

THE FREE TRADE AGREEMENT OF THE AMERICAS AND LABOUR:

HOW PRESSING LABOUR ISSUES WILL PLAY OUT IN THE PROPOSED HEMISPHERIC TRADING BLOC

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I. OBJECTIVE

The purpose of this study is to examine the impact of the proposed Free Trade Agreement of the Americas on labour issues in Latin America. There is little language addressing labour in the FTAA draft agreement other than a vague commitment of member states to not relax domestic labour laws to attract investment. Nevertheless, the effect the agreement will have on workers and the labour structure in the Americas is significant. As negotiations continue, labour has emerged as a new issue, and is a major catalyst for the organized globalization protest movement. Yet, labour issues remain taboo in negotiations, as no special FTAA negotiating group exists for such, and most developing countries avoid bringing labour into discussions for fear new standards will be used as protectionist measures by the U.S.

In this report, I attempt to provide some understanding on how the labour issue will be played out vis-à-vis the FTAA. The focus will be on Latin American states and their negotiations with the U.S. I will examine past trade agreements, namely the North American Free Trade Agreement, Mercosur, the U.S.-Chile FTA, the proposed Central American FTA and the recently signed U.S.-Jordan FTA. This agreement, signed in Oct. 2000 but not ratified by U.S. Congress, serves as an example of the “real” current U.S. position on the inclusion of labour issues in trade agreements.

This project does not attempt to answer all the questions regarding the future of the labour structure in Latin America, nor does it discuss the history of how the current labour structure came to be. It does, however, consider current labour issues in the region, labour trends because of globalization, and calculates how the FTAA may impact labour in Latin America. It also provides insight as to why labour is not being included in trade agreements, and suggest alternatives as to how labour issues can be incorporated and addressed at a multilateral level.

II. METHODOLOGY

Information for this study has been obtained through primary sources—Web sites for trade agreements, international organizations, labour groups, protest groups—and secondary sources, which include published scholarly articles and other publications pertaining to Latin American studies.

This study acknowledges a number of limitations. First, this analysis has a narrow scope and does not consider potential complications of other FTAA issues that may impact labour, such as foreign direct investment and rules governing multinational corporations. Second, as an object of analysis, the Latin American region also presents limitations, as it continues to undergo change—both economically and politically. Such change is often coupled with unrest—witnessed in recent labour actions in both Venezuela and Argentina. This analysis did not attempt to understand specific domestic problems, which may alter the course of the FTAA negotiations.

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III. LITERATURE REVIEW

Basic Information of Labour Issues in Latin America

Issues

Globalization has led—and continues to lead—to changes in the labour markets of Latin America. Despite a pattern of economic growth since the late 1980s, employment problems have persisted (See Table 1 – “Urban Unemployment Rates in Latin America”). Difficulties have been exacerbated by the heterogeneous nature of Latin America, where many differences exist in economic development, demographic structures and labour institutions.¹ In spite of this, several common features of employment in Latin America exist.

In the 1990s, job creation in Latin America began to decelerate. Employment in Latin America has grown at an average of only 2.8 per cent each year throughout the last decade.² Countries particularly affected include Argentina, Uruguay and Bolivia. Persistent unemployment has also plagued Latin American countries. In the past decade, the average unemployment rate in the region has stayed at 10 per cent. Significantly, youth unemployment (ages 15-24) is twice that of adults. Throughout the 1990s, youth employment rates have stood at 37.4 per cent in Argentina, 37 per cent in Colombia and almost 30 per cent in Panama.³

Even though there has been a significant expansion of educational coverage in LA countries, the region has still not achieved the human resource levels needed to meet the demands of a new global economy.⁴ Today, no more than 20 per cent of the region’s population has completed any professional

¹ Regina M. Galhardi. “Globalization and Employment in Latin America.” Globalization, Employment and the Workplace: Diverse Impacts. ed. by Yaw A. Debrah and Ian G. Smith. New York: Routledge, 2002. (p. 131)

² Ibid.

³ Ibid.

⁴ “Social Panorama of Latin America 2001-2002.” Economic Commission for Latin America and the Caribbean. <http://www.eclac.cl/publicaciones/DesarrolloSocial/3/LCG2183PI/Capitulo_II_2002_Ing.pdf> (p. 65)

or post-secondary studies, and in many countries that figure is only 10 per cent.⁵ LA countries have not easily met the restructuring of production and the rise in productivity that global markets demand.

