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The Free Trade Area of the Americas and Smaller Economies

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THE FREE TRADE AREA OF THE AMERICAS AND SMALLER ECONOMIES

*The Most Honourable P.J. Patterson**

INTRODUCTION

The Free Trade Area of the Americas (“FTAA”) is a regional trade agreement being negotiated by all countries of the Western hemisphere except Cuba.¹ It was conceived by Heads of State and Governments of thirty-four countries at the First Summit of the Americas in Miami, Florida, in 1994. At that Summit, we agreed that “free trade and increased economic integration are key factors for raising standards of living, improving the working conditions of people in the Americas and better protecting the environment.”² It was envisioned that this free trade area, encompassing these thirty-four democratic countries of the Americas, would be constructed in a manner to provide the hemisphere with trade rules that are clear, equitable, and fair. To this end, we directed our respective Ministers Responsible for Trade to begin negotiations for the FTAA, stipulating that “the FTAA Agreement will be balanced, comprehensive, WTO-consistent and constitute a single undertaking.”³

From the earliest stages of the negotiating process, it was recognized that smaller economies would require special consideration. This was reflected in the Declaration of the First Summit in which Heads of State and governments called for opportunities for technical assistance to facilitate the integration of smaller economies and to increase their level of development.⁴ It was reiterated at the Second Summit, which accepted that special attention would be given to the most vulnerable countries.⁵

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1. See *Free Trade Area of the Americas, Overview*, at <http://www.alca-ftaa.org> (last visited Jan. 20, 2004).

2. First Summit of the Americas: Declaration of Principles, Miami, Florida, Dec. 11, 1994, *reprinted in* 34 I.L.M. 810, 811 (1995) [hereinafter Miami Declaration].

3. Second Summit of the Americas: Declaration of Santiago, Santiago, Chile, Apr. 18-19, 1998, *reprinted in* 37 I.L.M. 947, 951 (1998) [hereinafter Santiago Declaration].

4. See Miami Declaration, *supra* note 2, 34 I.L.M. at 812.

5. See Santiago Declaration, *supra* note 3, 37 I.L.M. at 950.

This commitment to hemispheric integration was renewed at the Third Summit of the Americas where Heads of State and Governments declared our determination to “meet the challenges inherent in the differences in size and levels of social, economic and institutional development in our countries and our region.”⁶ This declaration was driven by the early insistence of the countries of the Caribbean Community that an agreement that sought to bring together some of the world’s most powerful trading Nations with some of its smallest and most vulnerable, could only succeed if it addressed the differences in size and development, and their implications for successful integration into the prospective FTAA.⁷

The attention paid to the issue of smaller economies by the Caribbean Community in particular is part of its positive and practical response to the prospects for trade and development that the FTAA can bring. A well structured FTAA, encompassing a market of 800 million persons and combined GDP in excess of U.S.\$12 trillion, can and must deliver benefits to all the inhabitants of the hemisphere.

In enabling goods and services to flow more easily throughout the hemisphere, the FTAA can contribute to economic growth and job creation by fostering greater market access and investment flows. It will enable more competitive businesses and better access to quality goods for the hemisphere’s consumers and it will, over time, contribute to stronger economies, collectively and individually, across the region.

Although the FTAA promises growth and development it still poses real challenges, and demands some difficult decisions when attempting to achieve its intended goal of promoting stronger, more dynamic trade, and economic growth in this hemisphere. The concerns are greatest for the smaller and more vulnerable economies. They face the prospect of revenue loss through tariff reduction, job losses through consolidation of production centers in more powerful territories, and the demise of marginal and weak producers. It is for these reasons that at-

6. Third Summit of the Americas: Declaration of Principles, Quebec City, Canada, Apr. 20-22, 2001, ¶ 3, *available at* http://www.ftaa-alca.org/Summits/Quebec/declar_e.asp [hereinafter Quebec Declaration].

7. Hon. Lester B. Bird, Creating Prosperity, Speech at the Second Plenary Session of the Third Summit of the Americas, Quebec City, Canada (Apr. 20-22, 2001), *available at* <http://www.caricom.org/speeches/3summitamericas-bird2.htm>.

tention to the status of smaller economies is essential in the FTAA.

*THE IMPORTANCE OF SMALLER ECONOMIES IN
GLOBAL TRADE*

The attention paid to smaller economies within the FTAA cannot be limited only to the Free Trade Agreement. Smaller economies struggle within a global system that is often hostile to their demands and considers their role and their interest inconsequential. This has to change in order to level the global playing field and create a truly fair trading system. Currently, as the UN Development Report 2002 recognizes, “trade rules consistently work against products from developing countries . . . and fail to restrain protectionist abuse in industrial countries. Industrial countries provide US\$1 billion a day in domestic agricultural subsidies — more than six times what they spend on official development assistance for developing countries.”⁸ Jamaica and other small economies with limited budget and pressing social demands are unable to provide subsidies and other advantageous support schemes for producers that larger more developed countries offer their own.

