

**MULTISTAKEHOLDER CONSULTATION  
CONSULTATIONS MULTISECTORIELLES**

**CANADA AND THE FREE TRADE AREA OF THE AMERICAS (FTAA)  
LE CANADA ET LA ZONE DE LIBRE-ÉCHANGE DES AMÉRIQUES (ZLEA)**

**THURSDAY, FEBRUARY 27, 2003 / LE JEUDI 27 FÉVRIER 2003**

**Salle ♦ Alta Vista ♦ Room  
Hôtel ♦ Marriott ♦ Hotel  
100, rue Kent Street, Ottawa**

**Workshop # 2: Services**

Chair  
Anthony VanDuzer  
Professor, Faculty of Law, University of Ottawa

**Background**

The FTAA negotiations were launched at the Second Summit of the Americas held in Chile in April 1998 and are proceeding on two simultaneous tracks: the first focussing on the development of a general framework of rules including issues of an institutional nature: the second track dealings specifically with market access. The Government of Canada and the 33 other countries participating in the FTAA negotiations have begun the process of exchanging initial market access offers in goods, services, investment and government procurement.

**Recent developments**

The Seventh FTAA Ministerial Meeting was held in Quito, Ecuador, in November 2002. The Ministers Responsible for Trade of the 34 democratic countries of the Americas charted a course to complete talks by the January 2005 target date and agreed to release the second version of the consolidated draft negotiating texts of the FTAA agreement.

On February 14, 2003, Canada made public its initial market access offers in services, investment and government procurement in the FTAA negotiations. In doing so, Canada was the first FTAA participant to provide public access to these offers and continues to lead the way in establishing an open and transparent process for multilateral trade negotiations by ensuring that Canadians have access to as much information as possible.

A negative list approach has been used for Canada's joint offer for services and investment. This means that all service and investment sectors are a priori covered and are open, except those sectors and measures designated in the reservations. Canada has consistently adopted this approach in all its regional and bilateral investment and services negotiations, including NAFTA and the Canada-Chile Free Trade Agreement.

The deadline for the exchange of initial offers was February 15, 2003. Countries will now have until June 15, 2003 to request improvements to the offers. Countries have been requested to present their revised offers and to commence negotiations on improvements by July 15, 2003.

In the services negotiations, Canada's general objective is to seek improved market access for Canadian service providers under a transparent and predictable rules-based regime. At the same time, Canada will ensure that it preserves its ability to adopt or maintain regulations, administrative practices or other measures in sectors of key policy interest such as health, public education, social services and culture.

### **Questions**

Canada's commercial services exports to FTAA countries are increasing and there are numerous opportunities for Canadian service suppliers to export to the region. Given that the negotiations have entered the market access phase, it would be useful for Canadian negotiators to know more about the specific sectors and countries of interest of Canadian service suppliers.

For example, Canada has indicated its interest to see the issue of temporary entry of business people addressed in the FTAA negotiations. This issue is not only relevant to trade in services but also to investment and trade in goods. There are also many services associated with the sale of goods, (e.g. after sales service of equipment).

- What are the sectors of interest to Canadian service suppliers? Which FTAA countries are of particular interest to Canadian service suppliers? Are there any specific barriers to trade that current Canadian service exporters are facing in FTAA countries?

The Minister for International Trade has been a strong advocate for transparency in trade negotiations. Canada has publicly released the initial market access offer it presented to its trading partners in services and investment. Canada also has extensive information on its websites on services trade and ongoing negotiations.

Please comment on Canada's approach to transparency in trade negotiations:

- What is your reaction to the initial Canadian services offer?
- To what extent have you and will you be using these sources of information to further your interests?

### **Reference documents**

(See the Appendix)

- Quito Ministerial Declaration (Paras 4, 6, 19, Annex 1: 3)
- Range of Civil Society views on Services (Section 3 of the Report of the Committee of Government Representatives on the Participation of Civil Society, presented to FTAA Ministers –August 2002-)

(Available on the web)

- Canada's Position and Proposal (Nov. 2002)  
<http://www.dfait-maeci.gc.ca/tna-nac/S-P%26P-en.asp>
- Initial FTAA Offer for Investment and Services (Feb. 2003)  
<http://www.dfait-maeci.gc.ca/tna-nac/FTAA/ex-io-en.asp>

