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Perspectives on the North American Free Trade Agreement

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REGIONAL TRADE ARRANGEMENTS IN THE WESTERN HEMISPHERE

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INTRODUCTION

As the demise of the cold war is blurring the divisions between East and West, the new world order is realigning itself largely according to economic poles. While the European Community was undergoing consolidation and Japan was emerging as an economic superpower, Canada, the United States, and Mexico were negotiating the North American Free Trade Agreement (NAFTA). Just as changing economic forces on other continents led inevitably to NAFTA, so too will NAFTA shape and be shaped by changing conditions throughout the entire Western Hemisphere. Specifically, NAFTA may signal the birth of a free trade zone extending from Alaska to Argentina.

Free trade areas and economic integration are not new ideas within the Western Hemisphere. In fact, the countries of South America, Central America, and the Caribbean have frequently cooperated in free trade arrangements since before World War II. For as many years, a myriad political, economic, and ideological differences have prevented the Latin American region from fully inserting itself into the world economy. Although the debate over the impact and wisdom of NAFTA will continue, one thing is certain: NAFTA will influence and be influenced by its relationships with its neighboring countries and trade regions within the Western Hemisphere. Part I of this presentation provides an overview of Latin American regional integration schemes which emerged after World War II, but which collapsed in disarray, were abandoned, and never achieved the goals sought by their drafters. Part II then exam-

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ines the factors and influences accounting for the resurgence of regional trade arrangements in the Western Hemisphere. Part III provides a survey of various initiatives and arrangements which have been put in place or which are now being negotiated to promote trade within the western hemisphere. Finally, Part IV discusses the fundamental issues which must be addressed in order to stimulate trade and growth within the hemisphere.

I. THE HISTORICAL UNDERPINNINGS OF REGIONAL ECONOMIC INTEGRATION IN THE WESTERN HEMISPHERE

Regional integration in Latin America was conceived of in the late 1930s, gathered momentum in the 1940s and 1950s, and witnessed its first tangible manifestation in the early 1960s.¹ Throughout this period, the nations of Latin America implemented a number of integration strategies which attained varying degrees of success.² Not long after the countries of Latin America won their independence from the industrialized colonial powers, they began to examine various strategies of economic cooperation and integration.³ In 1939, Argentina and Brazil nego-

1. See DONALD W. BEARRESEN ET. AL., *LATIN AMERICAN TRADE PATTERNS* 34-36 (1965) [hereinafter *LATIN AMERICAN TRADE PATTERNS*] (stating that although Latin American countries were at first reluctant to experiment with economic integration strategies in the years following World War II, two important regional trading groups eventually emerged: the Central American Common Market (CACM), and the Latin American Free Trade Association (LAFTA) which was formalized on June 1, 1961).

2. See BELA BALASSA, *THE THEORY OF ECONOMIC INTEGRATION* 2 (1962) [hereinafter *THE THEORY OF ECONOMIC INTEGRATION*] (discussing general concepts of integration in the post World War II era). Balassa identifies four basic methods of economic integration. *Id.* First, in a "free trade area," tariffs are abandoned between member countries but are enforced against outside nations. *Id.* Second, as the elimination of tariffs among member nations is perfected, there may be an accompanying equalization of tariffs against non member states. *Id.* Third, an effective economic union will also seek to harmonize economic policies among its member states. *Id.* Finally, successful economic integration may lead to the creation of a "supra-national authority" which acts as the preeminent decision-making body of the trading group. *Id.* See also ANDRE GUNDER FRANK, *LATIN AMERICA: UNDERDEVELOPMENT OR REVOLUTION* 175-77 (1969) (arguing that the creation of free trade zones in Central America and South America will produce negative results such as siphoning capital from the poor to the rich, and giving existing firms virtual monopoly power within the trading blocs).

3. See VICTOR L. URQUIDI, *FREE TRADE AND ECONOMIC INTEGRATION IN LATIN AMERICA* 20-21 (1962) (stating that prior to the outbreak of World War II, the

tiated a treaty of "industrial complementation and free commerce."⁴ In early 1941, representatives of Argentina, Bolivia, Brazil, Paraguay and Uruguay attended a Regional Conference at which a number of economic agreements were signed in an effort to harmonize economic relations among the countries.⁵ In particular, Argentina proposed the creation of a "customs union" which would encompass the La Plata countries and bordering nations.⁶ These efforts toward Latin American integration repeatedly ended in failure.⁷

At the same time, on the other side of the Atlantic, the Netherlands, Belgium, and Luxembourg formed a customs union in 1948 for trade in industrial goods.⁸ In 1952, the European Coal and Steel Community emerged, followed by proposals for the economic unification of Europe.⁹ On March 25, 1957, the signing of the Treaty of Rome marked the establishment of the European Economic Community.¹⁰

Although Europe moved persistently towards integration, the countries

countries of Latin America gathered at several Pan-American conferences to discuss prospects for economic integration).

4. Raymond F. Mikesell, *The Movement Toward Regional Trading Groups in Latin America*, in *LATIN AMERICAN ISSUES: ESSAYS AND COMMENTS* 125-26 (Albert O. Hirschman ed., 1961) [hereinafter Mikesell].

5. *LATIN AMERICAN TRADE PATTERNS*, *supra* note 1, at 33.

6. *LATIN AMERICAN TRADE PATTERNS*, *supra* note 1, at 33; Mikesell, *supra* note 4, at 126. Customs unions, like free trade areas abolish tariffs among the member nations. *Report on the Liberalization of Inter-Latin American Trade*, Economic Conference of the O.A.S., May 1957, Doc. 3, Agenda Item B, at 8 [hereinafter *Liberalization of Inter-Latin American Trade*]. However, customs unions typically require a greater degree of political integration which inevitably demands a relinquishment of a certain measure of national sovereignty. *Id.* Free trade agreements, however, involve a lesser degree of political and economic integration. *Id.* Thus, free trade agreements are often seen as being more feasible than customs unions in Latin America. *Id.*

7. See Mikesell, *supra* note 4, at 126 (noting that South American efforts to integrate failed to mature into any meaningful success). See also *LATIN AMERICAN TRADE PATTERNS*, *supra* note 1, at 33 (stating that the treaty born from the 1941 Regional Conference was never ratified due to opposition from the United States and the United Kingdom). An additional treaty for the establishment of a customs union between Colombia, Ecuador, Panama and Venezuela was also formalized in Quito in 1948 but never ratified. Mikesell, *supra* note 4, at 126.

8. See HERMAN VAN DER WEE, *PROSPERITY AND UPHEAVAL: THE WORLD ECONOMY, 1945-1980* 358-63 (1987) (providing an historical analysis of the first European attempts at trade integration following World War II).

9. *Id.*

10. *Id.* at 362.

of Latin America continued to struggle for greater economic cooperation. In the early 1950s, El Salvador negotiated bilateral free trade agreements with four neighboring countries: Nicaragua and Guatemala in 1951, Costa Rica in 1953, and Honduras in 1954.¹¹ These agreements failed to provide a significant impetus for greater trade, however, because they only encompassed a limited number of commodities.¹² Fortunately, the United Nations Economic Commission for Latin America (ECLA) continued to sponsor numerous studies of trade activity among Latin American countries which provided invaluable information for future integration efforts.¹³

Although regional trade was slow to develop in Central and South America, World War II and its aftermath generated increased demand from the United States and Western Europe for Latin American goods.¹⁴ By the mid-1950s, the volume of intra-Latin American trade was substantially higher than it was before World War II, but it grew at a slower rate than total world trade.¹⁵ Between 1948 and 1955, the dollar value of total world exports rose by approximately 51%,¹⁶ while Latin American exports to countries within the region increased by only 17%.¹⁷ Excluding increases in Venezuelan petroleum exports, the rise in the dollar value of Latin American exports between 1948 and 1955 was only 7%¹⁸ and in real terms the region experienced virtually no increase in the volume of intra-Latin American trade during this period.¹⁹ Between 1950 and 1955, trade liberalization efforts produced a 48% increase in intra-European trade.²⁰ During that time, the combined trade between the OEEC countries and rest of the world increased by 36%.²¹

11. Mikesell, *supra* note 4, at 128.

12. Mikesell, *supra* note 4, at 128.

13. Mikesell, *supra* note 4, at 127. *See generally* URQUIDI, *supra* note 3 (discussing many studies conducted by ECLA and the information gathered regarding Latin American trade).

14. *See* LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 28-29 (stating that World War II gave rise to, not only greater demand for Latin American food products, but also allowed countries of the region to accumulate enormous stockpiles of gold and foreign currency).

15. LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 75.

16. LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 74.

17. LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 75.

18. Liberalization of Inter-Latin American Trade, *supra*, note 6, at 8.

19. Liberalization of Inter-Latin American Trade, *supra*, note 6, at 8.

20. Liberalization of Inter-Latin American Trade, *supra*, note 6, at 18.

21. Liberalization of Inter-Latin American Trade, *supra*, note 6, at 18.

Forecasts or projections for the growth of Latin American exports²² were pessimistic,²³ serving to redirect attention to the potential of intra-Latin American trade.

In light of the slow growth of regional trade, compared to trade between the region and the rest of the world coupled with the apparent success of trade liberalization in Europe, efforts to create a regional common market attracted considerable attention in Latin America.²⁴ Within and outside the region, many viewed economic integration as a possible solution to the economic difficulties which the Latin American nations were experiencing at that time.²⁵ The formation of the European Common Market (ECM) generated concern about the possibility of losing markets to African producers of various staple goods. A regional economic organization was considered an appropriate response to stem this loss.²⁶

Latin America's worry about trade with Europe appeared well founded as the value of exports to Western Europe in 1959 remained virtually the same as in 1948.²⁷ Exports to Western Europe, as a share of total exports, declined from 49.8% in 1938, to 28.6% in 1958.²⁸ Thus, the growing frustration experienced by developing countries in exporting to the markets of industrialized countries provided a stimulus for regional integration in Latin America and Africa.²⁹

22. U.N. ECONOMIC COMM'N FOR LATIN AMERICA, THE LATIN AMERICAN COMMON MARKET at 57-58, U.N. Sales No. 59.II.G.4 (1959).

23. See LOUIS O. DELWART, THE FUTURE OF LATIN AMERICAN EXPORTS TO THE UNITED STATES: 1965 AND 1970 10 (1960) (projecting that in the early 1960s Latin American exports to the United States were to increase approximately 1 percent each year).

