introducing a lot of considerations."<sup>6</sup>

The growing backlash caused the trade negotiators meeting in Miami in November 2003 to dramatically alter the course of the FTAA talks. Facing a deadlock, the United States government backed down from its demand that the FTAA be a comprehensive agreement endorsed in full by all 34 governments. Instead, they agreed to a two-track approach that would allow countries to opt out of some of the more controversial provisions.<sup>7</sup> The details of the new approach are yet to be determined, but it is clear that developing country resistance has shaken up the debate and the FTAA is likely to be either a hollowed out version of the original proposal or a pact with far less than 34 parties.

Given the extent of social and environmental problems in the hemisphere, however, most critics of the proposed FTAA believe that an ideal outcome would not be merely the failure of FTAA talks, but rather the development of a different road map for integration in the Americas. Although there is no consensus around an alternative path among leaders, one frequent theme is that the Western Hemisphere should consider the experience of the European Union ("EU"). The Mexican and Venezuelan governments have been most direct in calling for EU-style initiatives. Mexico's Fox has promoted the idea that both the NAFTA and the FTAA include EU-style development funds and that the NAFTA countries adopt a common currency similar to the euro and more open migration policies.<sup>8</sup> In one of several official memos on the subject, Venezuela's Chavez administration stated "one of the key goals of a successful integration project, as demonstrated by the experience of the European Union, is to ensure that integration allows for concrete steps to be taken towards significantly reducing these inequalities."<sup>9</sup> As the Western Hemisphere grapples with its own integration process, the EU offers one of the few concrete examples of an

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<sup>5</sup> Fernando Masi, *Preferential Treatment in Trade: Is There Any Room Left in the Americas?* THE NORTH-SOUTH AGENDA, U. MIAMI, Aug. 2001, at 14. available at <http://www.miami.edu/nsc/publications/pub-ap-pdg/49AP.pdf>.

<sup>6</sup> Geri Smith & Cristina Lindblad, *Mexicon: Was NAFTA Worth It: A Tale of What Free Trade Can and Cannot Do*, BUS. WK., Dec. 22, 2003, at 72, available at [http://www.businessweek.com/magazine/content/03\\_51/b3863008.htm](http://www.businessweek.com/magazine/content/03_51/b3863008.htm).

<sup>7</sup> Ministerial Declaration, Free Trade Area of the Americas Eighth Ministerial Meeting, Miami, USA, Nov. 20, 2003.

<sup>8</sup> Worldview: *Mexican President-Elect Vicente Fox Discusses Plans for Economy, Governing*, July 4, 2000, available at <http://www.cnn.com/transcripts/0007/04/wv.01.html>.

<sup>9</sup> Memorandum from Victor Alvarez, Vice Minister of Industry, Government of Venezuela to the FTAA-Trade Negotiations Committee (Apr. 16, 2003), available at [http://www.ftaa.org/TNC/tni123\\_e.asp](http://www.ftaa.org/TNC/tni123_e.asp).

alternative approach.

The EU and NAFTA approaches are indeed very different. NAFTA is a narrow agreement that combines trade and investment liberalization with strong investor protections. By contrast, the EU, initially formed in the post-war period, has the dual goals of economic prosperity and social and political harmony. Although the economic side has often dominated, social goals were emphasized beginning with the 1957 Treaty of Rome, which created the alliance that has evolved into the EU.

The EU policies that have taken shape over the past 50 years can roughly be grouped into two categories: those that restrict government intervention and those that require it. The restrictive policies include trade and investment liberalization, the adoption of the common currency (which is tied to restrictions on fiscal policy), competition policy (which restricts government subsidies to the private sector) and free movement of labor (which inhibits restrictions on labor flows).

The other category of policies, those that involve government intervention, include the EU's development aid and farm supports, legally binding social and environmental protections, and mechanisms for public participation and consultation. This article focuses primarily on this set of initiatives because they are absent from the NAFTA model and are also those most frequently cited by government officials as well as civil society groups in the discussion around a more favorable alternative to the FTAA. The article also discusses EU migration policy since this issue is of great interest in the Americas.