Globalization has also resulted in changes in wage structures and changes in sectors of employment for LA countries. Wages have increased in some sectors throughout the 1990s, but where there have been such increases, the gap between skilled (professional, administrative jobs) and unskilled (factory workers, manual labour) has widened.⁶ In Peru, for example, the gap has increased by more than 30 per cent (See Table 2 – “Average Real Wages in Latin America” and Table 3 – “Share of Wages in GNP in selected Latin American countries”). Due to increased foreign trade and other reasons, there is an overall shift for employer preference for skilled labour, which highlights the rich-poor disparity. A key issue in Latin America, which began in the 1990s, is the fast growth for skilled labour and deterioration of jobs for less-qualified workers.⁷ The disparity between skilled and unskilled workers has led to a disturbing increase in informal employment. These jobs are unregistered, offer no benefits or security and pay poorly.⁸ In 1990, the workforce in Latin America comprised 51.8 per cent informal jobs. In 1998, that figure rose to 59 per cent. On average, 85 of every 100 new jobs in the region during that period were in the informal sector.

Labour migration in Latin America is another issue of growing concern. During the 1990s, worker migration flows increased in Latin America, especially among Central American countries and in the Andean Region. According to the ILO, the factors that are contributing to this include the weakening of regional economies due to globalization, political instability, natural disasters and the growing availability of cheap transportation and communication services.⁹ This migration has led to

⁵ Ibid.

⁶ Galhardi. (p. 133)

⁷ “Social Panorama of Latin America 2001-2002.” (p. 66)

⁸ Ibid.

⁹ “Characteristics and Conditions of Labour Migration in Latin America.” International Labour Organization. 14 June 2002. <<http://www.ilo.org/public/english/protection/migrant/projects/condit/>>

an increase in trafficking of women and children, human smuggling and irregular migration.¹⁰ The human rights concerns that accompany such an issue are obvious.

Another continuing trend is the limited participation women have in the Latin American workforce. A 2003 World Bank report on women in the Latin American workforce states that LA countries continue to make progress in gender equality, but also continue to limit the participation of women in the labour market.¹¹ According to the Economic Commission for Latin America and the Caribbean, this has hindered the ability of households to escape poverty.

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The relationship between labour and trade

The opening of the economy in Latin America marked the beginning of a fundamental change in the region. Protectionist policies, once an effective tool for dealing with poverty and unemployment,¹² were reversed. A host of other liberalizing changes took place in Latin American economies, yet labour reform has been slow. In developing economies, trade liberalization has created a demand for skilled labour, creating the highest wage gaps between skilled and unskilled workers of Latin America in the world. Riveros identifies current labour markets in Latin America as a key constraint affecting economies in the region and their integration into world markets,¹³ meaning labour markets greatly influence the course of economic integration.

Other labour issues that have concern with increasing trade include: the right for workers to unionize, bargain collectively and to strike; protection of children from exploitation; job protection through maternity leave; labour practice issues such as minimum safety standards, maximum work hours, social security payments and working conditions. It is important to note that labour practices

¹⁰ Ibid.

¹¹ "Latin America and the Caribbean Countries Make Progress In Gender Equality But Continue to Limit Participation of Women in the Labor Market." World Bank. 5 March 2003. <<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20095980~menuPK:34467~pagePK:34370~piPK:34424~theSitePK:4607,00.html>>

¹² Luis A. Riveros. "Labour Markets and Trade Reform in Latin America: The Challenge for the Future." Latin America: Its Future in the Global Economy. ed. by Patricia Gray Rich. New York: Palgrave, 2002. (p. 220)

¹³ Riveros. (p. 221)

and regulations in industrialized countries should not be applied in the developing world without first assessing cultural and economic realities of poor countries.

IV. ANALYSIS: LABOUR AND THE FTAA

What do Previous Trade Agreements or Trade Negotiations Tell Us?

Previous trade agreements may serve as models for the FTAA vis-à-vis labour, or as frameworks for FTAA negotiators to follow. Certainly, what the U.S. and LA countries have decided on, or are discussing vis-à-vis labour in other trade negotiations, can shed light on current state positions of labour and trade.

The North American Free Trade Agreement

NAFTA is the first trade agreement to include a “side agreement” for labour.¹⁴ The North American Agreement on Labour Cooperation (NAALC)—signed along with NAFTA in 1993—formally acknowledged labour as an issue, and was developed largely to appease NAFTA critics who feared a “race to the bottom.”¹⁵ The mandate of the NAALC is to “protect, enhance and enforce basic workers’ rights” in Canada, the U.S. and Mexico.¹⁶ Yet, the NAALC is limited to ensuring that a country simply upholds its own laws and regulations, and has been criticized for not providing a mechanism obligating parties to *improve* labour standards. Leslie Rockenbach contends that the side agreement has done nothing to stop corporations from exploiting workers along the U.S.-Mexican border, despite growing nongovernmental organization promotion of human rights abuses.¹⁷

¹⁴ Author’s Note: A few other regional trade agreements involving LA countries have resulted in side agreements for labour: the Canada-Chile FTA (1997) and the Canada-Costa Rica FTA (2001).