24. See URQUIDI, *supra* note 3, at 52 (stating that these developments exerted "considerable influence" on Latin America).

25. See LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 34 (stating that, "The apparent success of the European Common Market and the widespread publicity attached to it was heeded in Latin America. Economic integration through combining country markets into larger, regional markets became the new nostrum for Latin America's economic ills.").

26. See Mikesell, *supra* note 4, at 129 (stating that Latin American nations were particularly concerned with losing markets to African suppliers of coffee, cocoa, and bananas).

27. LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 75. From 1938 to 1948, Latin American exports to Western Europe jumped in value from \$925 million to \$2.43 billion. *Id.* However, ten years later in 1959, that value had increased to only \$2.44 billion. *Id.*

28. LATIN AMERICAN TRADE PATTERNS, *supra* note 1, at 76.

29. See SIDNEY DELL, TRADE BLOCS AND COMMON MARKETS 160-62

In 1959, the Working Group on the Latin American Regional Market produced a report entitled "Recommendations Concerning the Structure and Basic Principles of the Latin American Common Market."³⁰ Also in 1959, at a conference in Montevideo, representatives of Argentina, Bolivia, Brazil, Chile, Paraguay, Peru, Uruguay, and observers from Mexico and Venezuela, drafted the basic provisions of the Treaty of Montevideo.³¹ In February 1960, the Treaty of Montevideo was signed, creating a free trade area called the Latin American Free Trade Association (LAFTA), encompassing Argentina, Brazil, Bolivia, Chile, Mexico, Paraguay, Peru and Uruguay.³² The Central American Common Market (CACM) came into existence in 1960 with member states, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.³³ In 1969, the Caribbean Free Trade Area (CARIFTA) was also established.³⁴

Trade within these regional integration arrangements experienced growth during the 1960s as it added renewed momentum to import substitution industrialization. However, the expansion of intra-regional trade stalled during the 1970s and contracted sharply during the 1980s. Intra-regional trade peaked at 26% of total trade in the CACM in 1970, 14% in LAFTA in 1975-1980, and 4.8% in the Andean Common Market in 1988.³⁵ During the 1980s, regional integration schemes and regional trade agreements either ceased to exist or survived in name only, rather than in reality.³⁶ The contraction of trade and the disintegration

(1963) (discussing the motivations for Latin American nations to create their own trading blocs, including the belief that the ECM was an intentional attack on the economic health of undeveloped nations).

30. URQUIDI, *supra* note 3, at 56-57. This report produced a number of recommendations for the creation of a regional common market. *Id.* at 57. These included opening up membership to all Latin American countries; including all goods produced in Latin America within the market; providing special tariff advantages to underdeveloped nations; facilitating competition within the market and avoiding monopolistic practices; and promoting the participation of private enterprise. *Id.*

31. See URQUIDI, *supra* note 3, at 59-64 (discussing the formulation of the basic principles of the Latin American Common Market). See also Mikesell, *supra* note 4, at 130 (discussing the formation of the Montevideo Treaty).

32. URQUIDI, *supra* note 3, at 64. For a discussion of the provisions of the Montevideo Treaty, see URQUIDI, *supra* note 3, at 73-78.

33. GILBERT P. VERBIT, TRADE AGREEMENTS FOR DEVELOPING COUNTRIES 21-22 (1969).

34. *Id.* at 5 n.11.

35. Sylvia Saborio, *The Long and Winding Road from Anchorage to Patagonia*, in THE PREMISE AND THE PROMISE: FREE TRADE IN THE AMERICAS 16 (Sylvia Saborio et al. eds., 1992).

36. See *id.* at 16-17 (citing protectionist motives and inefficient means of

of regional arrangements was due to the following factors: (1) weakness in the agreements which led to the polarization of benefits, inadequate payment systems and a lack of policy coordination; (2) insufficient political will to relinquish some measure of economic sovereignty and overcome petty nationalistic disagreements; (3) policy disparities resulting from widely different ideologies and economic development strategies; (4) internal political crises, including civil wars, and coups; (5) the adverse impact of external shocks such as inflated oil prices and declining commodity prices; (6) mismanagement of macroeconomic policy contributing to inflation and debt; (7) implementation of regulatory policies including protectionism and exchange controls; (8) exchange rate volatility; and (9) the contraction of import demand as a result of structural adjustment and debt.³⁷

II. THE RESURGENCE OF REGIONAL TRADE ARRANGEMENTS

In recent years, the Caribbean and Latin America have witnessed a resurgence of interest in regional trade liberalization, regional integration, and economic cooperation. This momentum actually preceded the Enterprise for the Americas Initiative (EAI) which is dedicated to expanding trade in the western hemisphere.³⁸ The EAI did not initiate these developments, but, instead, complemented them and may have catalyzed the processes of trade liberalization within the region.³⁹ Several developments, discussed below, have influenced this resurgence of interest in regional trade arrangements and regional integration.

A. TRADE BLOCS AS A TRANSITION TO GLOBALIZATION

Progressive globalization of production and finance is rapidly sweeping away national barriers to the movement of goods, services, capital,

import-substitution as causes of the decline of Latin American regional trade arrangements).

37. *Id.*

38. *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Nations; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay*, Business America, Information Access Co., July 1, 1991, available in LEXIS, World library, AllWld file. President Bush announced the formation of the Enterprise for the Americas Initiative on June 27, 1990. *Id.*

39. See *Free Trade Areas, the Enterprise for the Americas Initiative and the Multilateral Trading System*, in STRATEGIC OPTIONS FOR LATIN AMERICA IN THE 1990s 259 (1991).

and finance.⁴⁰ This trend is evident in the fact that, in recent years, international trade has grown at a faster rate than world Gross Domestic Product (GDP).⁴¹ The speed and extent of these flows throughout the global economy require a degree of freedom which will not be available if countries maintain national barriers. International trade is the fundamental economic impetus behind the dismantling of national barriers such as tariffs, quotas, and exchange controls as well as the formation of regional associations within which there is a common market for capital and goods. The institutional dimension of this global corporate integration arises through mergers, which transnationalize ownership and require multi-country market integration.⁴² Global corporate integration is one of the driving forces of regional economic integration because it is a step towards minimizing the differences resulting from national variations in monetary policy, taxation, and regulatory regimes.⁴³

1. Trade Blocs

The transition to a world market is taking place as national economies merge and amalgamate into trade blocs. The deepening of the integration

40. See RICHARD O'BRIEN, GLOBAL FINANCIAL INTEGRATION: THE END OF GEOGRAPHY 83-86 (1992) (arguing that financial, economic, and monetary integration will blur, if not do away with, many of the indigenous differences between various nations).

41. See *Record Exports of \$39.2 Billion Narrows Trade Deficit to \$7 Billion*, Int'l Trade Rep. (BNA) No. 51, at 2167 (Dec. 23, 1992) (noting that hopes for economic recovery resulting from recent improvements in the U.S. trade deficit must be qualified by the reality of moderate growth in the nation's gross domestic product); Enrique V. Iglesias, *The New Latin America and the Inter-American Development Bank*, WASH. Q., Winter 1993, at 115, 117 (stating that world trade in recent years is expanding at a faster rate than production).

42. SEE FOREIGN DIRECT INVESTMENT: TRENDS AND POLICIES, ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, JUNE 1992, AVAILABLE IN LEXIS, WORLD LIBRARY, ALLWLD FILE (STATING THAT CORPORATE ACQUISITIONS AND MERGERS MAY BE EMPLOYED AS A "RAPID MEANS OF ENTRY" INTO CERTAIN MARKETS). INTERNATIONAL MERGER AND ACQUISITION ACTIVITY TARGETING WESTERN EUROPE ROSE FROM \$9 BILLION IN 1986, TO \$52 BILLION IN 1989. AUGUSTO DE LA TORRE & MARGARET R. KELLEY, REGIONAL TRADE ARRANGEMENTS, IMF OCCASIONAL PAPER, Mar. 1992, at 24. Merger activity targeting North America increased from \$29 billion in 1986 to \$68 billion in 1988. *Id.*

43. See *Adoption of NAFTA Said to Lead to Common Market in Western Hemisphere*, Int'l Trade Rep. (BNA) No. 8, at 313-14 (Feb. 24, 1993) (reporting that it is believed that, in the future, corporations will be identified, not by their country of origin, but by their trade bloc of origin).

process in the European Economic Community (EEC) and the conclusion of the North American Free Trade Agreement are manifestations of a trend toward the emergence of trade blocs. This trend could lead to a compartmentalized global economy⁴⁴ consisting of: a European Economic Space (EES) made up of the EEC, the European Free Trade Association (EFTA) and Eastern Europe; a Western Hemisphere Free Trade Area (WHFTA) including Canada, the United States, and Mexico; and a free trade arrangement linking the countries of South East Asia and Japan.⁴⁵ The EEC is a large and important market for the United States. After 1992, however, it will be more difficult for United States exporters to penetrate the European market. The North American Free Trade Area, if it comes to fruition, will include Mexico, Canada and the United States and will create a market of 360 million people,⁴⁶ compared to 300 million in the EEC.⁴⁷ A hemispheric free trade area is envisioned by the EAI countries which would have a market of 719 million people with a combined GDP of \$6.8 trillion.⁴⁸ Japan and the new-

44. SEE LESTER THUROW, *HEAD TO HEAD: THE COMING OF THE ECONOMIC BATTLE AMONG JAPAN, EUROPE AND AMERICA* 14-17 (1992) (analyzing the prospects of a new world order dominated by regional economic blocs with Japan, Europe and the United States acting as the focal points of power). See also, C. Fred Bergsten, *The World Economy After the Cold War*, FOREIGN AFF., Summer 1990, at 96, 96 [hereinafter *The World Economy After the Cold War*] (asserting that the post-cold war world order will revolve around an economic "tripolarity" dominated by Europe, the United States, Japan, and the trading blocs into which they may evolve).