The explicit recognition of smaller economies within the FTAA makes this negotiation more conducive to meeting the needs of these categories of countries. In comparison, although the World Trade Organization (“WTO”) has established a Work Programme to review the special situation of smaller economies,⁹ it remains constrained by the expressed decision, “not to create a sub-category of WTO members,”¹⁰ and a lack of momentum in the WTO negotiations as a whole. The recent failure of the WTO Fifth Ministerial Meeting in Cancun to achieve consensus was due in large measure to the scant regard paid to issues of significant importance to developing countries including those confronting smaller economies.¹¹

8. UNITED NATIONS DEVELOPMENT PROGRAM, HUMAN DEVELOPMENT REPORT 33 (2002), available at <http://hdr.undp.org/reports/global/2002/en>.

9. See Doha WTO Ministerial 2001: Ministerial Declaration, WT/MIN(01)/DEC/1, ¶ 3, Nov. 20, 2001, available at http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm [hereinafter Doha Declaration].

10. *Id.* at ¶ 35.

11. See Fifth WTO Ministerial Conference, available at http://www.wto.org/english/thewto_e/minist_e/min03_e/min03_e.htm.

Small developing economies face unique problems related to diseconomies of scale, limited size of domestic markets, higher production costs, dependence on preferential market access, and high dependence on tariffs which warrant serious consideration and action that will facilitate their fuller integration into the multilateral trading system. Without measures to address their particular concerns and to provide them with stable market access which can enable strong export earnings, the security of these economies will be at risk.

Bearing this in mind, Jamaica, together with her Caribbean Community ("CARICOM") partners¹² and other small economies and sympathetic countries, have sought to influence trade negotiations to address these concerns. In its Declaration to the Fifth WTO Ministerial Conference, CARICOM called on members of the WTO to recognize that the particular structural disadvantages and vulnerabilities of small developing economies,

in particular Small Island Developing States (SIDS), must be taken into account in the formulation and application of multilateral trade rules as well as in the liberalisation undertakings required of these countries, in order to avoid their further loss of market share and possible de-industrialisation.¹³

SMALLER ECONOMIES AND THE FTAA

It is in the FTAA process that efforts to recognize and address the special concerns of smaller economies are most advanced and hopefully this will help create a model for dealing with the issue in other fora.

While work has been ongoing on the broad issues identified to be of concern to smaller economies, the FTAA has yet to reach agreement on a definition of smaller economies. The Western hemisphere is a collection of countries of economic, social and geographical diversity. For example, the largest economy in terms of population is more than 6,000 times more populous than the smallest,¹⁴ and the five largest countries account

12. See *Caricom Members & Associates Members*, at <http://www.caricom.org/members.htm> (listing and providing basic facts on Member States).

13. *CARICOM Declaration to the Fifth WTO Ministerial Conference*, available at http://www.wto.org/english/thewto_e/minist_e/min03_e/statements_e/st110.pdf (last visited Feb. 12, 2004).

14. See Richard Bernal, *The Integration of Small Economies in the Free Trade Area of the*

for 96% of the hemisphere's GDP.¹⁵ When these factors are taken into account and it is considered that in the region there are countries which are large in terms of land mass and population, but in economic terms their GDP per capita is less than other countries with much smaller acreage and population, the challenges posed in coming to a precise definition of smaller economies is apparent. Beyond these strictly economic and geographical factors, some quarters believe that a definition of smaller economies should also relate to the two elements of vulnerability and dependence.

This would add to the consideration of problems faced by smaller economies, the issue of vulnerability not only to the economic policies and trade measures of their larger neighbors and trade partners, but also to hurricanes, floods, and disease. The negotiations must, therefore, address the situation of import-dependent smaller economies, which rely heavily on other countries for vital goods and services.

For small economies, a single catastrophic event, e.g., an economic, social, or natural disaster, can have a significant negative impact on the entire country. Dislocations in one area of the economy can have a proportionately larger impact on a small economy than on a larger, more diversified one.¹⁶ This is the essence of the vulnerability and dependence that defines smaller economies. Recent examples of this phenomena include the WTO banana dispute and the visible effect of the decision on social and economic conditions of some small CARICOM States,¹⁷ as well as the effect of a volcanic eruption in Montserrat, which all but brought life on the island to a halt, unlike similar volcanic activity in larger hemispheric neighbors.¹⁸ It is therefore important to advance the dialogue on

Americas, CSIS Americas Program, at 3 (Feb. 2, 1998), available at <http://www.csis.org/americas/pubs/ppBernalFTAA.pdf> (last visited Feb. 12, 2004).