¹⁵ Greg Anderson. “Hemispheric Integration in the post-Seattle era: The Promise and Problems for the FTAA.” *International Journal*. 56:2. (2001) (pp. 205-233)

¹⁶ “North American Agreement on Labor Cooperation.” Preamble. 1993
<<http://www.naalc.org/english/infocentre/NAALC/NAALC1.htm>>

¹⁷ Leslie Rockenbach. *The Mexican-American Border: NAFTA and Global Linkages*. New York: Routledge, 2001. (p. 41)

The NAALC hears complaints against countries and corporations—usually brought forth by American unions¹⁸—who allegedly act against the tenants of the NAALC. This system, however, has resulted in little action. According to the International Labor Rights Fund, “in all these cases, workers are left with a piece of paper saying ‘you were right.’”¹⁹ The ILRF states that no worker was ever reinstated or a single employer ever sanctioned.²⁰

In response to labour fears of lost jobs through NAFTA, the U.S. developed the NAFTA-Trade Adjustment Assistance program. The NAFTA-TAA provides training and assistance to workers laid off because of NAFTA, and other trade agreements, yet Rockenbach argues the program has been ineffectual, saying that few of the laid off workers who qualified for assistance under the program actually received benefits.²¹ Trade Adjustment Assistance, however, is strongly supported by the current Bush Administration, which wants to “work with Congress to improve the programs to make them more effective.”²² The U.S. also wants to consolidate the NAFTA-TAA program with the separate TAA program.

Although ~~commonly thought~~ the FTAA ^{is expected to} will follow a similar model to NAFTA, there is no indication a similar side agreement for labour will be developed. ✓ The actual result of how NAFTA treats labour is difficult to quantify, as there are conflicting voices on the issue. What the creation of the NAALC indicates is that the U.S., Canada and Mexico have acknowledged labour as an issue.

U.S.-Jordan Free Trade Agreement

The U.S.-Jordan FTA, which entered force Dec. 17, 2001, marked the first U.S. treaty to include enforceable labour standards in the body of a trade agreement. A much different model than

¹⁸ “Summary of Public Communications.” North American Agreement on Labor Cooperation. November 2002.

<<http://www.naalc.org/english/publications/pccharten.htm>>

¹⁹ Qtd. in Rockenbach. (p. 32)

²⁰ Ibid.

²¹ Rockenbach. (p. 30)

²² “USTR Zoellick Reiterates Trade Negotiating Authority Push.” The United States Mission to the European Union. 19 March 2002. <<http://www.useu.be/Categories/Trade/Mar1902ZoellickTradeTPA.html>>

NAFTA, it “raises the bar” for labour rights. Article 6.0 of the agreement states that parties should “reaffirm their obligations as members of the International Labor Organization and their commitments under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.”²³ Article 6.2 is notable, saying parties should “strive to ensure” that domestic labour laws are not relaxed to encourage trade.²⁴ Therefore, both Jordan and the U.S. are permitted to set their own domestic labour laws, provided they are consistent with internationally recognized labour rights.

The U.S.-Jordan FTA is a possible model for the FTAA vis-à-vis labour for three reasons. First, this agreement indicates that it is possible to incorporate labour inside a trade agreement. For FTAA discussions, it shows that the U.S. is willing to take steps toward promoting sound labour practice multilaterally. Second, the parties may create their own labour laws, provided they are in line with the core labour standards of the ILO. In regards to the FTAA, LA countries believe they are in a better position to decide on their own domestic policy. Third, the agreement offers a solution for parties viewed to be in non-compliance of core labour standards by permitting trade sanctions as an option for dispute resolution. Although the effectiveness of such a clause is unclear, and LA countries may not support such a move, ^fas a minimum it may encourage FTAA members to heed labour rights.

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As the first country to agree to labour text inside a trade agreement with the U.S., Jordan is an interesting study. The Arab country has been a key trading post in the Middle East for centuries, and its strategic location where Asia, Africa and Europe join is especially appealing to the U.S. Presumably, the U.S. wants labour laws inside the text of the Jordan agreement in an attempt to bring Western democratic values to the region.

maybe for fut. TAs.

²³ “Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area.” United States Trade Representative. 2001. <<http://www.ustr.gov/regions/eu-med/middleeast/textagr.pdf>>

²⁴ Ibid.

Central America Free Trade Agreement

Although formal discussions only began in early 2003, the U.S. hopes to have CAFTA signed and completed by the end of 2003. CAFTA involves the U.S. negotiating with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Considering the ample evidence of labour rights abuses in export-oriented industries of Central America, the outcome of this agreement could be telling for the final FTAA draft. In the ~~Maquiladoras~~ Maquiladoras, restrictions on freedom of association, child labour, overtime abuses, sexual discrimination, low wages and inadequate job safety have been well documented.²⁵

So far in CAFTA negotiations, labour has not been addressed. The Bush administration has simply contended that market reforms would produce improved working conditions. Human Rights Watch refutes such a claim, citing the poor labour record of the Maquiladoras. The federation of labour unions of America, the AFL-CIO, and a range of Central American labour associations oppose the agreement, and its closed-door negotiations. Nevertheless, CAFTA is seen as a priority for American negotiators, who believe it will help move the FTAA process forward.