It should be noted that while governments in the Americas have clashed over the FTAA negotiations, the EU has not been without conflicts of its own. In fact, there are raging debates over virtually every aspect of this complex project. Particularly as the EU has worked to prepare for the enlargement in May 2004 from 15 to 25 members, EU aid, social, environmental, and migration policies have come under intense scrutiny. EU institutions and member state governments have had conflicting views on whether and how to reform these initiatives, as well as the delicate issue of how to pay for them. These debates have produced a rich body of thinking that should be more closely integrated into discussions in the Americas.

### **Social and Environmental Standards**

The challenge of addressing the social and environmental impacts of integration has become a front burner issue in U.S. electoral politics. During the campaign for the Democratic Presidential nomination, all of the leading candidates expressed a commitment to changing U.S. trade policy by incorporating enforceable labor and environmental standards in future trade pacts. For example, at an event to announce that he had obtained the endorsement of the AFL-CIO, Senator John Kerry stated, "I will insist on real

## Alternatives to the FTAA

worker and environmental provisions in the core of every trade agreement.”<sup>10</sup> Former Vermont Governor Howard Dean, prior to withdrawing from the race, said “I will insist that every new trade agreement include strict and enforceable labor and environmental provisions.”<sup>11</sup>

The EU has a long history of work in this area. The Treaty of Rome states in Article 118 that “It shall be the aim of the Commission to promote close collaboration between member states in the social field, particularly in matters relating to employment, labor legislation and working conditions, social security, protection against occupational accidents and diseases, industrial hygiene, the law as to trade unions, and collective bargaining between employers and workers.”<sup>12</sup>

Today, the European Commission, the EU’s administrative entity, is the guardian of a voluminous body of regulations on labor rights and environmental standards, as well as gender equity, racial discrimination, health and safety, and other issues. The Commission has the authority to bring offending governments before the European Court of Justice. While it occurs only rarely, the European Court of Justice can impose sanctions for non-compliance, from fines to the ultimate punishment of EU expulsion.

By setting a floor for the region’s social and environmental policies, the EU has tried to encourage a high-road path to development, instead of competition based on exploitation in areas of weak standards. The EU has taken a particularly strong stance in defending women’s rights. Article 119 of the Treaty of Rome states that member states must ensure and maintain the principle that men and women receive equal pay for equal work.<sup>13</sup> This article was largely ignored until 1975, when the European Council issued a directive on equal pay for work of equal value, followed a year later by a directive that required equal treatment for men and women in employment and training.<sup>14</sup> Directives in the 1980s and early 1990s dealt with equal treatment in social security and protections for workers who are pregnant or have recently given birth.<sup>15</sup> The

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<sup>10</sup> John Kerry, Remarks at AFL-CIO Meeting on Jobs and the Economy, Washington, DC, Feb. 19, 2004.

<sup>11</sup> Howard Dean, Remarks in a speech in Des Moines, Iowa, July 30, 2003, *available at* <http://www.deanforamerica.com/site/cg/index.html?type=news&id=7343>.

<sup>12</sup> TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY, Mar. 25, 1957, art. 118 [hereinafter TREATY OF ROME].

<sup>13</sup> *Id.* at art. 119.

<sup>14</sup> Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women, 1975 O.J. (L 45); Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, 1976 O.J. (L 39).

<sup>15</sup> Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes, 1986 O.J. (L 225) 40; Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage

## Alternatives to the FTAA

Irish government tried to negotiate a waiver from the pay equity directive, but the request was refused.<sup>16</sup> Likewise in Austria, it was only when the EU issued a directive on parental leave that Austrian unions won a long-standing battle to obtain that right.<sup>17</sup>

On the environment, critics charge that enforcement is constrained by the fact that the European Commission must rely on national-level environmental reporting systems, which are lacking in many countries.<sup>18</sup> Nevertheless, there are examples of EU environmental laws that have had significant impact. For example, a directive on large combustion plants sets emissions limits that are more easily attained with modern and cleaner natural gas technologies.<sup>19</sup> This law is cited as at least partly responsible for a reduction of energy-related emissions in the energy supply and industry sectors of 43 and 23 percent, respectively, during the past decade.<sup>20</sup> The European Commission also points to a law on urban wastewater that has resulted in a significant decrease in the number of heavily polluted rivers due to reductions in point source discharges. Organic matter discharges fell by 50 to 80 percent over the last 15 years.<sup>21</sup>

By contrast, NAFTA lacks strong mechanisms on these issues. Although “side agreements” on labor and the environment were negotiated parallel to the trade pact, these have proved extremely weak instruments for strengthening enforcement. For example, although more than 20 complaints have been filed regarding labor rights violations, none have resulted in more than consultations between government officials.<sup>22</sup> As a result, corporations continue to have a strong incentive to export jobs to Mexico, where they can more easily profit from labor repression and environmental degradation. The FTAA is a step

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improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, 1992 O.J. (L 348).