15. See *id.* at 4.

16. MIGUEL RODRIGUEZ MENDOZA, TRADE RULES IN THE MAKING: CHALLENGES IN THE REGIONAL AND MULTILATERAL NEGOTIATIONS Part II (1999).

17. See Michelle Williams, *Caribbean Shiprider Agreements: Sunk by Banana Trade War?*, 31 U. MIAMI INTER-AM. L. REV. 163, 180 (2000). See also Zsolt K. Bessko, *Going Bananas over EEC Preferences?: A Look at the Banana Trade War and the WTO's Understanding on Rules and Procedures Governing the Settlement of Disputes*, 28 CASE W. RES. J. INT'L L. 265, 302 (1996).

18. See Selwyn Walter, *Montserrat in Crisis*, ANTIGUA DAILY OBSERVER, para. 21, Nov. 1, 1996, available at <http://www.monterratreporter.org/news11-1.htm>.

smaller economies in a manner that allows all these factors to be taken properly into account.

In order to minimize the negative effects of far reaching trade liberalization, the recognition of the vulnerability of smaller economies must translate into commitments to cushion certain effects of an FTAA on these economies. This would allow effective adjustment to the challenges that a more liberal hemispheric trading system will bring, and position those economies to grow and prosper from the FTAA process. It is critical that the FTAA provides tangible and effective measures for addressing the concerns of smaller economies in all aspects of these negotiations.

So far the FTAA is yet to translate its commitment towards smaller economies into tangible arrangements in keeping with the Ministerial Declaration that the negotiations "shall take into account the differences in the levels of development and size of economies."¹⁹ This over-arching principle of the FTAA which is welcomed, awaits further specific, tangible, and meaningful measures for the benefit of the smaller economies. The decision which allowed CARICOM countries to use WTO bound rates for certain agricultural goods,²⁰ and the presentation of offers of special market access conditions to some smaller economies in the FTAA,²¹ are encouraging steps in this direction.

At the institutional level, the response of the FTAA process to the push for inclusion of the concept of small economies in its work was addressed initially through the establishment of a Work Programme on smaller economies.²² This was changed and issues relating to smaller economies are now being addressed through the Consultative Group on Smaller Economies ("CGSE").²³ The CGSE has been established to monitor and as-

19. See Santiago Declaration, *supra* note 3, 37 I.L.M. at 965.

20. *CARICOM Nations to Get Special Treatment on Tariffs in FTAA*, 22(35) WASHINGTON TARIFF & TRADE LETTER, Sept. 9, 2002, available at http://www.wttlonline.com/2002/22_35.html.

21. See FTAA Trade Negotiations Committee, Report of the Trade Negotiations Committee on the Results of the Progress Achieved in Relation to the Treatment of the Differences in the Levels of Development and Size of Economies in Each of the Negotiating Groups, FTAA.TNC/27, available at http://www.ftaa-alca.org/TNC/tn27_e.asp.

22. See Doha Declaration, *supra* note 9, at ¶ 35.

23. Summit of the Americas: Fourth Trade Ministerial Joint Declaration, San Jose, Costa Rica, Mar. 19, 1998, at ¶ 13, available at http://www.ftaa-alca.org/Ministerials/SanJose/SanJose_e.asp.

sess the success of the various negotiating groups in fulfilling their respective mandate with regard to smaller economies.²⁴ It receives on a consistent basis, updates from negotiating groups on the treatment of smaller economy concerns in the ongoing negotiations.

The CGSE has also been given the responsibility for the Hemispheric Cooperation Programme (“HCP”). The HCP was approved by Ministers in Quito, Ecuador at the Seventh Ministerial Meeting in 2002, which recognized that moving to elaborate and implement the HCP is of great importance to the FTAA process.²⁵ They recognized that it is important that the participating countries move quickly to enable smaller economies needing support, to strengthen their capacities and facilitate more effective participation in the negotiations. This process will also facilitate their implementation of the trade commitments undertaken, and will ultimately help them address the challenging process of adjusting to the demands of a liberalized hemispheric trading system.

The CGSE has taken steps to mobilize national and sub-regional inputs into capacity building and adjustment strategies, and to coordinate with international financial institutions and other donor entities. These initial steps are welcome and are geared towards meeting the needs of negotiating countries in both financial and technical terms. The inclusion of the private sector and other social partners in the process is a further positive step.

For smaller economies, the erosion of preferential treatment in the face of liberalization is a stark reality with which they must contend. Smaller economies will require responsive measures to facilitate the transition from preferential arrangement to full reciprocity. Failure to do so could subject vital sectors of their economies to unbearable shocks. Addressing the revenue implications of tariff reduction in small economies is another major challenge confronting policy planners and the negotiating process.