Mercosur

While NAFTA has long been seen as the model for hemispheric integration, Mercosur members have sought a deeper level of integration among themselves through a common market. This model of depth versus breadth is not one promoted by Canada or the U.S. Mercosur member states—Argentina, Brazil, Paraguay and Uruguay—may, however, opt for an FTAA that treats labour as Mercosur does. Mercosur favours a higher degree of labour mobility in theory,²⁶ ~~and~~ ^{which} is a key difference from NAFTA.

Labour is addressed in the Mercosur Declaration on Social and Labor Issues, but groups such as the Alternatives for the Americas claim it has done little to improve working conditions in member

²⁵ "Labour Standards and the Central American Free Trade Agreement." Lawyers Committee for Human Rights. 19 November 2002. <www.lchr.org/workers_rights/wr_traderights/CAFTA_191102.pdf> (p. 9)

²⁶ Anderson. (pp. 205-233)

countries.²⁷ The group also says this agreement has led to a “greater instability of jobs and insecurity in the workplace.”²⁸ Mercosur has embraced all the fundamental core labor standards of the ILO. However, due to the individual nature of Mercosur states, it seems unlikely that the four LA countries will band together to bring a Mercosur-type labour proposal to the FTAA bargaining table. Furthermore, historically Mercosur states have not always act as a cohesive group, but instead have chosen to pursue individual interests.

U.S.-Chile Free Trade Agreement

The U.S.-Chile agreement, which was formally announced December 2002, is hinged ^{up} on both parties agreeing to join the larger FTAA. The outcome of this agreement, expected within months, would not only be telling of the current U.S. feelings toward labour in Latin America, but also how a Latin American country could approach labour with an industrial giant. Chile has argued for a side ^{interesting} agreement for labour, while the U.S. has supported incorporation of labour language in the agreement—such as in the U.S. Jordan FTA.²⁹ A recent report from the U.S. Labor Advisory Committee for Trade Negotiations and Trade Policy says that the Chile-U.S. FTA is in danger of “repeating the same mistakes” as NAFTA.³⁰ According to the report, the current draft agreement is “likely to lead to the same deteriorating trade balances, lost jobs, trampled rights, and inadequate economic development that NAFTA has created.”³¹ Clearly, the U.S.-Chile agreement represents a piece of the FTAA puzzle for the U.S. Its closed-door discussions are unlikely to assist other LA countries in their FTAA negotiating positions. It seems unlikely the labour issue will be addressed inside the agreement, but given the superior U.S. bargaining power, it cannot be ruled out.

²⁷ “The U.S.-Chile Free Trade Agreement.” U.S. Trade Representative. 11 December 2002.

<http://www.ustr.gov/new/fta/Chile/ac-LA_country.pdf>

²⁸ Ibid.

²⁹ “The U.S.-Chile Free Trade Agreement: Report of the Labor Advisory Committee for Trade Negotiations and Trade Policy.” 23 February 2003. <<http://www.ustr.gov/new/fta/Chile/ac-lac.pdf>>

³⁰ Ibid.

³¹ “The U.S.-Chile Free Trade Agreement.”

Possibilities for Structuring Labour in the FTAA

How labour is likely to be handled by FTAA negotiators is an important point of analysis, but *where* it will be addressed is equally significant. As discussed earlier, LA countries see greater access to outside markets as key to rising from economic and social problems. They also recognize the superior economic power of the U.S. Consequently, LA countries do not want to jeopardize a potentially favourable stance with the U.S. The perception existing among LA countries is by beginning to discuss labour equality and labour practice, negotiations may be complicated, delayed or derailed.³² This does not mean LA countries are declining to discuss labour issues or cooperate in labour negotiations, as many have signed numerous ILO conventions protecting core labour rights (See Table 4 – “Types of Labour Standards”),³³ indicating they do have an interest in protecting labour—at least formally. LA countries only favour leaving labour out of the FTAA and other multilateral agreements.

There are three key approaches of how labour issues can suitably and effectively be dealt with vis-à-vis the FTAA. The first approach is that labour should be addressed within the regime of the trade agreement. This would either require a major addition to the draft agreement, or the development of a “side agreement” as designed for NAFTA. The second approach places the burden of labour on the International Labour Organization. This may include creating an enforcement mechanism within the ILO. The third approach is optimistic, in that labour issues should not be involved in whole or in part of international free-trade agreements, but should be a matter of domestic policy. This entails state governments looking after their own labour issues and dealing with labour problems and policy themselves.

³² Jose-Manuel Salazar-Xirinachs. “The Trade-Labour Nexus: Latin America’s Perspective.” Latin America: Its Future in the Global Economy, ed. by Patricia Gray Rich. New York: Palgrave, 2002. (p. 241)

³³ Ibid.