<sup>16</sup> Press Release, Joan Carmichael, Assistant General Secretary of the Irish Confederation of Trade Unions, Comments to Launch the Congress Campaign for a Yes Vote in the Nice Referendum (Sept. 16, 2002).

<sup>17</sup> Gerda Falkner & Simone Leiber, *A Europeanization of Governance Patterns in Smaller European Democracies?* 8<sup>th</sup> Biennial International Conference, European Union Studies Association, Mar. 27-29, 2003, available at <http://www.mpi-fg-koeln.mpg.de/socialeurope/downloads/FalknerLeiberEUSA2003.pdf>.

<sup>18</sup> Christopher Demmke, *Towards Effective Environmental Regulation: Innovative Approaches in Implementing and Enforcing European Environmental Law and Policy*, JEAN MONNET CENTER, N.Y.U. SCH. L., 2001, available at <http://www.jeanmonnetprogram.org/papers/01/010501-01.html>.

<sup>19</sup> Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, OJ (L 309) 1, available at <http://europa.eu.int/scadplus/leg/en/lvb/128028.htm>.

<sup>20</sup> European Environment Agency, *Energy and Environment in the European Union*, 2002, at 30, available at [http://reports.eea.eu.int/environmental\\_issue\\_report\\_2002\\_31/en/eni-env.pdf](http://reports.eea.eu.int/environmental_issue_report_2002_31/en/eni-env.pdf).

<sup>21</sup> European Commission, *Global Assessment: Europe's Environment: What Directions for the Future?*, 2000, at 12, available at [http://europa.eu.int/comm/environment/newprg/99543\\_en.pdf](http://europa.eu.int/comm/environment/newprg/99543_en.pdf).

<sup>22</sup> Human Rights Watch, *Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement*, Apr. 2001, available at <http://www.hrw.org/reports/2001/nafta/>.

backwards from NAFTA on social and environmental issues. In the draft text, the only relevant proposals are non-binding recommendations that countries strive to ensure that they do not weaken existing labor and environmental regulations in order to attract foreign investment.

### Development Funds

The EU recognizes that stronger labor and environmental regulations, while important, are not enough to level the economic playing field among its member states. The EU has had an explicit commitment to reducing income disparities, beginning with its founding. The preamble to the Treaty of Rome expressed the need to “strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions.”<sup>23</sup> Article 3 of the Treaty created the European Social Fund to improve employment opportunities and raise living standards.<sup>24</sup>

Hence, the EU has committed significant financial and technical assistance to helping poorer countries implement and monitor EU social and environmental regulations. Beyond that, the EU invested •324 billion in development grants to reduce disparities between and within its member states between 1961 and 2001, most of it since the mid-1980s.<sup>25</sup> By comparison, the U.S. Agency for International Development spent about one-tenth this amount on economic assistance grants to all of Latin America during this time period.<sup>26</sup>

To obtain these grants, national governments develop proposals in consultation with the European Commission for infrastructure, training, and other development projects. The largest recipients have been the so-called “poor four” – Ireland, Greece, Spain and Portugal. To varying degrees, all have made progress. Between 1982 and 2002, Ireland became one of the wealthiest European countries, while Spain and Portugal have increased their GDP per capita levels from 74 to 82 and 62 to 71 percent of the EU average, respectively. Greece did less well in the 1980s, but has narrowed the gap by 7 percentage points since an infusion of EU aid in the 1990s.<sup>27</sup> There is widespread consensus among scholars that EU supports were a significant factor in this “catching-up” process.

By contrast, NAFTA contained no mechanisms to reduce inequalities and,

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<sup>23</sup> TREATY OF ROME, *supra* note 12.

<sup>24</sup> *Id.* at art. 3.