- Second Draft Agreement - Chapter on Services (Nov. 2002)  
[http://www.alca-ftaa.org/ftaadraft02/eng/ngsve\\_1.asp#Services](http://www.alca-ftaa.org/ftaadraft02/eng/ngsve_1.asp#Services)
- Description of the Chapter (Nov. 2002)  
<http://www.dfait-maeci.gc.ca/tna-nac/S-Desc-en.asp>
- Draft Chapter on Services - Frequently Asked Questions (Nov. 2002)  
<http://www.dfait-maeci.gc.ca/tna-nac/S-FAQ-en.asp>
- Quito Ministerial Declaration (Nov. 2002)  
[http://www.zlea.org/ministerials/quito/minist\\_e.asp](http://www.zlea.org/ministerials/quito/minist_e.asp)

## APPENDIX

### MINISTERIAL DECLARATION OF QUITO

**Seventh Meeting of Ministers of Trade of the Hemisphere  
Quito, Ecuador  
1 November 2002**

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*(Paras 4, 6, 19, Annex 1 Para 3)*

4. Among the achievements of this third phase of negotiations we wish to single out the fulfillment of tasks necessary for fulfilling the terms of the Buenos Aires Ministerial Declaration, fundamentally the elaboration of a second draft of the consolidated chapters prepared by the Negotiating Groups and the preliminary work of the Technical Committee on Institutional Issues (TCI) on the general and institutional aspects of the future FTAA Agreement, the initiation of market access negotiations in agricultural and non-agricultural goods, services, investment, and government procurement on 15 May 2002; the approval of the methods and modalities for negotiation to be applied in the next phase of the process and setting of the timetable for the exchange of market access offers with initial offers beginning on 15 December 2002;<sup>1</sup> the definition of modalities on the notification of the base tariff, the approval of the guidelines or directives for the treatment of differences in levels of development and size of the economies; and the Hemispheric Cooperation Program (HCP) which is attached in Annex III to this Declaration.

6. We reaffirm our commitment to take into account in designing the FTAA, the differences in levels of development and size of economies in the Hemisphere, in order to ensure that these economies participate fully in the building of, and benefits resulting from, the Agreement and to create opportunities for these countries. We therefore welcome the incorporation of this commitment in document FTAA.TNC/20/Rev.1 as one of the general principles of the methods and modalities for the negotiations in the areas of market access, agriculture, investment, services, and government procurement.

19. We underscore the importance of the TNC having provided initial guidance on the methods and modalities for the negotiations, which have enabled the negotiations to begin on market access for agricultural and non-agricultural goods, services, investment, and government procurement and we instruct the TNC to continue to provide guidance on this issue. We also note the progress made by the different negotiating groups and committees, which will play a decisive role in completing the negotiations. All negotiations shall be conducted in a transparent manner to ensure mutual advantage and increased benefits to all FTAA participants. We note the discussion on the methods for making tariff concessions and instruct the TNC to continue its discussion on principles, including the regional most-favored-nation (MFN) principle, to guide the negotiations. We reiterate that, in the development of offers, the negotiations shall give expression to the differences in the levels of development and size of economies.

## **ANNEX I**

### **GENERAL INSTRUCTIONS**

3. We instruct the Negotiating Groups on Market Access, Agriculture, Services, Investment, and Government Procurement to carry out an ongoing discussion of methods and modalities for negotiations in order to facilitate the process of presenting revised offers and that the Chairs of these Groups keep the TNC apprised of the results of their discussions.



**Range of Civil Society views on Services**  
**(Section 3 of the Report of the Committee of Government Representatives on the**  
**Participation of Civil Society, presented to the FTAA Ministers –Aug. 2002-).**

**Services**

29. The submissions on this topic expressed a variety of opinions, in some cases divergent.
30. By way of illustration, the following specific proposals were made:
- use the top-down negative list approach to services liberalization;
  - allow flexibility in public services like education, water, and health, or exclude these topics from negotiations, and ensure that these services are accessible to the poor;
  - transparency in regulations and negotiations needs to be enhanced;
  - while some submissions favored broad liberalization of trade in services, beyond the level attained in the GATS, others opposed both further liberalization and MFN treatment in the services area;
  - the FTAA should grant most-favored-nation treatment to all Parties and national treatment to all services and service providers;
  - smaller economies should be given the individual discretion to open fewer sectors and fewer types of transactions, and a non-reciprocal formula should be applied to benefit smaller economies;
  - the relationship between FTAA obligations and the GATS and other regional agreements needs to be clarified;
  - double taxation should be avoided;
  - a procedure should be created for business people in the services sectors created by the treaty to obtain special visas;
  - an accreditation system for institutions of higher education should be created; and
  - systems of professional certification and of accreditation of institutions providing healthcare services should be created.