Labour Addressed Within the FTAA

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- use Ital. S.

Addressing labour within the FTAA would require dramatic changes to the language in the current draft agreement. Various human rights groups see this as the best way of making industrialized countries responsible in improving workers' rights and the labour structure of developing nations. For example, the Lawyers Committee for Human Rights supports the linking of labour rights and trade in the U.S.-Jordan FTA, calling it the "first in U.S. history to include enforceable labor and environmental standards in the body of a trade treaty."³⁴ The LCHR believes this is a step in the right direction, and says the CAFTA and the FTAA should increase labour standards and provide "effective protection to labor rights."³⁵ Luis A. Riveros contends the onus is on industrialized nations to address labour issues before FTAA negotiations conclude. Riveros says the U.S. has encouraged the opening of Latin American markets but has given little in return to aid in the development of such countries.³⁶

Even if FTAA negotiators could agree on incorporating labour issues in the FTAA text (or in a side agreement), the discussions would be extraordinarily complex. Moreover, by including labour rules, the sheer length of the text could be virtually endless, due to differing labour laws, labour climates and stages of development among states. It would be misguided to assume labour standards from previous agreements could simply be adapted to fit the FTAA, due to its proposed heterogeneous makeup. Therefore, the current U.S. administration has argued that linking labour to trade will "virtually kill the FTAA process."³⁷ It seems the U.S. is more interested in using existing bodies such as the ILO—a mechanism that will unlikely be pushed for by developing countries.

↳ some parts of US govt.

³⁴ "Labour Standards and the Central American Free Trade Agreement." (p. 5)

³⁵ Ibid.

³⁶ Riveros. (pp. 222)

³⁷ Anderson. (pp. 205-233)

Labour Addressed Within International Labour Organization

The ILO, a UN agency, is dedicated to setting and promoting labour standards around the world. One of its main principles is that this is done voluntarily. Within FTAA discussions, FTAA leaders have promised to “promote compliance” with core labor standards of the ILO.³⁸ Yet, the leaders also recognized “the need to address . . . issues of globalization related to employment and labor.”³⁹ This commitment, however, seems to impart any labour-related issues vis-à-vis the FTAA to the ILO. Greg Anderson contends that the U.S. will try to avoid including labour issues within the FTAA—instead opting for the utilization of existing organizational bodies, such as the ILO.⁴⁰ Moreover, there is little hope, Anderson argues, that compromise can be attained within the FTAA on the labour issue. Nevertheless, allowing the ILO to “take care” of labour may prove difficult, as the ILO has no enforcement power. It attempts to accomplish its goals for improving labour standards through technical assistance, exposure and persuasion. Not all states believe the ILO is an effective body or represents their interests. Developing nations have criticized the core labour standards of the ILO, saying the organization fails to fully understand such standards and does not recognize the true impact of the core standards.

really ILO via the AFL-CIO (my guess)

Nevertheless, it is likely the ILO will have a hand in the FTAA process, in that the agreement may insist on countries adopting the core labour standards of the ILO. Labour laws, however, will likely be left up to individual states. If the FTAA insists on the compliance of core labour standards, it is unlikely an enforcement mechanism would be adopted. Developing countries are against enforcement, not only due to possible sanctions for noncompliance, but also due to the public-relations effect vis-à-vis inadequate workers’ rights. If a country loses the right to trade with the U.S.,

³⁸ “FTAA Leaders Pledge Respect for ILO Core Labor Standards.” ILO Focus. Summer 2001.

<<http://us.ilo.org/news/focus/0109/focus-14.html>>

³⁹ Ibid.

⁴⁰ Anderson. (pp. 205-233)

confidence in the country's economy could erode among domestic and international investors and lenders.⁴¹

Labour Addressed Domestically

Marxists could argue the need for labour reform or labour-protection policies are due to the push for globalization from capitalist industrialized countries. Henry Veltmeyer and James Petras contend the process of labour reform is part of "an offensive waged by capital against labour," and suggests it could be left out of FTAs.⁴² The only remedy, beyond a revolution, for changing the trend of workers in poor countries falling behind, Veltmeyer & Petras argue, is to institute sound domestic labour policies that promote growth that demands labour.⁴³ Indeed, each Latin American country in the FTAA is different. Individual states have a better understanding of their labour dynamics, and thus are in a better position to develop their own policies (See Table 6 – Measures Affecting the Operation of the Labour Market in Latin America, 1990s). An obvious implication to this is that leaving the labour issue up to state governments and believing they will do the right thing may be falsely optimistic.