<sup>25</sup> European Commission, The Community Budget: The Facts in Figures, Table 1, 2000, available at <http://europa.eu.int/comm/budget/pdf/budget/procbud/procbuden.pdf>.

<sup>26</sup> Calculated by the author based on data in U.S. Agency for International Development, Center for Development Information and Evaluation, available at <http://www.usaid.gov>.

<sup>27</sup> Calculated by the author based on data from World Bank, World Development Indicators Online, available at <http://www.worldbank.org/data/wdi2002>.

## Alternatives to the FTAA

despite large increases in exports and foreign investment, Mexico has fallen further behind in per capita income as a percentage of the North American average. This figure was 43 percent in 1982, 33 at the start of NAFTA, and 31 in 2002.<sup>28</sup>

The EU has recognized that as long as extreme income gaps exist, it is unrealistic to expect that labor and environmental regulations alone will be enough to lift up standards. Poorer countries will not only lack resources necessary for infrastructure and human investment. They will also face serious pressure to attract foreign investment by offering an exploited workforce and lax environmental enforcement, undermining efforts to maintain high standards in the richer countries.

To develop and maintain support for development aid in the richer countries, the EU has “de-politicized” aid by assigning administrative responsibilities to a supra-national body (the European Commission) and channeling a portion of aid into the poorer regions of the richer countries, such as eastern Germany.

In the Western Hemisphere, there are many questions that should be explored regarding the most appropriate approach to resource transfer in the Americas. It may be that debt reduction, or a combination of debt reduction and aid, would be a more appropriate approach, given the high level of foreign debt faced by many Latin American governments. The general principle of using resource transfers to narrow the gaps is an important one.

One of the most visible benefits of the EU’s efforts to narrow disparities between rich and poor countries is that it has helped make possible an “open border” policy. Article 3 of the Treaty of Rome calls for the abolition of obstacles to the freedom of movement of persons. Thus, EU citizens have the right to live and work in any member state and discrimination against citizens of another member state is banned. During periods of enlargement to poorer countries, the EU responded to fears of massive flows of migrants into the richer countries by focusing aid and other assistance to lift up living standards in the poorer countries to mitigate migration pressures. As a result, when the EU lifted borders with Portugal and Spain, out-migration was negligible. Even though the EU is confronting wider income gaps in the current round of enlargement, countries scheduled to join the EU in May 2004 are slated to enjoy full rights to freedom of movement within seven years.

“By contrast, U.S. negotiators refused to consider the migration issue, aside from offering limited visas for professionals,”<sup>29</sup> and U.S. taxpayers spend billions of dollars every year in border patrol costs. The draft FTAA also

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<sup>28</sup> Calculated by the author based on data from World Bank, World Development Indicators Online, *available at* <http://www.worldbank.org/data/wdi2002>.

<sup>29</sup> Sarah Anderson & John Cavanagh, *Lessons of European Integration for the Americas* (Feb. 26, 2004), *available at* [www.ips-dc.org](http://www.ips-dc.org).

## Alternatives to the FTAA

ignores the migration issue. In terms of development funds, the FTAA is also lacking. In 2002, the U.S. promoted the creation of a Hemispheric Cooperation Program, but this is merely an initiative to provide technical assistance to train government officials to participate in negotiations and implement FTAA commitments. The goal is not to reduce disparities and there is no binding commitment to support the program, which is separate from the FTAA text.

There is a great deal the Western Hemisphere can learn from the EU approach in adopting a long-term plan for leveling the playing field among nations and working towards increased labor mobility.

### **Agriculture**

The lessons of the EU's past farm policies are mostly negative. In accordance with Article 39 of the Treaty of Rome, the EU approach to agriculture policy for the first two decades or so centered primarily on boosting yields and production levels. Although this was understandable during the post-war period when the memory of hunger was still fresh, the approach eventually produced massive surpluses that drove down world market prices for many commodities. And with the rise in environmental concerns in the 1970s, the EU agriculture approach drew increased criticism for encouraging intensive farming practices. Although there have been some reforms during the past two decades, many environmentalists argue that they haven't gone far enough to support sustainable agriculture.