45. SEE LIM SIONG HOON & KUALA LUMPUR, *ASEAN TAKES FIRST STEP TO REGIONAL CUSTOMS GROUPING*, FIN. TIMES, Oct. 9, 1991, at 3 (reporting that in October 1992, the member countries of the Association of South East Asian Nations (ASEAN) announced their creation of an Asian Free Trade Area (AFTA), consisting of Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand, with the objective of creating a single market within 15 years. *Id.* An East Asian Economic Group consisting of Japan, the Asian countries of Indonesia, Malaysia, the Philippines, South Korea, Hong Kong, and Taiwan would encompass 33.8 percent of the exports of these countries. See also Edward Balls, *Building Trade Blocs in East Asia and the Pacific*, FIN. TIMES, Feb. 3, 1992, at 4 (reporting that the proposed merger of EFTA and the ECC has prompted Asian countries to form the Association of South-East Asian Nations).

46. *Latin America: Regional Integration Unlikely, Says Minister*, Inter Press Service, Feb. 2, 1993, available in LEXIS, World Library, AllWld File.

47. See *New European Trade Zone In Effect in July*, Xinhua News Agency, Jan. 22, 1993, available in LEXIS, World Library, AllWld File (predicting that the merger of the ECC and EFTA would boast a combined population of 380 million people).

48. See *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Na-*

ly industrialized countries of East Asia have a combined GDP of \$3.2 trillion, and a population of 199 million people.⁴⁹

The need for a response to the formation of trade blocs in a "regionalized" world economy provided a strong impetus to the new wave of regional integration.⁵⁰ Regional integration is viewed as a potent response because of the strengthening of bargaining power and the coordination of external policies.⁵¹ Thus, some have argued that the changing international climate compels Latin American countries to coordinate their trade efforts.⁵²

2. The Uruguay Round of the GATT

The General Agreement on Tariffs and Trade (GATT) continues to be the main vehicle for advancing and promoting international trade liberalization.⁵³ The Uruguay Round of the GATT, which seeks to further liberalize trade and investment, is a natural extension of globalization.⁵⁴

tions; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay, Business America, Information Access Company, July 1, 1991, available in LEXIS, World Library, AllWld File (reporting on the signing and proposed signing of various bilateral framework agreements dedicated to the creation of a hemispheric trade zone).

49. EDWARD BALLS, *BUILDING TRADE BLOCS IN EAST ASIA AND THE PACIFIC*, FIN. TIMES, Feb. 3, 1992, at 4.

50. MONICA HIRST, *MERCOSUR AND THE NEW CIRCUMSTANCES FOR ITS INTEGRATION*, 46 CEPAL REV., Apr. 1992, at 147, 147.

51. *SEE SOUTHEAST ASIA: PREPARING FOR A NEW WORLD ORDER*, WASH. Q., Winter 1993, at 187, 193 (reporting that efforts in Asia to increase trade cooperation are viewed as a defensive response to European and North American regional integration arrangements).

52. *See Putting the Uruguay Round in First Place; Ditchley Conference Draws Several Distinctions*, Latin America Weekly Report, March 11, 1993, available in LEXIS, World Library, AllWld File (asserting that the level of trade among the nations of the Western Hemisphere is insufficient to make NAFTA an effective weapon against European protectionist policies). *See also* Carlos Massad, *A New Integration Strategy*, CEPAL Rev., Apr. 1989, at 91, 101 (stating that "Latin America, with a population of some 400 million inhabitants, will be unable, disunited, to face up to next century's super-blocs. If it tries to do so, it runs the risk of being, at least commercially and culturally, absorbed.").

53. *The World Economy After the Cold War*, *supra* note 44, at 110 (arguing that a successful completion of the Uruguay Round of GATT would significantly facilitate the liberalization of world trade "by expanding international disciplines on agriculture and safeguard measures, broadening the rules to encompass services and intellectual property rights, reintegrating textile into the GATT, and improving the process for settling disputes.").

54. *See The World Economy After the Cold War*, *supra* note 44, at 109-10.

In this scenario, the GATT would be the institutional and regulatory framework for global trade liberalization. However, the decline of United States hegemony has led to difficulties in completing the Uruguay Round negotiations.⁵⁵ Ultimately, the Uruguay Round could end in disarray or fail to resolve key issues of the agenda. There is a growing apprehension that if there is a collapse or only partial resolution of GATT, it would cause an escalation in protectionism.⁵⁶ The disintegration of the GATT negotiations could provoke a proliferation of bilateral trade agreements and intensify the incentive to form various regional trade arrangements⁵⁷ which may, by virtue of a common external tariff, raise protectionist barriers to exports from other groups and countries.

B. INCREASING INTERDEPENDENCE IN THE WESTERN HEMISPHERE

Interdependence within the western hemisphere has increased. In 1988, the value of trade between North and South America was nearly \$85 billion, three% of world trade.⁵⁸ Between 1970 and 1988, total intra-American trade increased seven-fold to over \$249 billion.⁵⁹ For other countries in the hemisphere, almost one half of their exports go to

(discussing ways to prevent a new world order, composed of three large trading blocs in Europe, North America, and Southeast Asia, from becoming confrontational and retaliatory).

55. See *The World Economy After the Cold War*, *supra* note 44, at 96-97 (arguing that, although the collapse of the Soviet Union may have left the United States as the single remaining military power, this position may now be of marginal utility as international relationships become increasingly defined by economic strength).

56. See *The World Economy After the Cold War*, *supra* note 44, at 110 (citing the successful completion of the Uruguay Round of GATT as a critical step in preventing the development of economic conflict in the new economic world order).

57. Cf. *The World Economy After the Cold War*, *supra* note 44, at 108 (stating that if Europe is unwilling to negotiate broad global trade reforms, the United States and Japan might enter into bilateral agreements, without Europe's participation); *Putting the Uruguay Round in First Place; Ditchley Conference Draws Several Distinctions*, Latin America Weekly Report, March 11, 1993, available in LEXIS, World Library, AllWld File (stating that the failure of GATT could lead to greater cooperation between the United States and Latin America). See also Augusto de la Torre & Margaret R. Kelley, *Regional Trade Arrangements*, IMF Occasional Paper, Mar. 1992, at 42 (stating that the failure of GATT may force the United States to pursue bilateral and plurilateral arrangements with other nations).

58. REFIK ERZAN & ALEXANDER YEATS, *FREE TRADE AGREEMENTS WITH THE UNITED STATES*, WORLD BANK WORKING PAPERS ON INT'L TRADE (WPS 827) Jan. 1992, at 4.

59. *Id.* at 5. In 1970, total intra-America trade amounted to \$36 billion. *Id.*

the United States. Therefore, hemispheric interdependence has increased tremendously. It is also interesting to note that the rate of growth of United States exports to the hemisphere has far exceeded the growth of those exports to the rest of the world.⁶⁰ Similarly, trade within the hemisphere has grown much more rapidly for Latin American countries than trade with the rest of the world.⁶¹

C. THE ROLE OF ECONOMIC REFORM

The extent of the economic stagnation in Latin America and the Caribbean which has prevailed throughout the 1980s and into the 1990s, is evident in the fact that GDP in real terms and GDP per capita are actually lower in 1990 than they were in 1977 for the region as a whole.⁶² Furthermore, the region has suffered a persistent de-capitalization through capital flight and heavy debt servicing. In 1991, debt service absorbed over 40% of export earnings and the debt-to-exports ratio was significant at 287%.⁶³ Latin America and the Caribbean have also suffered a negative net transfer of resources between 1980 and 1990, reaching a high of \$31 billion in 1983.⁶⁴ Compounding these problems is rampant inflation, which in 1990 reached 7,000% in Peru and over 13,000% in Nicaragua.⁶⁵

Against this background, the severe economic crisis of Latin America and the Caribbean during the 1980s compelled a re-examination of economic policy. The region responded to the economic stagnation with a reorientation of economic policies to focus on economic reform, stabilization, and structural adjustment in an attempt to initiate a private-sector, market-driven, outward-looking growth strategy.⁶⁶ Import

60. See Department of Commerce Market Report on the Western Hemisphere: *The Enterprise for the Americas*, National Trade Data Bank, Jan. 15, 1993, available in LEXIS, World Library, AllWld File (reporting that United States exports to 30 Latin American and Caribbean countries increased by 18 percent between 1984 and 1991, three times faster than the United States exports to the rest of the world).

61. *Id.*

62. *Preliminary Overview of the Economy of Latin America and the Caribbean*, U.N. Economic Commission for Latin America, at 3, U.N. Doc. LC/G/1696 (1991).

63. *Id.* at 53-54.

64. *Id.* at 51.

65. *Id.* at 40.

66. See Enrique V. Iglesias, *The New Latin America and the Inter-American Development Bank*, Wash. Q., Winter 1993, at 115, 116 (reporting that recent Latin American economic reforms and structural adjustment measures which have opened

substitution and state-led development strategies have been renounced and dismantled in favor of outward-oriented approaches.⁶⁷ Most Latin American countries, as well as many Central American and Caribbean countries have reduced tariffs, removed quantitative trade restrictions and vigorously implemented programs of privatization.⁶⁸ A change in Latin American integration strategy from an inward-oriented approach aimed at strengthening stalled import-substitution industrialization, to an outward-oriented approach complementing internal market liberalization has also taken place.⁶⁹ Regional trade liberalization was a logical outgrowth of market-oriented policies because it sought to enlarge the market.

D. MULTILATERALISM AND REGIONALISM IN UNITED STATES TRADE POLICY

The attitude of the United States government towards regional trade arrangements and regional integration has varied with the nation's perception of its national interests. The United States has supported regional integration when it regarded a region as being in need of economic development for purposes of safeguarding against external threats, or internal de-stabilization. On the other hand, the United States has vehemently opposed regional economic arrangements when such action is perceived as excluding or diminishing United States exports, or making

Latin American economies and deregulated domestic markets are attracting more capital and expanding exports). *See also, Adoption of NAFTA Said to Lead to Common Market in Western Hemisphere*, Int'l Trade Rep. (BNA) No. 8, at 313-14 (Feb. 24, 1993) (stating that growth in Latin American countries will require increased trade and a recalibration of domestic policies); Sylvia Saborio, *The Long and Winding Road from Anchorage to Patagonia*, in *THE PREMISE AND THE PROMISE: FREE TRADE IN THE AMERICAS* 16-17 (Sylvia Saborio et al. eds., 1992) (describing Latin American economic reforms of the 1980s which rely on market forces).