*leads
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One reason Latin American countries are refusing to bring up labour issues in FTAA discussions is due to the fact they do not feel their labour issues are legitimate. They also recognize that even if labour issues were included in negotiations, the playing field would not be level.⁴⁴ LA countries believe too much is at stake in the FTAA negotiations. They are legitimately looking to improve their domestic situations, but by raising labour issues unrelated to U.S. interests, they fear American retaliatory measures in negotiations. Enhanced and secure access to large markets is seen as a necessary condition by LA countries for economic growth, generation of employment and poverty reduction. Seeking labour reform at the domestic level may be more sensible, as the World Trade

+ domestic costs (employment & competitiveness)

⁴¹ "Linking Labor Rights With Trade." International Labor Rights Fund. <<http://www.laborrights.org/>>

⁴² Henry Veltmeyer and James Petras. The Dynamics of Social Change in Latin America. New York: St. Martin's Press, 2000. (p. 45)

⁴³ Ibid. (p. 46)

⁴⁴ Salazar-Xirinachs. (p. 243)

Organization and General Agreement on Trade and Tariffs may be overloaded with such issues. This approach means state governments would look after their own labour issues and create their own policies to deal with national labour problems, potential or realized.

Most developing nations argue that labour standards is not a trade issue and should not be part of the FTAA. Rather, the issue is domestic and industrialized countries should help developing nations progressively implement core labour standards as their economies grow. In addition, by utilizing current labour standards in existing and proposed trade agreements and programs and leaving additional labour legislation to state governments, developing nations argue that any negative labour effects of the FTAA would not be realized.

Social Movement of Labour

Labour and environment are two areas not concretely addressed by the FTAA, constituting reasons behind much of the protest movement against increasing trade and globalization. The impact that the social movement may have in determining the course of FTAA negotiations is not clear, but its influence should not be discounted. Many NGOs and protest groups such as International Labor Rights Fund, Oxfam, Witness for Peace and Alternatives for America have come out with clear positions against the FTAA. All offer criticism of weak labour-protection language in the draft agreement. They believe standards will be lowered to attract foreign investment—pitting poor nations in a “race to the bottom.” They believe the FTAA will increase the gap between the rich and poor, and skilled and unskilled workers. They also reject other agreement solutions, such as NAALC. Witness for Peace, for example, believes the FTAA will prohibit living-wage laws, not acknowledge certain labour agreements and disregard government contract preferences for women and minorities.⁴⁵

Stop the FTAA, another protest group that has mobilized with the help of the Internet, believes the FTAA can be stopped: “Since the system of corporate globalization hurts nearly every sector of

⁴⁵ “Take Action Against Unfair Trade.” Witness for Peace. <<http://www.witnessforpeace.org/tools/tradetools.html>>

society, it paradoxically offers the possibility of uniting broad sectors into a mass movement capable of not only stopping the FTAA, but creating radical social change."⁴⁶

The strong and unified voices of labour unions could also have an impact on the FTAA. Given the continuous objection of the AFL-CIO to the way NAFTA enforces labour rights, the organization supports incorporating labour-rights provisions in the FTAA text. The AFL-CIO says the FTAA will only increase the power of corporations, exploit workers, and spread the loss of jobs and poverty for low-wage workers.⁴⁷ The Canadian Labour Congress, the national voice of Canadian labour unions, does not oppose the FTAA outright, but issues caution in slowly moving ahead to ensure that workers' rights are protected.⁴⁸

Good section

The FTAA, Labour and the Average Latin American Country

In the rush to produce more shoes, apparel and other labour-intensive products for the global marketplace, a LA country could find itself overwhelmed in the face of a sweeping FTAA. Will the government stand by idly as multinational corporations move in to take advantage of cheap labour? The country may protest MNC actions, or protest what it deems as forces from other FTAA countries to diminish the rights of workers in the name of production. If so, does the state run the risk of being seen as protectionist, and consequently face alienation from FTAA members?

Latin America is a region of many different worlds: countries that have nearly industrialized and countries that are not even on the road to development. Nevertheless, if LA countries rally together to support workers' rights, they will have a strong, unified voice for FTAA negotiations. There is, however, an inherent problem with colluding with other LA countries. Such action may be interpreted as undermining the goodwill of the negotiating process, which could lead to a confrontational agenda.

Even w/ factories, lose diff'n

⁴⁶ "Can the FTAA be Stopped?" Stop the FTAA. <<http://stopftaa.org/new/>>

⁴⁷ "Global Fairness and the Free Trade Agreement of the Americas." AFL-CIO Executive Council Statement. <<http://www.jwj.org/global/FTAA01/AFLCIOFTAA.htm>>

⁴⁸ "Statement by the Canadian Labour Congress to the House of Commons Regarding the Free Trade Agreement of the Americas." Canadian Labour Congress. <http://www.clc-ctc.ca/labour/ftaa_statement_29mar01.pdf>

Furthermore, LA countries stare at reality while at the negotiating table: market size dictates negotiating clout. Acting alone, the average LA country has little power to see the agreement work in its favour. Logically, then, no such country would risk bringing up labour issues, especially when economic gain is seen as a possible solution to labour problems.