Agriculture is the biggest line item in the EU budget, totaling 672 billion between 1963 and 2001. As in the United States, the EU's farm subsidies have disproportionately benefited large producers, and despite massive agricultural spending, the region has had a rapid decline in small farms.<sup>30</sup>

However, more recent attempts to reform the EU agricultural policy, while too early to judge, may produce more fruitful fodder for lessons for the Americas. These changes have focused on de-linking subsidies from production and conditioning them on respect for environmental and other standards. Under a reform plan announced in 2003, the EU is also planning to cut payments to large farmers.<sup>31</sup> These reforms can inform the debate in the Americas region, where small-scale agriculture remains highly significant in terms of employment, as well as social, environmental, and cultural welfare. Like the

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<sup>30</sup> Eurostat, *Thirty years of agriculture in Europe, Statistics in Focus, Agriculture and Fisheries*, (Mar. 3, 2000), available at [http://www.eu-datashop.de/download/EN/sta\\_kurz/thema5/nn\\_01\\_14.pdf](http://www.eu-datashop.de/download/EN/sta_kurz/thema5/nn_01_14.pdf).

<sup>31</sup> Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001, available at [http://europa.eu.int/eur-lex/en/archive/2003/1\\_27020031021en.html](http://europa.eu.int/eur-lex/en/archive/2003/1_27020031021en.html).



## Alternatives to the FTAA

EU, the Western Hemisphere should recognize that increased exports and other trade liberalization policies will not solve the serious problems facing rural residents.

Agriculture is one of the most contentious issues in the FTAA negotiations. In part, concerns in the rest of the hemisphere are based on the experience of Mexico under NAFTA. That deal required a phased-in lifting of barriers to agricultural trade between the United States, Mexico, and Canada. As a result, there has been a rapid influx of U.S. agricultural products, namely corn, into Mexico, putting pressure on small farmers in that country. According to the Carnegie Endowment for International Peace, the NAFTA period has coincided with a loss of 1.3 million jobs in Mexican agriculture.<sup>32</sup> For many Mexican farm groups, anger over NAFTA is focused on both the reduction of farm protections in Mexico as well as what they see as the hypocrisy of U.S. agricultural policy, which provides billions of dollars in supports for domestic producers (particularly large-scale agribusiness) while promoting free market reforms abroad.

The U.S. government's negotiating position in the FTAA has also been for countries to remove tariffs on imports within 10 years.<sup>33</sup> As in NAFTA, the United States opposed including measures to provide financial assistance to farmers or to encourage more environmentally sustainable practices. Several other countries have rejected this position. Agriculture is still an important source of income and employment in many countries in the region, and it is not uncommon for governments to provide protections for staple foods. For example, the Nicaraguan government applies tariffs of 45-55 percent on certain types of corn and rice imports.<sup>34</sup> Because the United States has been unwilling to offer compensatory aid or reduce U.S. domestic farm subsidies, the agricultural issue has become the main roadblock to progress in FTAA talks.

### Public Participation

To facilitate civil society input in policymaking, the EU has established a European Economic and Social Committee, which is made up of representatives of employers, workers, and other civil society sectors from each member state. The Committee provides input to the European Commission on all matters relating to economic and social policy. The EU also has an official "social partnership process," modeled on national-level processes in some countries,

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<sup>32</sup> John Audley et al., *NAFTA's Promise and Reality*, Carnegie Endowment for International Peace, Nov. 2003, at 20, available at [http://www.ceip.org/files/publications/NAFTA\\_Reprint-full.asp](http://www.ceip.org/files/publications/NAFTA_Reprint-full.asp).

<sup>33</sup> Press Release, Office of the U.S. Trade Representative, FTAA Negotiating Group on Agriculture: Public Summary of U.S. Position (Jan. 17, 2001) available at <http://www/ustr.gov>.

<sup>34</sup> General Accounting Office, *Free Trade Area of the Americas: Negotiators Move Toward Agreement That Will Have Benefits, Costs to U.S. Economy*, Sept. 2001, at 28, GAO-01-1027, available at <http://usembassay.state.gov/guatemala/wwwfftaarep2001.pdf>.

## Alternatives to the FTAA

through which trade unions and employer groups develop proposals for EU initiatives. In some cases, such as the directive on parental leave, these initiatives have led to legislation.”