67. *Id.*

68. *Id. See Canada: Lingering Bilateral Trade Disputes Need to Be Resolved*, Int'l Trade Rep. (BNA) No. 4, at 152-53 (Jan. 27, 1993) (reporting that the reduction of Latin American trade barriers is a critical step towards regional integration). The Caribbean Common Market (CARICOM) recently voted to reduce their external tariff from 45 percent to a flexible range of 5 to 20 percent by 1998. *Id.*

69. *See Adoption of NAFTA Said to Lead to Common Market in Western Hemisphere*, Int'l Trade Rep. (BNA) No. 8, 313-14 (Feb. 24, 1993) (reporting that a World Bank official warns that the investment and privatization programs implemented by Latin American countries may actually retard growth if the benefits are not felt by the average citizens of each country).

market access more difficult through protectionism.

Proposals prior to 1945 for the creation of a European union were considered to be harmful to United States interests and viewed with suspicion.⁷⁰ In the aftermath of World War II, however, the United States vigorously supported Western European economic cooperation and integration for a combination of economic, political, strategic, and security reasons.⁷¹ The establishment of the EEC and the economic recovery of its member states transformed the character of European-United States economic relations from dependence to interdependence.⁷² By the early 1970s, the United States viewed the EEC as an increasingly exclusionary trading group.⁷³

This experience with the EEC may explain why United States support for Latin American regional integration in the 1950s was less than enthusiastic.⁷⁴ This support was conditioned largely by the fear of private-sector interests that expansion of intra-regional trade would be harmful to United States exports.⁷⁵ The early 1960s, however, saw an increasing willingness to concede that regional economic integration in Latin America did not embrace protectionism to the detriment of United

70. BELA BALASSA, *TRADE LIBERALIZATION AMONG INDUSTRIAL COUNTRIES: OBJECTIVES AND ALTERNATIVES* 23 (1967). Balassa also notes that during World War II, the United States' vision of a new world order dominated by the United States and the Soviet Union did not contemplate the existence of regional trading blocs. *Id.*

71. *Id.* at 23-25.

72. See Lawrence B. Krause, *European Economic Integration and the United States* 222-25 (1968) (discussing the ways in which European integration has contributed to the "evaporation" of United States hegemony). This recalibration of influence is illustrated by an incident in 1962 when, as a reaction to the United States refusal to respect a concession for imports of glass and carpet, the EEC retaliated against American exports. *Id.* at 225.

73. See *Text of Kissinger's Speech at African Pacific Meeting Here on U.S. Relations with Europe*, N.Y. Times, Apr. 24, 1973, at A15 (reporting that Kissinger stated that the "prospects of a closed trading system embracing the European Community and a growing number of other nations in Europe, the Mediterranean, and Africa, appear to be at the expense of the United States and other nations which are excluded. In agriculture, where the United States has a comparative advantage, we are particularly concerned that Community protective policies may restrict access for our products").

74. See Miguel S. Wionczek, *The Montevideo Treaty and Latin American Economic Integration*, Banca Nazionale del Lavoro Q. Rev., June 1961, at 223 (describing United States attitudes toward Latin American integration prior to the Kennedy administration as ambivalent).

75. *Id.* at 225.

States exports, the multilateral trading system, or the principles of GATT.⁷⁶

In the latter part of the 1980s, the United States became an advocate of regional trade arrangements starting with the United States-Canada Free Trade Agreement.⁷⁷ In 1990, NAFTA was proposed with the anticipation that it would eventually evolve into a western hemisphere free trade area.⁷⁸ This policy reflects the importance the United States places on markets in the hemisphere at a time when its own economy is suffering from large persistent trade deficits, and when economic growth has become more dependent on exports.⁷⁹ The push to conclude NAFTA also coincides with the consolidation of the European Community, the uncertainty about concluding the Uruguay Round of the GATT, and the frustration over access to the Japanese market.⁸⁰

The United States has traditionally advocated and used its influence to promote free-trade in the multilateral trading systems. Since the mid-1970s, however, there has been an increasing propensity to "manage" trade by resorting to protectionism for selected endangered industries.⁸¹ The justifications often put forth for implementing protectionist

76. *Id.* at 230-32.

77. *Foreign Direct Investment: Trends and Policies*, OECD Observer, June 1992, available in LEXIS, World Library, AllWld File.

78. See *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Nations; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay*, Business America, Information Access Company, July 1, 1991, available in LEXIS, World Library, AllWld File (reporting on President Bush's praise of the signing of recent framework agreements which are bilateral trade agreements created to complement the efforts of the EAI in creating a free trade zone from Alaska to Argentina). Canada, Mexico, and the United States signed the North American Free Trade Agreement on December 17, 1992. Jonathan Confino, *Canada, Mexico and US Form \$4 Trillion Trade Bloc*, Daily Tele., Dec. 16, 1992, at 16, 16.

79. See *Record Exports of \$39.2 Billion Narrows Trade Deficit to \$7 Billion*, Int'l Trade Rep. (BNA) No. 51, at 2167 (Dec. 23, 1992) (discussing the relationship between the United States trade deficit, exports, and growth).

80. C. Michael Aho & Sylvia Ostry, *Regional Trading Blocs: Pragmatic or Problematic Policy*, in *The Global Economy: America's Role in the Decade Ahead 147-73* (William Brock & William Hormats, eds. 1990) (stating that a "weakened and inadequate GATT has both spawned the pursuit of alternatives to multilateralism and has been further weakened by that pursuit").

81. See Jagdish Bhagwati, *Aggressive Unilateralism: An Overview*, in *Aggressive Unilateralism 11-13* (Jagdish Bhagwati & Hugh Patrick eds., 1992) (arguing that the United States is suffering from "diminished giant syndrome" in which the country's national perception of its relative decline as a world power has spawned an increasing willingness to resort to protectionist policies). See also CLYDE V.

policies include preventing the demise of strategic industries such as iron and steel, preserving the level of wages from "cheap labor" imports, maintaining jobs, retaliating against external protectionist barriers, and as a bargaining chip to secure market opening.⁸² There was a growing recognition that strategic and selective application of protectionist policies promotes exports, reduces trade deficits, and retards de-industrialization. Support for managed trade was regarded not as short-sighted protectionism, but rather as a practical, patriotic defense of national interests.

Many who participated in the formulation of United States trade policy, including the then Secretary of the Treasury, James Baker, regarded the employment of bilateral and regional trade agreements as a means of increasing leverage in securing liberalization and expanded coverage in the multilateral trade system.⁸³ In testimony before the United States Congress in 1988, Ambassador Clayton Yeutter, then United States Trade Representative, stated unequivocally that the United States-Canada Free Trade Agreement furnished

a bit of leverage here, in that it indicates to the rest of the world that we, the United States, can make progress in opening borders and confronting trade barriers, either bilaterally or multilaterally. Our preference is the multilateral route, but if this route should prove fruitless, for one of a variety of reasons, this certainly indicates that we can achieve success bilaterally and that we are prepared to pursue these basic objectives on a bilateral basis, should that become essential.⁸⁴

The growth of protectionist sentiment is linked to a growing recog-

PRESTOWITZ, JR., TRADING PLACES: HOW WE ALLOWED JAPAN TO TAKE THE LEAD 313 (1988) (stating that "[A]s the United States declines, it is increasingly faced with the choice between maintaining its support of noninterventionist free trade policies and of ensuring the continued health of important industries . . . [A]s Japan's success, based on a very different economic doctrine, expands, the United States is increasingly driven to shield its industries for national security purposes, while accusing Japan of being unfair.").

82. See *The World Economy After the Cold War*, supra note 44, at 98-103 (discussing the potential for conflict among the "Big Three" trading blocs, Europe, North America, and Southeast Asia).

83. See James Baker, *The Geographic Implications of the U.S.-Canada Trade Pact*, *Int'l Econ.*, Jan.-Feb. 1988, at 34, 37.

84. *Hearings on Oversight of the United States-Canada Free Trade Agreement Before the Subcomm. on International Economic Policy and Trade of House Comm. on Foreign Affairs*, 99th Cong., 2d Sess. 98 (1988) (statement of Clayton Yeutter, United States Trade Representative).

inition that free trade is an ideal which the world perceives to be desirable, but that is actually increasingly diverging from reality. The argument that free trade is the best option for the international economy is based on the Ricardian-Heckscher-Ohlin theory of comparative advantage.⁸⁵ However, the validity of the theory increasingly came into question as the reality of real world trade progressively invalidated its assumptions.⁸⁶ There are also advocates of "aggressive bilateralism" who justify the use of sanctions to lower or dismantle protectionist barriers which hinder United States exports to several countries, most notably, Japan.⁸⁷

E. INSERTION INTO THE WORLD ECONOMY

The need to change Latin America's "insertion" into the world economy and, more specifically, its role in the international division of labor is the dominant current in Latin American thought on development economics. This is reflected in the work of Raul Prebisch,⁸⁸ who in the 1950s, conceived of the "center-periphery" dichotomy, which became a tenet of economic thought in the region, whether in a "structuralist" framework,⁸⁹ a "dependency" orientation,⁹⁰ or "Marxist imperialist"

85. See Charles P. Kindleberger & Peter H. Lindert, *International Economics* 16-23 (1978) (explaining the principle of comparative advantage).

86. See Giovanni Dosi, et al., *Trade, Technologies, and Development: A Framework for Discussing Japan*, in *Politics and Productivity: The Real Story of Why Japan Works* 7 (Chalmers Johnson et al. eds., 1989) (stating: "[W]ith increasing returns and imperfect competition, free trade is not necessarily and automatically the best policy. Trade without barriers and government policies of promotion that distort markets may improve national welfare. However, government policy to strengthen the competitive position of domestic producers in world markets may generate higher levels of national welfare than would result from free trade.").

87. See Rudiger W. Dornbusch, *Policy Options for Freer Trade: The Case for Bilateralism*, in *An American Trade Strategy: Options for the 1990s* 112-13 (Robert Lawrence & Charles Schultze, eds., 1990) (arguing that "trade policy" has unfairly become equated with protectionism).

88. See Raul Prebisch, *International Trade and Payments in an Era of Coexistence: Commercial Policy in the Underdeveloped Countries*, 49 *Am. Econ. Rev.* 251, 251 (1959) (explaining: "Historically, the spread of technical progress has been uneven, and this has contributed to the division of the world economy into industrial 'centers' and 'peripheral' developing nations engaged in primary production, with consequent differences in income growth"). In the late 1950s, Raul Prebisch acted as the Executive Secretary of the United Nations Economic Commission for Latin America and led a working group dedicated to formulating a proposal for Latin American integration. Mikesell, *supra* note 4, at 131.

