

**Background Teleconference Call by a "U.S. Trade Official"
Regarding the Free Trade Area of the Americas (FTAA)
Trade Negotiations Committee Meeting (TNC) in Puebla, Mexico
February 7, 2004**

U.S. Trade Official: Well, good morning everybody. Before I get into the specifics of Puebla, let me just put in the context. And that is, what was the objective of this TNC? And I think as you all know at the Miami Ministerial, the Ministers set a new framework for the FTAA. In the past the framework had been one of a single undertaking, set a very high level of ambition in all areas.

And in order to accommodate a number of countries, most particularly the Mercosur countries, the Ministers agreed in Miami that we would have, what they called a common, a balanced and common set of rights and obligations, that everybody would take on. And then there would be the flexibility for those of us, such as the United States and several other countries who immediately wanted to be, to have an arrangement at a higher level of ambition, more along the lines of our bilateral FTAs, that those countries would have the flexibility to do that. And that both elements, the common set, and then whatever plurilaterals, and there could be more than one plurilateral, would constitute the sum of the FTAA. And so the Ministers then said, all right, the Vice-Ministers should meet in Puebla, and provide the guidance, the elements in descriptive terms for what would be the common and balance set of objectives in each of the areas of negotiations. And they shouldn't try to define what the upper levels would be. They'd leave that for those countries that are ready to do it, but that we should set some basic procedures of transparency, and how it should be organized. So that was the objective in Puebla.

And in preparing for Puebla, the United States consulted with many countries. And we worked with a group of, initially, of four other countries - Canada, Chile, Costa Rica, and Mexico. To think through, you know, where is it that we thought that everybody could agree, in each of the nine areas. And obviously that meant for the United States, for these other countries, that we would have to be content, at least for the common set, for objectives that were lower than what we ideally would like. And that we could go and do the higher level with other countries. So the five of us sat down, and we came into Miami, I mean Puebla rather, with a proposal that established a common set of objectives. And it meant that we had to ratchet down our objectives in areas that are important to us, like services, intellectual property, or government procurement, investment, and so did the other countries. And there had to be a balance in the market access for goods.

Obviously we wouldn't give everything, in market access for goods, and also in agriculture. You know we weren't going to have the full Doha level of objectives for agriculture, we were going to do this common and balanced set.

And so we came to Puebla, and we consulted with everybody, of course including Mercosur. And we found that there were many other countries that were prepared to do the same thing. So, find a common and balanced set, even in areas that they had high aspirations, but then work with us in a plurilateral to do a very high level of agreement in things like services, and in market access, and in government procurement and so forth.

In the negotiations, I think, there is a very simple explanation as to why we didn't reach agreement, is that not all of the countries coming to Puebla, not all the delegations coming to Puebla, approached that in the same way. Primarily the Mercosur countries were very happy of course to ratchet down the aspirations in services, in intellectual property and in procurement.

But they were unwilling to ratchet back to find the balance in market access to goods, or in agriculture. They continued to insist, that you know, that they had to have everything in those areas, and then we would just ratchet down in the other, in the areas like services, that are important to us, intellectual property.

And so that's basically the explanation as to why we were not able to finish our work. Now, I mean, people were working very hard, and you know, I don't think that there was any rancor or anything like that, but we just weren't able to strike the right balance. So the Co-Chairs, and this was the decision of both the Brazilian and the U.S. Co-Chair, was, let's give people breathing

space, give people time to go back, consult in capitols, and consult among capitols, and then come back in three or four weeks. We hope to do it in the first week of March, but we have to work that out with all the delegations, come back to Puebla, and then see if we can finish our work. So we did make quite a bit of progress I believe, but last night we looked at it, and we said, realistically, even if we push all night long, we are not going to get the kind of product we want.

And it's really important that the negotiating groups get guidance that is going to be clear to them, and not just some kind of a fudged thing that let's us get through the meeting, and then they'd go to their negotiating sessions and not know what to do.

So our feeling was, better to take the break, get a really good product, one that is clear to the negotiators, than to push through the night and get a lot of mumbo-jumbo that the negotiators can't use. So, everybody needs to go back and consult with themselves, and we'll get back together again in Puebla in a matter of three or four weeks or so.