An LA country cannot, however, simply blame its poor labour record on growing trade liberalization. The state itself needs to take responsibility and look to its own technological trends, or lack of social policies and safety nets. If issues such as rising unemployment are not addressed domestically, an FTAA could backfire for a LA country. Rising unemployment has been linked to rising protectionist demands,⁴⁹ which hampers job creation. Jeffrey J. Schott points out that this has already occurred in Argentina, where auto-sector layoffs resulted in opposition to free trade of those products within Mercosur.⁵⁰

good pt.

V. CONCLUSION / RECOMMENDATION

Although the FTAA has yet to substantially address labour, it will be difficult to ignore, especially since various NGOs and protest groups continue to draw attention to workers' rights. Of the three main approaches where labour could play out, incorporating strong labour standards within the FTAA with a built-in enforcement mechanism may be the only way sound labour practices throughout member countries could be realized. Yet, consensus on any level of labour issues inside the FTAA text appears unlikely. FTAA negotiators will likely need to find a middle ground between the U.S.-Jordan FTA and NAFTA. Most LA countries believe the U.S.-Jordan agreement should not serve as a model for labour.

A compromise in the FTAA will not easily be achieved, especially considering the 2005 deadline. It is clear, however, weak labour wording in the agreement will do nothing to protect

⁴⁹ Jeffrey J. Schott. Prospects for Free Trade in the Americas. Institute for International Economics: Washington, D.C., 2001. (p. 103)

⁵⁰ Ibid.

workers' rights. For example, if states are simply obliged to continue to enforce their domestic labour laws, a country refusing to comply could simply weaken or eliminate specific labour laws to avoid a dispute settlement. Moreover, if the agreement simply demands states to be members of the ILO, without an effective enforcement mechanism, countries could readily ignore core labour standards. According to Alternatives for America, Central American countries, despite being members of the ILO, have readily violated labour rights in order to guarantee a supply of low-cost labour.⁵¹ Certainly, an effective enforcement mechanism would require a commitment to funding. Developing nations would hesitate to join an FTAA that would require any sort of dues to pay for labour enforcement mechanisms. Without question, industrialized nations would need to pick up the bulk of the cost. Countries and organizations found in non-compliance could also begin to contribute to the fund as a penalty. In addition, such an enforcement body could work in conjunction with existing enforcement mechanisms to reduce costs. It is paramount, however, that all processes involving enforcement, including funding, must be transparent.

This paper has demonstrated the importance of labour and the need for it to be addressed in trade agreements. In order to incorporate effective labour standards, FTAA negotiators would have to accomplish five objectives:

- Allow for more transparent negotiations, to encourage input from labour and human rights groups. This could be accomplished through the establishment of a labour negotiating group.
- Labour rights should be outlined *in the text of the agreement*.
- An effective enforcement mechanism for labour rights should be established, such as a permanent monitoring body. Negotiating parties could consult the ILO for a way to develop such a framework.

⁵¹ "Hemispheric Social Alliance. Alternatives for the Americas. December 2002. <<http://www.art-us.org/Docs/Alternatives%20Dec%2002.pdf>> (p. 43)

- Education should not only be more accessible in developing nations, the system should offer incentives for youth to complete their schooling (See Table 5 – “Compulsory Education and Minimum Work Age”). Also, better skills development education programs—specific to trades and professions—should be developed in partnership with industrialized nations.
- Women should be invited to play an increased role in the workforce of Latin America,

The issue of labour affects the entire populations of countries involved in FTAA negotiations.

Workers throughout the hemisphere are facing volatile economies and lack job security. Unions want to guarantee the rights of these workers, and activist groups want to see improved working conditions and a reduction in worker exploitation. Businesses want to continue to be competitive, while maintaining a level of social responsibility. Developing nations are worried about losing their comparative advantage of labour. All considered, incorporating strong and clear labour language into the FTAA would prove to the trade community that labour can successfully be implemented into trade agreements without causing major economic shocks or reducing the comparative advantage of developing countries. A compromise on labour would serve as a framework to expand labour standards globally.

Yes wages & standards
+ need for
US-Can regulatory,
enforcement, & tech. aid
(via FTAA/other bodies)

VI. FUTURE RESEARCH

The scope of the FTAA is huge and further research would compliment this paper. Areas for further research:

- How recent political changes in Latin America are affecting labour.
- A further analysis on the social movement of labour to better assess this potential threat to the FTAA.
- How labour laws are enforced in individual FTAA countries. For example, labour laws in Chile are enforced through the Labor Directorate, whose staff of 1,800 officials can impose fines for non-compliance.

Excellent -

APPENDIX

Table 1: Urban Unemployment Rates in Latin America

Table 1 provides urban unemployment rate data from select Latin American countries illustrating the bleak employment trend. The unemployment rate in Chile actually improved slightly from 1994 to 1998, but these numbers do not reflect the growing disparity between the rich and the poor.