89. See generally Celso Furtado, *Development and Underdevelopment in*

paradigm.⁹¹ The "metropolitan-hinterland" relationship⁹² of the so called "Plantation School" of the English speaking Caribbean also focused on this issue.⁹³ Today, the issue of insertion, its character, and the necessity for change is still at the center of the economic debate.⁹⁴ Regional integration is regarded as vital to the process of "seeking to develop a new model of external insertion."⁹⁵

F. THE SECURITY OF MARKET ACCESS

Maintaining security of access to the United States market for its exports was one of the principal motives which compelled Canada to negotiate a free trade agreement with the United States. Because the United States accounted for almost 80% of its total exports,⁹⁶ Canada was concerned about its vulnerability to United States trade policy. One observer compared the potential for economic conflict among competing

Latin America (1961) (discussing the structuralist analysis of underdeveloped countries).

90. Theotonio dos Santos, *The Structure of Dependence*, 60 *Am. Econ. Rev.* 231 (1970); See also Osvaldo Sunkel, *Transnational Capitalism and National Integration in Latin America*, 22 *SOC. & ECON. STUD.* 132, 136 (1975) (explaining that the world is polarized between the dominant developed "central northern" nations and the dependent underdeveloped "peripheral southern" nations, as well as polarized within countries between advanced and primitive groups).

91. Edgardo Flota, *The Centre-Periphery System and Unequal Exchange*, 39 *CEPAL Rev.*, Dec. 1989, at 135-54.

92. Lloyd Best, *Outlines of a Model of Pure Plantation Economy*, 17 *Soc. & Econ. Stud.* 283 (1968); GEORGE BECKFORD, *PERSISTENT POVERTY: UNDERDEVELOPMENT IN PLANTATION ECONOMIES OF THE THIRD WORLD* 44-48 (1973). Under the "plantation theory" of economic development, underdeveloped countries are viewed as mere "plantations," producing a staple good for export to the "metropolis" or industrialized nations. *Id.*

93. See Norman Girvan, *The Development of Dependency Economies in the Caribbean and Latin America: Review and Comparison*, 22 *Soc. & Econ. Stud.* 1 (1973) (surveying Latin American contributions to the economies of development during the post-World War II era).

94. See Fernando Fajnzylber, *Unavoidable Industrial Restructuring in Latin America* (1990) (examining the factors underlying Latin America's failure to achieve sustainable growth and development).

95. Monica Hirst, *MERCOSUR and the New Circumstances for its Integration*, *CEPAL Rev.*, Apr. 1992, at 147.

96. See *The World Economy After the Cold War*, *supra* note 44, at 101 (noting the heavily reliance of Mexico and Canada on trade with the United States).

trade blocs to dangers created by the alliances of 1914.⁹⁷ The need to secure access to the United States market was also one of the motives of Mexico in seeking a free trade agreement. Prompted by the experience of the 1980s, Mexico sought to guarantee market access and the availability of a bilateral dispute resolution mechanism.⁹⁸

III. REGIONAL TRADE ARRANGEMENTS

The current dominant tendency in the western hemisphere is towards liberalization of hemispheric trade through regional trade arrangements. Three types of regional arrangements can be distinguished: (a) multilateral arrangements based on reciprocity; (b) multilateral arrangements based on preferential arrangements; and (c) bilateral arrangements. The following is a survey of currently existing agreements within each category, and agreements which are proposed or are forthcoming.

A. CURRENTLY EXISTING TRADE AGREEMENTS WITHIN THE WESTERN HEMISPHERE

1. Multilateral Arrangements Based on Reciprocity

(i) Argentina and Brazil have sought to liberalize their trade periodically since the late 1930s. The most recent attempts between 1985 and 1988 resulted in the negotiation of twenty-four protocols.⁹⁹ The two nations signed the Treaty on Integration and Cooperation in 1989. In July 1990, they established the Buenos Aires Act, providing for the creation of a common market between them.¹⁰⁰ On March 26, 1991, Argentina, Brazil, Paraguay and Uruguay signed the Treaty of Asuncion which establishes a South American Quadripartite Common Market

97. *The World Economy After the Cold War*, *supra* note 44, at 97.

98. ALBERT FISHLOW & STEPHEN HAGGARD, *THE UNITED STATES AND THE REGIONALISATION OF THE WORLD ECONOMY* 27 (1992); Nora Lustig, *Mexico Integration Strategy with North America*, in *STRATEGIC OPTIONS FOR LATIN AMERICA* 163 (Colin I. Bradford eds., 1992) (describing a shift in the Mexican approach toward NAFTA, away from a "plurilateral" approach in which the North American trade area would seek to increase trade with the world at large, to a more bilateral approach concentrating on the creation of a unified trading bloc that would provide leverage in dealing with competing trade areas).

99. Monica Hirst, *MERCOSUR and the New Circumstances for its Integration*, *CEPAL Rev.*, Apr. 1992, at 147.

100. Luigi Manzetti, *Economic Integration in the Southern Cone*, *North-South Focus*, Dec. 1992, at 1, 1.

(MERCOSUR) by December 1995.¹⁰¹ These countries have already reduced tariffs on trade among themselves and are discussing the establishment of a common external tariff.¹⁰² Trade within MERCOSUR has grown 44%, from US\$6 billion in 1988 to US\$10.5 billion in 1991.¹⁰³ The MERCOSUR countries account for an estimated 35% of intra-Latin American trade.¹⁰⁴ There are, however, potentially disruptive problems arising from a divergence in macroeconomic policy, dramatic economic trends, trade imbalances, and political shifts.¹⁰⁵

(ii) Work towards regional integration in Central America commenced as early as 1951 and the Central American Common Market (CACM) was established in 1960.¹⁰⁶ By 1969, nearly all trade within the CACM had been granted duty free status. However, the CACM declined during the 1970s because of economic, political and ideological differences among the governments, and today continues to face such problems.¹⁰⁷ In 1992, the value of intra-regional exports was 40% below the 1980 level.¹⁰⁸ The resuscitation of intra-regional trade has been delayed by the uneven pace of adjustment among the member countries. Sylvia Sabario characterizes adjustment policy as a "minimalist approach" resulting in often erratic and poorly coordinated policy adjustments and reversals.¹⁰⁹ In July 1991, the CACM countries agreed to re-establish the common market. El Salvador, Guatemala and Honduras have signed an agreement to establish a free trade zone by January 1993.¹¹⁰

101. *Id.*

102. *Id.* By 1994, it is expected that tariffs for Argentina and Brazil will be reduced to zero. *Id.* Uruguay and Paraguay are expected to achieve similar tariff reductions by December 1995. *Id.*

103. *Id.* at 3.

104. *Id.*

105. *Id.* at 3-4. See also John Barham, *Trade Imbalance Strains MERCOSUR Pact*, *Fin. Times*, Nov. 17, 1992, at 6 (reporting that in October 1992, Argentina tripled its import tax to 10 percent and blames its \$1.4 billion trade deficit on an increase of cheaper Brazilian imports).

106. VERBIT, *supra* note 33, at 21-22.

107. Jose Manual Salazar-Xirinachs, *Policy Reform and Economic Integration in Central America in the 1990s*, in *Study Papers on the Caribbean Basin: Economic and Security Issues*, presented by the Joint Economic Comm., Jan. 1993.

108. Sylvia Saborio, *U.S.-Central America Free Trade*, in *The Promise and the Promise: Free Trade in the Americas* 201 (Sylvia Saborio et al. eds., 1992).

109. Sylvia Saborio, *Central America*, in *Latin American Adjustment* 285 (John Williamson ed., 1990).

110. Damian Fraser, *Mexico Links With New Trade Zone: A Framework Pact for Central America*, *Fin. Times*, Aug. 26, 1992, at 5, 5.

(iii) The Caribbean Community (CARICOM), which is a common market between thirteen English-speaking Caribbean countries is noteworthy because it is the longest existing successful regional integration agreement.¹¹¹ The CARICOM was established in 1973 as further integration of those economies which had previously comprised the Caribbean Free Trade Association which operated since 1968.¹¹² During the 1980s intra-regional trade declined sharply due to severe economic recession in several member countries, and the collapse of the regional payments facility.¹¹³ However, in 1984, CARICOM members agreed to establish a Common External Tariff (CET) which is now only partially implemented. Because CARICOM failed for a third time to meet the scheduled date in October 1991 for introducing a CET,¹¹⁴ a new deadline was set for 1993. A recent Report of the West Indian Commission noted that the CET should be implemented to provide leverage in trade negotiations between CARICOM and other trading blocs.¹¹⁵ However, the report also cautioned that if CARICOM is to take advantage of the new wave of global trade liberalization, it must be prepared to make efforts toward tariff reductions.¹¹⁶

(iv) The Andean Common Market, established in 1969, includes as members, Peru, Bolivia, Venezuela, Columbia and Ecuador.¹¹⁷ It has not functioned as well as expected partly because of the economic policies of member countries.¹¹⁸ Since May 1991, the members have im-

111. See *Time for Change: The Report of the West Indian Commission (1992)* [hereinafter REPORT OF THE WEST INDIAN COMMISSION] (providing a comprehensive report on the political, social, and economic progress of the CARICOM nations). The CARICOM nations consist of Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. *Id.* at xx.

112. W. ANDREW AXLINE, *CARIBBEAN INTEGRATION: THE POLITICS OF REGIONALISM* 83 (1979).

113. See Report of the West Indian Commission, *supra* note 111, at 145 (stating that intra-regional trade accounts for less than 10 percent of all trade from the CARICOM nations).

114. See Report of the West Indian Commission, *supra* note 111, at 106-08 (discussing arguments for and against the implementation of the CET).

115. REPORT OF THE WEST INDIAN COMMISSION, *supra* note 111, at 106.

116. REPORT OF THE WEST INDIAN COMMISSION, *supra* note 111, at 107.

117. See Jeffrey J. Schott & Gary C. Hufbauer, *Free Trade Areas, The Enterprise for the Americas Initiative and the Multilateral System*, in *Strategic Options for Latin America in the 1990s* 260 (Colin I. Bradford eds., 1992).