I'll stop there and be happy to answer any questions. But let me tell you the countries that we worked with, that were approaching it the same way, and that agreed on a single paper, as a proposal, were all of the countries from Canada down to Mexico, all of Central America and Panama, the Dominican Republic, Colombia, Peru, Ecuador and Chile. So it really was the bulk of the countries in terms of trade that were looking at it in that same way. And we've agreed among us that we will go ahead and do a plurilateral at a high level of ambition, and that we will cover at a minimum, market access, services, government procurement, and investment. And so we expect to go ahead and do that after the TNC. I mean we'll wait to see what happens at the resumed TNC, but these fourteen countries, including the United States had a single vision of how to do this.

So, any questions that you have?

Moderator: Does anyone have any questions?

Question: This is Janet Van Grastek, Washington Trade Report. Could you also then just go over the list, to be crass about it, the Mercosur type of countries that stood on the other side. What were the areas that they wanted a high level and didn't want inclusion?

U.S. Trade Official: Well they wanted a high level in two areas. They want a high level in agriculture, where they want disciplines on domestic support and export and subsidy elimination.

And then in market access for industrial and consumer goods, they want to cover every single item on the list. And, we've always said, we're ready to negotiate on every item, but frankly, if we're not going to get anywhere near significant improvement in market access for services, why should we be expected to give everything on market access for merchandise. So the two areas that they would want to keep their level of ambition were in goods and in agriculture. And they wanted to ratchet down services, even below what they've done so far in the GATS, and no market access in government procurement, just transparency. And in intellectual property, not wanting to go beyond the TRIPS, you know the intellectual property agreement in the WTO. So that is clearly not a balanced set of obligations and rights, benefits that is.

Moderator: If I could remind everyone this call is being done on background, as a U.S. Trade Official. Any other questions?

Question: [U.S. Trade Official], this is Corey Henry, with Inside U.S. Trade. The Miami declaration required, or called on this TNC anyway to agree on the procedures for negotiating the higher set of obligations, and to pass those instructions on to the negotiating group. Now, I want to be clear that I understand it. Were you able to agree on the procedures for negotiating that, or is that something that also has to left for the next TNC?

U.S. Trade Official: We didn't quite finish on that. We got very far, I mean, most, we reached agreement fairly readily on the basic procedures. The areas that remain open are, first of all, these plurilaterals would be conducted within the framework of the FTAA. They would be done in Puebla, they would be done very transparently. And so for example we all agreed that the documentation for the plurilaterals would be handled exactly the same way as the common set,

and would be made available to everybody, whether they were part of the plurilateral or not. In addition, the Ministers said any country has the right to be an observer in any of the plurilaterals, even if they don't want to negotiate. So we were working on the notion of, you know, what rights does an observer have. And of course there is an observer status in the WTO, and that's basically the way we see it. So we're still working on that, to get the wording on that right.

And then the question is, also, if someone is an observer, let's say halfway through the negotiation, they decide, "well I really want to be part of this negotiation," how much do they take on, they have to agree to the basic approach that has been agreed upon up and to that point.

They can't come in and say "oh well, you guys have all negotiated on a negative list for services, by the way, I think we ought to negotiate on a positive list." So we're trying to find the wording that is right for that, because they obviously are able to come in and have interests which reflect - for example. Let's say there as a plurilateral among the most advanced five countries in the hemisphere. And then suddenly, one of the poorest, Haiti let's say, "I'd like to become part of this." Well up until that point, we wouldn't have been thinking very much about you know, differential treatment for countries of low level of development. Well obviously, Haiti would have to have a way of being taken into account. That's different than trying to change the actual mode of the negotiations. So we've got to find the wording that allows some degree of flexibility to newcomers, but doesn't allow a newcomer to completely reverse what's been done up until then. But we've made a lot of progress on that.

Question: But how does that impact, how does that affect your work though, given that the declaration had called for these instructions to be given to negotiating groups no later than the end of this TNC in Puebla...

U.S. Trade Official: The TNC in Puebla hasn't ended, we've just recessed....

Question: But the declaration specifically called for the 17th meeting of the TNC to develop, would have been this last session.