	1982	1990	1994	1998
Argentina	5.3	8.6	11.5	14.9
Chile	20.0	6.6	8.3	7.6
Brazil	6.3	4.3	5.1	5.8
Colombia	9.1	10.2	8.9	12.7
Mexico	4.2	2.8	3.7	3.9
Venezuela	7.8	10.6	8.9	12.8

Source: Riveros, p. 234.

Table 2: Average Real Wages in Latin America (1990 = 100)

Table 2 illustrates the decline in real wages in Latin America. Wages in Argentina have declined significantly, while real wages in Chile and Colombia were higher in 1998 than in 1980. The average among Latin American countries, however, is a decline in real wages.

	1980	1985	1995	1998
Argentina	130.0	135.7	100.9	99.1
Brazil	87.8	101.9	88.0	94.0
Chile	95.4	89.3	123.6	128.1
Colombia	85.0	97.4	105.4	110.2
Mexico	128.3	97.4	111.5	97.2
L. America	116.4	112.0	100.7	99.1

Source: Riveros, p. 234.

Table 3: Share of Wages in GNP in selected Latin American countries

Table 3 serves as a good indicator of the historical decline in Latin American wages in relation to the overall economy of Latin American countries.

	1970	1980	1985	1988	1990
Argentina	40.9	31.5	31.9	24.9	-
Bolivia	36.8	39.6	26.9	-	-
Brazil	34.2	35.1	36.3	-	-
Chile	47.7	43.4	37.8	-	-
Ecuador	34.4	34.8	23.6	16.0	15.8
Mexico	37.5	39.0	31.6	28.4	27.3
Peru	40.0	32.8	30.5	25.5	16.8
Uruguay	52.9	35.7	36.3	39.7	-
Venezuela	40.3	42.7	37.6	34.6	31.1

Source: Veltmeyer, p. 54.

Table 4: Types of Labour Standards

Core labour standards outlined in the ILO were adapted by the U.S.-Jordan FTA in Article 6.6: “a) the right of association; b) the right to organize and bargain collectively; c) a prohibition on use of any form of forced or compulsory labor; d) a minimum age for the employment of children; and e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”⁵² Table 1 outlines the types of labour standards commonly discussed in trade agreements.

I. Basic Rights
Right against use of child labour
Right against involuntary servitude
Right against physical coercion
II. Survival Rights
Right to a living wage
Right to accident compensation
Right to a limited work week
III. Security Rights
Right against arbitrary dismissal
Right to retirement compensation
Right to survivors' compensation
IV. Civic Rights
Right to free association
Right to collective representation
Right to free expression of grievances

Source: Portes (Table 10-2).

⁵² “Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area.”

Table 5: Compulsory Education and Minimum Work Age (Select Latin American Countries) - 1998

Issues in LA countries related to labour include education and child labour. According to Table 5, compulsory education differs among countries, but minimum work ages are similar.

Country	Minimum Work Age	Compulsory Education	
		<i>Ages</i>	<i>Years</i>
Brazil	14	7-14	8
Guatemala	14	6-15	10
Mexico	14	6-14	9
Nicaragua	14	7-12	6
Peru	12-16	6-16	11

Source: Brown, p. 26.

Table 6: Measures Affecting the Operation of the Labour Market in Latin America, 1990s

Within Latin America, it is often argued that labour legislation has been an area that has seen little reform. During the 1980s and the first half of the 1990s, however, many LA countries did change their legislation. This period also marked a decline in public-sector intervention in employment and wages. The main features of these reforms are outlined below.

	MEASURES TO INCREASE LABOUR FLEXIBILITY					MEASURES TO IMPROVE THE POSITION OF DISADVANTAGED ACTORS IN THE LABOUR MARKET	MEASURES TO STIMULATE LABOUR DEMAND
	MEASURES TO INCREASE THE FLEXIBILITY OF THE LABOUR MARKET			MEASURES TO INCREASE THE FLEXIBILITY OF THE LABOUR INPUT			
	MOBILITY	EMPLOYMENT FLEXIBILITY	WAGE FLEXIBILITY	HUMAN CAPITAL FLEXIBILITY	INCREASING PRODUCTIVITY		
Reform of labour legislation	Reduction of firing costs, public health reforms	Reduction of hiring and firing costs, fixed-term contracts, unemployment insurance	Fixed-term contracts, end of indexation, reduction of non-wage labour costs	-	-	Broadening of union rights, protections of specific groups	Fixed-term contracts, reduction of non-wage labour costs
Wages and employment policies	Inter-mediation re-training programmes	Reduction of the public sector	"Conservative" wage policy	Training geared to demand	Business development programmes, training subsidies	Training and wages subsidies for specific groups, minimum wage	Emergency programmes, business development programmes
Company level practices and collective bargaining	-	Subcontracting, fixed-term contracts	Link between productivity and wages	Development of internal labour markets, multifunctionality	New means of worker participation, participative wages	Worker participation schemes, union leaders' training	-

Source: Weller, p. 165.

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