118. Sarita Kendall, *Andean Common Market Fails to Deliver*, *Fin. Times*, Feb. 13, 1992, at 7, 7.

plemented a number of measures to eliminate restrictions and to standardize various regulations, including an effort to reduce external tariffs to between 5% and 20%.¹¹⁹ Within the framework of the Andean Group, Columbia and Venezuela signed a partial free trade agreement covering 6,000 goods which came into effect on February 6, 1992.¹²⁰ The group has pledged to establish a common agricultural policy and to harmonize exchange and fiscal policies.¹²¹

(v) The Latin American Integration Association (LAIA) was formed in 1980 to replace the Latin America Free Trade Association which had been created in 1960.¹²² The membership of LAIA consists of Argentina, Bolivia, Brazil, Chile, Columbia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela.¹²³ Although this agreement includes the countries of South America it currently exists only on paper and has no time limits.¹²⁴

(vi) An agreement between Mexico, Columbia and Venezuela became effective in 1992. Mexico and Guatemala, Honduras, El Salvador also signed an agreement in August 1992 with the objective of establishing free trade by the end of 1996.¹²⁵ This agreement sets out the guidelines for these countries in pursuing mutual trade agreements which are expected to eventually develop into a common free trade agreement.¹²⁶

2. Preferential Arrangements

The following agreements are based on preferential arrangements granted by one country to another, or to a group of countries.

(i) The Caribbean Basin Initiative (CBI) is an agreement which provides one way free trade for 90% of the products from Central America and the Caribbean entering the United States market.¹²⁷ The drawback

119. *Id.*

120. *Id.*

121. *Id.*

122. *LAN Assesses the Woeful Lack of Regional Cooperation and Economic Integration Among Latin American Countries Over the Past Twenty Years*, Reuter Latin America Weekly Report, available in LEXIS, World Library, AllWld File.

123. *Id.*

124. *Id.*

125. Damian Fraser, *Mexico Links With New Trade Zone: A Framework Pact for Central America*, *Fin. Times*, Aug. 26, 1992, at 5, 5.

126. *Id.*

127. *Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers*, USITC Report to Congress and the Presi-

with this arrangement is that many of the exports which have the best prospects for Central America and the Caribbean are excluded from the CBI, in particular, garments, textiles, and leather goods.¹²⁸ Exports from the United States to the CBI region have grown rapidly since 1987.¹²⁹

(ii) The CARIBCAN is a one-way free trade entry for goods into Canada from the Caribbean countries of Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.¹³⁰ Exports which CARIBCAN covers from CARICOM to Canada have not increased significantly, the range of goods included remains limited, and the number of Caribbean firms exporting to the Canadian market is very small.¹³¹

(iii) The Andean Trade Preference Act (ATPA), signed in December 1991 by President Bush, provides duty-free status for \$324 million in exports from the Andean countries.¹³²

(iv) The Venezuela-CARICOM agreement, signed in July 1991, offers duty-free treatment to imports from the Caribbean countries.¹³³ Under the Venezuelan initiative, tariffs on imports from CARICOM will be phased out over a five-year period.¹³⁴ After five years, negotiations will

dent, USITC Pub. 2431, 6th Rep., at 1-1 (1990).

128. *Id.* at 1-2.

129. *Id.* at vi. In 1990, the United States trade surplus with the Caribbean Basin countries totaled \$1.8 billion. *Id.*

130. *Canada and The Commonwealth Caribbean: Evaluation of the CARIBCAN Experience Since 1986*, Report of the 18th Meeting of the Latin American Council of the Latin American Economic System, Sept. 7-11, 1992, at 3-4, Doc. No. SP/CL/XVIII No. 20 (1992). Article II of the 1979 Trade and Economic Cooperation Agreement provides that all member nations are "to apply to goods originating in each other's territories the highest degree of liberalization . . ." *Id.* at 3. However, Article V of the agreement also states that "Any Member State which . . . enters into a preferential agreement with any developing Country is not required under this Agreement to extend similar or comparable treatment to Canada . . ." *Id.* at 3-4.

131. *Id.* at 13-14.

132. *Approval of Andean Trade Preference Act Will Create Opportunities for U.S. Business; Duty Free Treatment to Imports of Eligible Articles from Columbia, Peru, Bolivia, and Ecuador*, Business America, Information Access Co., Jan. 13, 1992, available in LEXIS, World Library, AllWld File.

133. *Caribbean: Trade Pact With Venezuela at Summit a Step Towards "Widening" CARICOM*, Reuter Textline, July, 25, 1991, available in LEXIS, World Library, AllWld File.

134. *Id.*

begin for reciprocal tariff concessions by the Caribbean countries on Venezuelan products.¹³⁵

3. Bilateral Agreements

There are also numerous bilateral agreements involving virtually every pair of countries within the hemisphere, thus serving to complicate trade. The United States-Canada Free Trade Agreement went into effect in 1980. This was the first arrangement between developed countries in the hemisphere. It is also important because it went beyond the provisions of the GATT and, therefore, represented a significant increase in trade liberalization.¹³⁶

Columbia and Venezuela signed an agreement in January 1992 which will eventually phase out tariffs and other barriers in two-way trade.¹³⁷ The two nations are members of the Andean bloc which is developing a free trade zone that will include Bolivia, Ecuador and Peru.¹³⁸ A common market is planned by 1995.¹³⁹ Peru and Bolivia signed a free trade agreement in November 1992 providing for duty-free bilateral trade of 6,000 products.¹⁴⁰ Chile has signed bilateral trade agreements with Argentina, Brazil, Columbia, Mexico and Venezuela.¹⁴¹ Under the Enterprise for the Americas Initiative, the United States has signed bilateral trade and investment agreements with Columbia in July 1990; Canada in July 1990; Chile in October 1990; Honduras in November 1990; Costa Rica in November 1990; Venezuela in April 1991; El Salvador in May 1991; Peru in May 1991; the South American Common Market (MERCOSUR), Argentina, Brazil, Uruguay, and Paraguay in June 1991; Nicaragua in June, 1991; Panama in June 1991; and CARICOM, the Bahamas, Antigua, Belize, Dominica, Grenada, Guyana, Jamaica, Monsteratt, St. Kitts-Nevis, St. Lucia, St. Vincent, Trinidad, and Tobago

135. *Id.*

136. *See generally*, The Canada-United States Free Trade Agreement: The Global Impact (Jeffrey J. Schott & Murray G. Smith eds., 1988) (presenting a collection of essays discussing the provisions of the United States-Canada Free Trade Agreement).

137. Yoshihiro Hirata, *President Perez's National Belt-Tightening Helps Stabilize Economy*, *Nikkei Weekly*, July, 27, 1991, available in LEXIS, World Library, AllWld File.

138. *Id.*

139. *Id.*

140. CECOM TRADE NEWS, Vol. XVII, No. 12, Dec. 1992, at 6.

141. *Id.*

in July 1991.¹⁴² Mexico and Bolivia signed before the announcement of the EAI.¹⁴³ These arrangements represent preparatory steps for a free trade agreement and establish the institutional mechanism for a bilateral trade and investment council for negotiating a free trade agreement between the United States and other countries or groups of countries.

B. PROPOSED AND FORTHCOMING TRADE AGREEMENTS IN THE WESTERN HEMISPHERE

In addition to the existing trade agreements there are a number of important forthcoming trade agreements, the most important of which is the North American Free Trade Agreement (NAFTA), involving Canada, Mexico, and the United States.

1. The North American Free Trade Agreement

The United States economy is suffering from a persistent trade deficit and a growing perception that protectionism and unfair trade practices by Japan and other trading partners are to blame.¹⁴⁴ The further integration of the EEC in 1992 and its collective intransigence in the GATT negotiations, particularly over agricultural subsidies, has been interpreted by the United States government as protectionism for the sake of maintaining a trade bloc. The difficulties experienced in expanding exports to the newly industrialized countries of Asia compounded the feeling of being embattled against a world of protectionist trade blocs. It is in this context that in 1987 the United States and Canada concluded a free

142. See *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Nations; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay*, Business America, Information Access Company, July 1, 1991, available in LEXIS, World Library, AllWld File (discussing the signing and proposed signing of various framework agreements).

143. *Id.*

144. See *Japan: Uncertainty Clouds U.S.-Japan Trade Relationship*, Int'l Trade Rep. (BNA) No. 4, at 154-56 (Jan. 27, 1993) (stating that Japan will be a likely target under Super 301 provisions of the 1988 Trade Act which requires the United States Trade Representative to report to Congress regarding countries whose borders are closed to United States exports, and investigate their use of unfair trade practices). The trade deficit with Japan is larger than any of the trade deficits the United States currently has with other countries. *Id.* In the first ten months of 1992, the United States trade deficit with Japan totaled \$88.4 billion. *Id.* See also Jagdish Bhagwati, *Aggressive Unilateralism: An Overview*, in *Aggressive Unilateralism* 3-5 (Jagdish Bhagwati & Hugh Patrick eds., 1992) (outlining the provisions of Super 301).

trade agreement, and in June 1990 Mexico and the United States announced their intention to negotiate a comprehensive bilateral trade agreement which was later expanded into the trilateral North American Free Trade Agreement by the inclusion of Canada.¹⁴⁵ In 1990, President George Bush announced the Enterprise for the Americas Initiative, with the objective of creating a hemispheric free trade area commencing with NAFTA.¹⁴⁶

The EAI consists of three components. First, trade liberalization is to be encouraged with the aim of creating a western hemispheric free trade agreement by virtue of the execution of a series of smaller free trade agreements.¹⁴⁷ This effort begins with the implementation of NAFTA. Succeeding agreements will depend on the readiness of the individual countries.

Second, the EAI seeks to promote private investment flows according to two strategies. First, an investment sector loan program is to be created within the Inter-American Development Bank to provide resources to support privatization efforts, as well as to create an environment which promotes increased entrepreneurship. Additionally, a Multi-lateral Investment Fund of \$1.3 billion will be disbursed between 1992 and 1996.¹⁴⁸ This fund will furnish financial and technical assistance to support privatization, private enterprise development, and the improvement of general business infrastructures.¹⁴⁹

Third, the EAI will strive to reduce the total stock of external debt by reducing debt owed to the United States.¹⁵⁰ This plan requires that

145. Jonathan Confino, *Canada, Mexico and US Form \$4 Trillion Trade Bloc*, Daily Tele., Dec. 16, 1992, at 16 (reporting that Canada, Mexico, and the United States are to sign the North American Free Trade Agreement on December 17, 1992).

146. *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Nations; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay*, Business America, Information Access Company, July 1, 1991, available in LEXIS, World Library, AllWld File.