U.S. Trade Official: Right, but this is the 17th TNC. This is just going to be the resumed session. And let me remind you, we've done this before. At the 10th TNC at [unintelligible] Margarita, in April of 2002, where we were also giving directions, I believe it was on market access, another critical part of this, we had trouble finishing, we didn't, we weren't able to conclude. So we recessed the 10th TNC, brought it back into session three weeks later in Panama, and finished the work. So this is still the 17th TNC. It's just that, instead of taking a break overnight, we're taking a break for three weeks.

Question: Oh, ok. And I'm sorry, [U.S. Trade Official], let me understand this. That you agreed to do a plurilateral with thirteen other countries?

U.S. Trade Official: Yes, thirteen other countries.

Question: Ok. And I'm sorry, could you just name those again, I'm sorry I missed...

U.S. Trade Official: Yes, ok. You're really putting me on the spot with my geography [laughter].

Canada, the United States, Mexico, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, the Dominican Republic, Colombia, Ecuador, Peru, Chile. I hope that adds up to fourteen including the United States [laughter].

Question: It's Chris Rugaber, BNA Publications. Just a quick question on the issue of the relationship between the common set and then the additional, higher level - I noticed there was some disagreement between Brazil and the United States, on whether it's a "get what you pay for" kind of situation, or whether there would be a common set available to everyone regardless of what they did in the plurilateral realm. Has there been any progress on that issue?

U.S. Trade Official: Well, no that's one of the differences here. Our view is that the common set, everybody gets the common set. But what you get in the common set, let's say market access for goods, should have some relationship to what you're providing in other areas that are important to other countries, like, services or intellectual property. And so if a country is not willing to go to a very high standard on market access for services, they should not expect a very high standard for market access in goods, they should be somehow, in some proportion - they don't have to be identical. So we're saying, that's the way we'll do it. As high as people want to go, in the areas that are important to us, we're willing to go that high in market access. But then, for example if we do this plurilateral with these thirteen other countries, and we have a BIT level agreement on investment and we have a FTA level agreement on services, well then we would expect, it's only fair, that the market access part of the plurilateral would be that much better than the market access part of the common set.

Question: [U.S. Trade Official], I wonder if you could explain to us a bit more where you are going on "WTO-plus." You make a reference to the fact that the Mercosur countries didn't like going beyond TRIPS on IPR. Where are you seeking "WTO-plus" in your new ratcheted down approach, where are you still thinking "WTO-plus" commitments?

U.S. Trade Official: Well, you're talking about within the common set or including...

Question: In both.

U.S. Trade Official: Ok, well, in the upper, I mean we would like to have in the common set, as high as possible. But we're being realistic. But if your question, within the FTAA, either in the common set, or more likely in the plurilateral, where we're going "WTO-plus," in IPR, I think it's pretty clear, look at what we're seeking and have gotten in our FTA agreements. So for example, we're taking into account all of the advances in digital technology in the last ten years since the Uruguay Round. So in areas, for example, like copyright, in biotech and so forth, we would want protections that are appropriate for the kind of digital world that we're working in. So that would be one area. In services, you know the commitments by countries in the GATS, by developing countries or by countries in this hemisphere in the GATS, are minimal. And so we obviously want to see services opened up much more, particularly again in the more advanced areas of financial services, in telecom, express delivery, and so forth that are so important to our economy and that ought to be important to these economies. So are those just two examples. Government procurement, we'd like to see market access. Of course there is a market access agreement in the WTO, but it's a plurilateral - we'd like to see everybody in the hemisphere, not that exact agreement, but market access.

Question: So this is what would be reflected in your, in that common vision that you discussed of the 14 countries that you are identifying?

U.S. Trade Official: Right, that we would seek to negotiate that among ourselves, you know in a plurilateral.

Question: And then you also, I heard your answer very clearly about being optimistic, you know, the point that you made that the 10th TNC also was suspended, and yet the deadline of September 2004 is looming large for the market access, at what point will it be too late in the process for the TNC to reach an agreement and still make the 2004 September deadline.