Trade taxes as a percentage of government revenue in cer-

24. *Id.*

25. Free Trade Area of the Americas: Seventh Trade Ministerial Meeting, Declaration of Ministers, Quito, Ecuador, Nov. 1, 2002, available at http://www.ftaa-alca.org/ministerials/quito/minist_e.asp [hereinafter Ministerial Declaration of Quito].

tain hemispheric countries is quite significant. Twelve CARICOM countries, among nineteen in the region, rely on trade tariffs for over 15% of their revenue.²⁶ The CARICOM range is from 55.1% at the highest level to 8.7% at the lowest with only one country below 10%.²⁷ Jamaica, for example, obtains 23.6% of its revenue from tariffs.

Lowering tariffs leads to a loss of revenue which for smaller economies is often difficult to offset. Addressing this difficult issue of lost revenue from tariff reduction must be accorded highest priority in the negotiations and the steps being taken to deal with the trade adjustment process. Effective strategies must be devised so that smaller economies will be afforded the opportunity to adopt the appropriate measures to facilitate their integration into the hemispheric trading system.

For smaller economies, the capacity (financial, human, and institutional) to adjust is not as readily available as in larger, more developed countries. Adjustment costs are likely to be a significantly larger percentage of the GNP for smaller economies compared to other much larger countries. This must be recognized by our negotiating partners who will have to address the need for transitional measures to mitigate the cost of adjustment in smaller economies. Flexibility in the implementation of certain rules and disciplines, such as differentiated time frames for the application of rules in specific areas, will be among the required adjustment measures. Technical support for both national and sub-regional institutions to enhance their capacity to undertake necessary implementation requirements, will be critical.

Recognizing the financial challenges associated with the adjustment process, CARICOM, along with other countries, are also pushing for a Regional Integration Fund to be established in addition to the HCP. It is expected that this would address the special circumstances of smaller economies and include specific measures to deal with the difficulties arising from intensive liberalization, such as revenue loss, enterprise failures, and massive job losses. This is vital for smaller economies, which are heavily dependent on tax revenue for budgetary allocation and

26. Caricom's Trade-In Services, 1990-2000, available at <http://unstats.un.org/unsd/tradeserv/docs/Caricom-trade-in-services-2000.pdf> (last visited Feb. 21, 2004).

27. *Id.*

have fewer industries to sustain their economies and provide jobs and services. Enterprise failure in these circumstances can have a far more serious effect on the economies of smaller economies for this reason, than it would for large economies with their stronger and more diversified enterprise structures which can better withstand such shocks.

While some of the more industrialized countries of the hemisphere have been reluctant to consider the issue of financial support for the integration of small economies into the FTAA, CARICOM will continue to insist that free trade on its own is not a guarantee for economic development. It must be supported by a judicious mix of financial technical and institutional support that is designed to help forestall the potentially harmful aspects of the liberalization process and also help these economies to position themselves to gain optimal benefits from liberalization.

It has become obvious that the well touted benefits of liberalization — i.e., that it will free enterprise to take advantage of economic opportunities and drive economic development and growth — is more the exception than the rule. This model has not met with remarkable success in the developing world in general, and in particular, for smaller developing economies including those in the Caribbean. A regional academic has emphasized that “the prevailing economic theory which fails to distinguish between categories of markets, leading to a ‘generic’ or ‘one-size-fits-all’ prescription compounds the Caribbean problem.”²⁸

PREPARING FOR THE FTAA AT THE REGIONAL LEVEL

The future of the Caribbean and all smaller economies lies in the strengthening of our economies. Within CARICOM, the establishment of the CSME is the main response to this imperative. The need to deepen the economic integration of the region was one of the pillars of the decision of Heads of Government to create the CSME in 1989. The Heads of Government expressed this in the declaration which states: “[w]ith the CSME creating a single larger economic space within CARICOM the

28. Anthony T. Bryan, *So Many Windmills-The Caribbean's Globalisation Backlash*, CARIBBEAN INVESTOR, Apr. 3, 2003, available at http://caribbeaninvestor.com/printarticle.shtml?browser_query=particle&field=2492.

foundation is being held for enhancing intra regional trade and strengthening the collective capacity to expand extra regional trade through alliances and joint ventures and consolidation of enterprises in the region.”

The benefits to be gained from the CSME enhance the chances for successful integration into larger regional trade blocs. With one economic space, the free movement of capital will allow firms to have access to a wide market for accessing capital at more competitive rates thereby increasing the competitiveness of our productive sectors. Furthermore, the value of increased facilities intra-regional investment and facilitation of business activities cannot be underestimated.

CARICOM Heads of Government have resolved to continue the Region’s involvement in the FTAA process on conditions which take due account of the capacity limitations of CARICOM Member States as small economies to meet deadlines and engage in liberalization commitments. It is imperative that the world community and in particular our regional partners recognize those principles which will ensure that the trade architecture brings meaningful benefits for all.