EU workers also have rights to consultation at the company level. Since 1994, multinational companies with a significant number of workers in the EU must negotiate agreements with a “European Works Council” (“EWC”) representing their employees. At a minimum, employers must give the EWCs the right to meet with central management once a year to receive information regarding the firm’s financial situation and plans for new technologies, production transfers, mergers, and layoffs. In all cases, the corporation must pay for the EWC’s operating expenses.<sup>35</sup>

The EWCs have a long way to go before they can be considered a significant counterweight to the power of employers in Europe. According to the European Trade Union Institute, only about one-third of the 2,000 or so firms that are technically required to have EWCs actually have complied, and in most cases, the agreements offer only the minimum in consultation rights.<sup>36</sup> Nevertheless, EWCs have offered some important opportunities for workers to gather information that is useful in their national collective bargaining and to influence the handling of corporate restructurings.

While all of these consultation mechanisms have their shortcomings, the EU has made some progress towards creating an institutional framework for ensuring that policies reflect a measure of public consensus. By contrast, neither the NAFTA nor the proposed FTAA offer any significant opportunities for civil society participation in decision-making. A civil society committee set up as part of the FTAA negotiation process is widely derided as nothing more than a “mailbox,” since it solicits public input but has no obligation to respond. And there is nothing in the draft FTAA text that would ensure any continued role for civil society once the agreement went into effect. At the company level, neither NAFTA nor the draft FTAA offer any consultation rights to workers.

## Conclusion

There are many historical, economic, and cultural differences between Europe and the Americas that would make it both foolhardy and unrealistic to attempt to simply replace the NAFTA model with the EU approach. However, one could argue that the current moment is an auspicious one for moving towards a new, broader approach to integration that would draw general lessons from the EU experience.

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<sup>35</sup> Council Directive 94/45/EC of 22 September 1994 on the Establishment of a European Works Council or a Procedure in Community-scale Undertakings and Community-scale Groups of Undertakings for the Purposes of Informing and Consulting Employees, 1994 1994 O.J. (L 254).

<sup>36</sup> Peter Kerckhofs, *European Works Councils – Facts and Figures*, European Trade Union Institute, Brussels, Nov. 2002.

## Alternatives to the FTAA

First of all, it is becoming increasingly difficult for the U.S. government to continue to advance an agenda based on narrow trade and investment liberalization rules. FTAA talks are currently stalled, as well as those at the global level in the World Trade Organization. The current approach is also increasingly unpopular among the U.S. public. A recent Zogby poll, for example, indicated strong resistance to the Bush Administration's goal of expanding NAFTA. The poll found that half of Americans oppose NAFTA expansion, compared with only 31 percent in favor. And those who described NAFTA as a job-destroyer outnumbered those who saw it as a job-creator by 3 to 1.<sup>37</sup> Given these obstacles, it seems sensible for negotiators to broaden the talks to consider alternative approaches.

Secondly, at a time when the U.S. government is largely focused on the war on terrorism, it is important to draw from the EU's experience in promoting stability and harmony among its member states. As Bush Administration officials have pointed out, there is an inextricable link between global security and economic prosperity. For example, Secretary of State Colin Powell stated at the 2002 World Economic Forum: "we have to realize that terrorism really flourishes in areas of poverty, despair, hopelessness—where people see no future."<sup>38</sup> Applying the lessons of Europe's experience in reducing disparity to the Americas region could be a first step in a new, long-term international security strategy based on cooperation and solidarity. This could help make Americans not only safer but more economically secure, since the current gaps in standards make it extremely difficult to reduce incentives for companies to export U.S. jobs to areas of low wages and lax environmental enforcement. The EU experience also demonstrates the benefits that accrue to richer countries when their neighbors can better afford to purchase their products and services.

Thus, given the current conflicts over the proposed FTAA, leaders of the Americas would do well to take a break from the wrangling and begin a discussion of alternative paths, including Europe's concrete experience in pursuing a broader approach to social and economic integration.

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<sup>37</sup> Zogby International, *Majority of Americans Oppose Expanding NAFTA to Other Latin American Nations* (Dec. 12, 2003), available at <http://www.zogby.com/news/ReadNews.dbm?ID=769>.

<sup>38</sup> Remarks at the World Economic Forum, Feb. 1, 2002, available at <http://www.fednews.com>.