U.S. Trade Official: I don't know. But you're right, it's a very short time period to do the market access negotiation. People are very eager to get started. If we had reached agreement today, or yesterday, then we would have been able to start up the negotiating groups quite quickly. Now, people will need a little bit of time in the negotiating groups to absorb the guidance in the common set, so they can't meet the very next day. But people are already starting to work on it, at home.

Moderator: Any other questions?

Question: [U.S. Trade Official], there was some criticism in Miami on the way that the declaration was drafted such that it would essentially leave the TNC the work to do the Ministers themselves couldn't work out, and in some respects it does appear as though that criticism may be accurate to a degree, and that you've stumbled over some very difficult issues that...

U.S. Trade Official: Well there's always a division of labor, where at a Ministerial level you set the overall direction and you don't expect Ministers to sit down and do much more technical work.

And so that's the Miami thing, where it's ok, here's the direction, it's very clear, you know, we're going to do this common set and then we're going to have these procedures for the plurilaterals.

But those are tough issues, and you're redefining the whole balance that is kind of emerging during the previous years of negotiations. So it is difficult work, but I think that the Vice-Ministers should be up to it. But they obviously have to have direction, each delegation has got to have direction from its capitol when it comes here. And if a capitol isn't giving it that direction then it won't happen.

Question: Prior to this meeting of the TNC we understand that there was some kind of difficulty in trying to convene a group of, a smaller informal meeting of countries, to try to do some preparatory work for this TNC. I wonder whether or not there will be an attempt again between now and the recommencement of this meeting to try to convene some sort of small group meeting.

U.S. Trade Official: I don't know. I mean, we certainly will continue to work with the 14 countries that have put together the proposal that I mentioned. But I'll have a lot of contact with our co-chair, we certainly will have contact with other countries including the members of Mercosur.

Whether we'll try to pull together a small meeting like that or not, I couldn't say at this time.

Question: [U.S. Trade Official], this is Doug Palmer with Reuters. How are you doing? One thing that I was just wondering about. This idea of the common set of rights and obligations and then this plurilateral approach that aims for a higher set, I mean, is there like an unseverable link between the two of those? Or is it possible that, I mean, you guys are moving forward on the plurilateral negotiations, and I guess you felt that you were making more progress in that area than on the common set, I mean is it possible that you could have a plurilateral agreement covering these fourteen countries and you wouldn't get to the common set?

U.S. Trade Official: Well, no. We would see there would be the common set for all 34, and then there would also be, as part of the FTAA, an integral part of it, this higher level plurilateral with fourteen, that would be open for others to come on board later if they wish.

Question: Right.

Basically, our vision of the FTAA is the upper tier. And our hope is that over time, the combination of the incentives, and the just realization that it's beneficial that it would lead more and more countries to migrate up into the higher level plurilateral, or multiple plurilaterals, but into the higher standard. And that ultimately the FTAA will be, among the 34, among the higher standard.

But some countries, such as the Caricom countries, and Brazil and Argentina aren't ready to do that yet.

Moderator: Doug, you can finish your follow up question, but after that, I think we have time for one more question if anyone else hasn't had a chance to ask a question.

Question: But you won't have an FTAA until you have both pieces, I guess, is what you're saying.

U.S. Trade Official: You could have an FTAA that was only the common tier, and people were negotiating the plurilaterals. But our sense, our aim is to have both come together at the same time.

Question: Julie Ziegler with Bloomberg. [U.S. Trade Official], I'm just wondering if also, I want to be clear, you said you would not have, if you don't reach agreement on this common ground, would you be satisfied, or would you try to get this higher level, these 14 countries, would that be enough, or does it have to be part of a common...

U.S. Trade Official: Well the Ministers said we should do both simultaneously. We feel they don't have to be started at exactly the same time. If we can get moving on the plurilateral before we've completed everything on the common tier, there's nothing to prevent us from doing that, and I think that that might be a useful stimulus for everybody actually.

Moderator: Ok, well thank you all very much.

Question: Anything, on Australia?

Moderator: Well, no. The negotiations on Australia are continuing. There isn't any further news to report. Both sides are working hard and are working to complete the negotiations. And we'll be in touch with you if we have news to report.

I want to thank everyone for joining us on this call, which was on background, quotable a U.S. Trade Official. If you have any questions, you can call me at [phone number]. Thank you.

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