147. *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Nations; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay*, Business America, Information Access Company, July 1, 1991, available in LEXIS, World Library, AllWld File.

148. Enrique V. Iglesias, *The New Latin America and the Inter-American Development Bank*, Wash. Q., Winter 1993, at 115, 123.

149. *Id.*

150. See *Bush Transmits Legislative Proposal to Implement Latin American Reform Package*, Int'l Trade Rep. (BNA) No. 10, at 349-50 (March 6, 1991) (discussing United States proposals to facilitate Latin American debt reduction and general

concessional and PL480 "food for peace" debt will be reduced as the general stock of debt is reduced, and interest on the remaining portion will be payable in local currency. Interest payments will be applied to fund environmental projects. Also, the debt owed to the Export-Import Bank or to the Commodity Credit Corporation will be reduced through the sale of debt on the secondary market.¹⁵¹

In keeping with the goals of the EAI, in May 1992, President Bush indicated that a free trade agreement with Chile will follow the completion of NAFTA.¹⁵² The United States regards Chile as the country which is most ready and capable of either joining NAFTA or having a free trade agreement with the United States.¹⁵³ The Chilean government has also signaled that it is ready, willing, and able to consummate such an agreement.¹⁵⁴ Recognizing that trade on a completely reciprocal basis cannot be achieved within a short time-frame, the United States has repeatedly acknowledged that the process of creating a hemispheric free trade area is one which requires at least a decade to complete.

economic reform). Currently, Caribbean and Latin American countries owe over \$5.5 billion to the United States. *Department of Commerce Market Report on the Western Hemisphere: The Enterprise for the Americas*, National Trade Data Bank, Jan. 15, 1993, available in LEXIS, World library, AllWld file.

151. *Department of Commerce Market Report on the Western Hemisphere: The Enterprise for the Americas*, National Trade Data Bank, Jan. 15, 1993, available in LEXIS, World Library, AllWld File. Latin American and Caribbean countries currently owe \$4 billion to the Export-Import Bank, and \$1.5 billion to the Commodity Credit Corporation. *Id.*

152. Michael G. Wilson, *A U.S. Chile Free Trade Agreement: Igniting Economic Prosperity in the Americas*, Backgrounder (The Heritage Foundation), July 31, 1992, at 1.

153. *See id.* at 3 (stating that, as a result of the economic reforms in Chile which include the elimination of price controls, tariff reductions, and increased privatization efforts, it is an ideal candidate for a free trade agreement with the United States).

154. *See Chile is Only Latin American Ready to Negotiate FTA*, *U.S. Official Says*, Int'l Trade Rep. (BNA) No. 22, at 946 (May 28, 1992). *See also*, Andrea Butelmann & Alicia Frohmann, *U.S.-Chile Free Trade*, in *The Promise and the Promise: Free Trade in the Americas 179-94* (Sylvia Saborio et al. eds., 1992) (discussing the issues raised by the United States-Chile Free Trade Agreement).

III. ISSUES FOR FURTHER EFFORTS TOWARD HEMISPHERIC TRADE INTEGRATION

A. READINESS FOR FREE TRADE

Attempting to move the economies of Latin America and the Caribbean toward free trade, challenges the historical basis and structure upon which production and trade have been conducted in the past. Such a profound adjustment involves two aspects: (1) liberalization of the trade regime governing imports, and (2) internal economic reform and structural adjustment to create a genuine market economy. This process has been evolving since the late 1970s in several countries throughout the region. These countries have implemented a series of International Monetary Fund (IMF) stabilization programs and World Bank adjustment programs directed toward increasing growth, reducing the balance of payments deficit, and controlling inflation. The liberalization of trade regimes has varied throughout the region but is already well advanced in Chile, Jamaica, and Costa Rica.¹⁵⁵ However, the impending North American Free Trade Agreement confronts the region with a need to accelerate the completion of the adjustment process in preparation for competition in the global marketplace.

If accession to NAFTA is available, the question becomes whether Latin American and Caribbean economies can meet the eligibility criteria in the foreseeable future. To be considered an acceptable partner for negotiation of a free trade agreement with the United States, the following criteria have been suggested:¹⁵⁶ (1) the elimination of tariffs on substantially all trade between the parties to the agreement; (2) providing for the phase-out of non-tariff barriers; (3) the inclusion of services in the agreement; (4) setting standards for the treatment of investment by which there will be no inclusion of "trade-distorting performance requirements" on the part of investors; (5) the inclusion of a dispute settlement mechanism; (6) assurances of the protection of intellectual property rights; (7) the inclusion of special provisions, if necessary, to handle trade in, and access to, natural resources and natural resource-based products; (8) the inclusion of a variety of operational, technical and security provisions such as rules of origin, as well as public health and

155. U.S. MARKET ACCESS IN LATIN AMERICA: RECENT LIBERALIZATION MEASURES AND REMAINING BARRIERS (1992).

156. ENTERPRISE FOR THE AMERICAS INITIATIVE ACT OF 1991, H.R. 964, 102d Cong., 1st Sess., Feb. 19, 1991.

safety exceptions and safeguards; (9) the monitoring of government actions that could undermine the basis of the agreement, such as provisions covering subsidies, state trading, and the use of foreign exchange restrictions and controls; (10) a stable macro-economic environment and market oriented policies as certified by the IMF, World Bank and Inter-American Development Bank; and (11) a commitment to a multi-lateral trading system assessed by the extent to which the trading nation's positions concur with those of the United States in the GATT.

Whether the Latin American and Caribbean economies are able to take advantage of access to the larger hemispheric market to expand exports depends, not only on government policies, but also on the readiness and ability of the private sector to compete effectively. Even where a comparative advantage exists in these economies, it could ultimately be offset by a lack of a competitive advantage by locally owned firms. The expansion of exports will depend on a combination of both comparative and competitive advantages.

The state of preparedness also varies considerably, reflecting economic and psychological factors. In the larger, more advanced economies some firms and financial institutions have become multinationals or are branching into the United States and Europe. In fact, it is the outgrowth of the national market and the process of corporate integration which, like in the EEC, is driving the resurgence of regional trade liberalization. In the small economies the private sector firms are economic minutiae, family owned and managed, and almost wholly and profitably confined to commerce and not production. Even a trans-national merger-movement would not make them viable. There is, however, no reason why they cannot be worthwhile joint-venture partners with foreign investors. Apart from infrastructure, all other inputs, including technology, can be purchased. The difficulties are not insurmountable, but there must be both a recognition and a willingness to integrate. This, like every process of adjustment, begins with a change of mind, outlook, and attitude.

B. PARTICIPATION: IF, WHEN, AND HOW?

The question which immediately confronts the Latin American and Caribbean countries is whether they want to move quickly towards free trade by participating in NAFTA, or whether they will continue to pursue regional trade arrangements. The answer requires a detailed process of weighing the costs and benefits of membership in a hemispheric trading bloc. This will be an especially difficult question for the micro-states of the Caribbean that will require a much more extended

adjustment period than the more developed economies of the region.

A World Bank study has estimated that if all United States trade barriers (tariff and non-tariff) were eliminated, exports from Latin America would increase by approximately 8%.¹⁵⁷ The impact varies from 14% export growth in Brazil to 3% in Bolivia, Chile, Ecuador, Peru and Venezuela.¹⁵⁸ The World Bank has calculated that a 50% reduction in tariffs and non-tariff barriers in the multinational trading system would allow Latin America to increase its exports by 19% or nearly \$10 billion per year.¹⁵⁹ Economic benefits would undoubtedly be derived from regional integration and regional trade arrangements if implementation is consistent and meaningfully pursued. Bearing this in mind, it must be noted that intra-regional agreements have not made a significant contribution to intra-regional trade in Latin America during the last 30 years. Intra-regional exports as a share of total exports increased in both the ACA and in LAFTA and LAIA between 1960 and 1980, but by 1990 was below the 1980 level.¹⁶⁰ Ironically, the area of the world economy which has consistently experienced the highest rates of growth in trade is Asia,¹⁶¹ but this has occurred in the absence of regional trade arrangements.

C. THE PATHS TO HEMISPHERIC FREE TRADE

There are two major directions in which regional trade arrangements can be converted into a hemispheric free trade area. First, there could be an organized process of rationalization and simplification of the existing regional arrangements starting from an agreed core of trade liberalization measures. Politically, this would be extremely difficult to organize and would require some regional organization such as the Organization of American States (OAS) to be responsible for orchestrating this process.

By the second direction, it is likely that NAFTA, by virtue of its size and membership consisting of the most industrialized countries in the hemisphere, will constitute the foundation upon which the architecture of

157. Refik Erzan & Alexander Yeats, *Free Trade Agreements with the United States*, World Bank Working Papers on Int'l Trade (WPS 827) Jan. 1992, at 36.

158. *Id.* at 36-39.

159. GLOBAL ECONOMIC PROSPECTS AND THE DEVELOPING COUNTRIES (The World Bank), Apr. 1992, at 22-25.

160. Augusto de la Torre & Margaret R. Kelley, *Regional Trade Arrangements*, IMF Occasional Paper, Mar. 1992, at 30.

161. *Id.* at 1.

hemispheric free trade can be constructed. Latin America currently relies heavily on the markets now available in the NAFTA nations. Latin American and Caribbean exports to the western hemisphere account for 57% of total exports in the hemisphere.¹⁶² Much of this trade activity, however, is with the United States which absorbs 40% of the region's total exports.¹⁶³

Pursuing this second direction, there are two ways to expand NAFTA into a hemispheric free trade area.¹⁶⁴ On one hand, NAFTA could be expanded by an accession clause with a sequence of countries entering at a later date.¹⁶⁵ It is feared that securing a free trade agreement with NAFTA is going to be difficult because the "Big Three" (Europe, North America, and Japan) may lose interest in further expansion, or want to wait for a period in order to evaluate NAFTA's progress.¹⁶⁶ Moreover, expansion may face political obstacles as existing United States trade law prevents the extension of free trade agreement benefits to third countries.¹⁶⁷ Thus, it will be necessary to renew fast track authority for each agreement subsequent to NAFTA.¹⁶⁸ The concern with such a strategy is that the time lag between the entry of each individual country could have serious dislocation effects throughout the hemisphere. For example, investment diversion is a serious danger because Mexico already has certain competitive advantages such as lower transportation costs, lower wages, cheaper energy resources, and a market size that can yield economies of scale that other countries would find difficult to realize. This would create an uneven playing field when, in fact, trade

162. Peter Hakim, *Western Hemisphere Free Trade: Why Should Latin America be Interested*, 526 *Annals Am. Academy*, 121, 127 (1993).

163. *Id.*

164. See Gary C. Hufbauer & Jeffrey J. Schott, *North American Free Trade: Issues and Recommendations* 39-41 (1992) [hereinafter HUFBAUER & SCHOTT] (evaluating various methods of expanding NAFTA, including implementation of an accession clause, creation of free trade agreements between NAFTA countries and other hemispheric nations, and use of a consultation clause by which the United States would have to consult with Canada and Mexico before signing any new trade agreements).

165. *Id.* at 40-41.

166. Ambassador Carla A. Hills, *Trade, the Americas, and the World, Address Before the Organization of American States Conference of Trade Ministers* (Oct. 29, 1991).

167. HUFBAUER & SCHOTT, *supra* note 164, at 41.

168. See HUFBAUER & SCHOTT, *supra* note 164, at 41 (recommending that NAFTA should include a provision by which the United States President would have to seek congressional approval of the accession of any additional country to NAFTA).

liberalization should produce a level playing field with clear non-discriminatory rules. Thus, the procedures and timetable for expanding NAFTA beyond its current membership should be clearly set out. This process should be transparent and based on clearly defined criteria for eligibility.¹⁶⁹

On the other hand, a "hub and spoke" pattern of free trade agreements could develop with the United State and possibly Mexico as the core.¹⁷⁰ There is already a hub and spoke developing around Mexico as various countries jockey to get through the "back door" of NAFTA via bilateral arrangements with Mexico.¹⁷¹ Such a proliferation of tangential agreements is detrimental to the objective of trade liberalization as it creates confusion and uncertainty.

D. ACCOMMODATING DIFFERENT LEVELS OF DEVELOPMENT

How is the treatment of different levels of economic development to be accommodated within the free trade arrangements? Indeed, are they going to be accommodated? The problem and principle of differential treatment,¹⁷² was one of the most contentious issues in negotiating the framework agreements¹⁷³ even though they are non-binding, committing the signatories only to further dialogue. This issue was resolved in the

169. See HUFBAUER & SCHOTT, *supra* note 164, at 41 (critiquing the accession clause strategy).

170. See HUFBAUER & SCHOTT, *supra* note 164, at 24, 34 (describing the "hub and spoke" approach whereby two alternatives exist for prospective free trade partners: join the core provisions of NAFTA, or enter into separate free trade agreements with the members of NAFTA).

171. See Damian Fraser, *Mexico Links With New Trade Zone: A Framework Pact for Central America*, *Fin. Times*, Aug. 26, 1992, at 5 (reporting on the signing of an agreement between Mexico, Guatemala, Honduras, El Salvador, Nicaragua, and Costa Rica which provides guidelines for the future creation of bilateral trade agreements between the participating nations).

172. See Abdulqawi A. Yusuf, *Differential and More Favorable Treatment: The GATT Enabling Clause*, 14 *J. World Trade L.* 488, 488-507 (1980) (explaining that "the principal of differential treatment is based on the idea that equal treatment of unequals is unjust and that the same rules can therefore not apply to countries at different stages of development").

173. See *U.S. Signs Trade-Investment Pact With the Four MERCOSUR Nations; Southern Cone Common Market Nations: Argentina, Brazil, Paraguay and Uruguay*, *Business America*, Information Access Company, July 1, 1991, available in LEXIS, World Library, AllWld File (reporting on the signing of recent framework agreements which are bilateral trade agreements created to complement the efforts of the EAI in creating a free trade zone stretching from Alaska to Tierra del Fuego).

case of the United States-CARICOM Framework Agreement by the term "undiversified economies" which tried to grapple with the fact that because of the very narrow range of production and exports, Caribbean economies have a structural vulnerability to external events and are in urgent need of structural adjustment. The United States was not prepared to accommodate any reference to different levels of development, placing the entire agreement in jeopardy. The United States continues to maintain that there can be no accommodation of different levels of development in a "mature relationship." However, some flexibility will be necessary, at least in the initial stages, since any regional arrangement aimed at integration and trade liberalization must accommodate development heterogeneity. This includes different levels of development, coexistence of a variety of growth strategies, and structural adjustment at varying stages of completion.

The inclusion of special and differential treatment for less-developed member countries in regional trade arrangements is consistent with the GATT in which the principle of "differential and more favorable treatment for developing countries" is explicitly recognized.¹⁷⁴ Article 36 acknowledges the special characteristics and importance of trade with developing countries, and the need to promote growth and diversification.¹⁷⁵ However, in Article 37, the developed countries are only committed to implement Article 36 to the fullest extent possible and to accord high priority.

E. ASYMMETRICAL RECIPROCITY

Reciprocity can have a range of connotations which cannot be reduced to equivalence but can constitute modified or conditional "most favored nation" treatment. Asymmetrical adjustment is one way to recognize and compensate for differences in the levels of development. Because the notion of differential treatment is deeply entrenched in the smaller, less developed countries which receive longer adjustment peri-

174. See Abdulqawi A. Yusuf, *Differential and More Favorable Treatment: The GATT Enabling Clause*, 14 J. World Trade L. 488, 488 (1980) (quoting the Enabling Clause of the GATT which was constructed during the Tokyo Round Multilateral Trade negotiations).

175. See Kenneth W. Dam, *The GATT: Law and the International Economic Organization* 443-446 (1970) (discussing paragraph 8 of Article 36 which states: "The developed contracting parties (countries) do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less developed contracting parties").

ods, it will be difficult to purge these countries of this tenet of their development philosophy. However, there can be little opposition to the concept of phasing out differences in obligations over a long period, perhaps twenty years. Clearly, it would be difficult at the outset of a free trade agreement to accept special and differential treatment in perpetuity. Thus, specific criteria for graduation to nondiscriminatory status with mutuality of concessions is necessary.¹⁷⁶ The United States has both espoused "graduation" and practiced it by disqualifying certain advanced developing countries from the Generalized System of Preferences.¹⁷⁷

Should reciprocity be complete, asymmetrical, partial, or "relative," and should it commence immediately or be phased in over a period of years? The Caribbean's apprehension over immediate and complete reciprocity derives less from the inability to undertake policy measures and institutional changes than from the social and economic costs of structural adjustment. This is a valid concern because, in these economies, structural adjustment implies both resource allocation from extinct to emerging sectors, and resource creation for the installment of new or upgraded productive capacity. There are risks and difficulties involved in improving quality, quantity and price in order to survive and compete in a vast hemispheric market with a range of competitors, including giant multi-national corporations with assets that dwarf the GDP of the combined Caribbean countries. Although daunting, these changes can be accomplished as the fragmentation of the production process into smaller discrete processes provides opportunities and specialized niches in the international division of labor which can be filled by relatively small scale operations.

F. PROLIFERATION AND CONFUSION

The regional trade agreements seek to liberalize and facilitate trade. However, the proliferation of agreements is making it more complex as exporters and importers can never be sure which regime governs their operations. Superimposing several agreements may well result in a be-

176. See Abdulqawi A. Yusuf, *Differential and More Favorable Treatment: The GATT Enabling Clause*, 14 J. World Trade L. 488, 503 (1980) (explaining that the concept of "graduation" is shunned by developed countries because there is no objective standard for measuring the different treatment to be accorded underdeveloped nations).

177. JOHN H. JACKSON, *THE WORLD TRADING SYSTEMS LAW AND POLICY OF INTERNATIONAL ECONOMIC RELATIONS* 278 (1989).

wildering array of different tariff levels on the same products, and tariff reductions might be stopped or delayed by the requirements of the different kinds of arrangements. Thus, the overlapping of agreements is hindering trade rather than promoting it. Simplification, which could come from a single hemispheric free trade area, is needed.

G. REGIONALISM AS A PREPARATORY STEP

It is frequently claimed that regional trade liberalization schemes are a preparatory stage to competing in the world market. This, however, may be a misconception. The misconception partly exists in the case of regional integration among small economies all of which produce the same products and where most of their major exports are to extra-regional markets. In this situation, regional integration does not improve efficiency because the market is not enlarged sufficiently to yield economies of scale, and the major exports will be unaffected by this integration. Integrating the Caribbean is not going to increase exports of apparel exports, bauxite, oil, banana, coffee, and tourism which are the main exports.

The second misconception is that there can be a deepening within regional integration and that this would be preparatory. There are wide disparities within regional groups with respect to policy direction and preparedness to compete. Regional integration moves at the pace of the slowest economy, and some of the economies have not even accepted the notion that adjustment is inevitable.

A third misconception is that disparities in size and levels of development can be addressed simply by extending the period of adjustment or by excluding certain products and sectors and, therefore, protecting them. None of these measures would really help the countries as a group or individually to ever get to the stage of being efficient or competitive.

CONCLUSION

Free trade theoretically constitutes the most beneficial situation. In the real world, however, conditions prevent the realization of this optimism. Hence, reality compels a resort to second best solutions, one of which is regional integration. Pursuit of this option was encouraged by the protectionism in industrialized countries which constrained industrialization and trade in Latin America and the Caribbean. Regional integration in the 1950s and 1960s was viewed as a means to spur growth and industrialization through increased trade induced by liberalization, the stimulus

of competition, and the economies of scale generated by larger markets. The experience of the 1960s produced an increase in intra-regional trade. This momentum dissipated in the 1970s and 1980s due to external shocks, economic crisis, and political instability. In the late 1980s, there was a resurgence of interest in regional trade arrangements and regional integration.

Regional trade arrangements are compatible with an open, liberalized, multilateral trading system. Indeed, regionalism could provide the impetus to completing the Uruguay Round of the GATT. Regional initiatives must resolve a number of fundamental issues if they are to come to fruition. The keys to resolving these issues are a vision and political commitment for cooperation and coordination, and a sustained pursuit of economic reform, structural adjustment and trade liberalization. Many countries are implementing adjustment programs and some are well advanced. Domestic reforms must be complemented by improved export market access, regionally and globally.

In today's highly interdependent economy of the Americas, it is less and less meaningful to view adjustment as a purely national phenomenon. Indeed, adjustment is a transnational phenomenon because of the globalization of production, investment, and finance. Regional trade arrangements could be an important mechanism for adjustment to become transnational.