



Robert Schuman

Miami- Florida European Union Center of Excellence

EUMA

**After the Storm:
The Politics of the Post- CAFTA
US Trade Agenda**

- Eric Jacobstein



**EUMA
Vol.1 No. 1
October 2005**

This publication is sponsored by the EU Commission.

EUMA

European Union Miami Analysis (EUMA) is a by-weekly service of analytical essays on current, trend setting issues and developing news about the European Union.

These short papers (between 2,000 and 2,500 words in length) will be produced by the Miami-Florida European Union Center of Excellence (a partnership of the University of Miami and Florida International University) as an outreach service for the academic, business and diplomatic communities.

Among the topics to be included in the series, the following are suggested:

- The collapse of the Constitution and its rescue
- The British presidency of the EU
- Turkey: prospects of membership
- Impact of the German elections on the EU
- The budget impasse
- Immigration crisis and cultural challenges
- Security threats and responses
- The EU and Latin America
- The EU as a model and reference for inter-American integration
- The Common Agricultural Policy and other public subsidies
- The euro and the dollar
- EU responses to Katrina
- EU image in the United States

These topics form part of the pressing agenda of the EU and represent the multifaceted and complex nature of the European integration process. These short papers also seek to highlight the internal and external dynamics which influence the workings of the EU and its relationship with the rest the world.

Miami- Florida Center of Excellence
University of Miami
1000 Memorial Drive
101 Ferré Building
Coral Gables, FL 33124-2231
Phone: 305-284-3266
Fax: (305) 284 4406
E-Mail: jroy@miami.edu
Web: www.miami.edu/eucenter

Jean Monnet Chair Staff:

Joaquín Roy (Director)
Wendy Grenade (Associate Director/Editor)
Eloisa Vladescu (Editorial Assistant)
Maria Lorca (Research Assistant)
Larisa Homarac (Research Assistant)

**After the Storm:
The Politics of the Post- CAFTA US Trade Agenda**

Eric Jacobstein*

Miami-Florida European Union Center of Excellence
University of Miami
Miami, Florida
October 2005

*Eric Jacobstein is the manager for legislative affairs at the Inter-American Dialogue. He directs both the Dialogue's work with the U.S. Congress and its inter-American legislative network. Jacobstein holds a master's degree in Latin American studies from Georgetown University's School of Foreign Service where he concentrated on government and international development.

After the Storm:

The Politics of the Post- CAFTA US Trade Agenda

Overview

Over a year after US Trade Representative Robert Zoellick and Central American trade ministers signed the Central American Free Trade Agreement (CAFTA), the small, bilateral accord was able to squeeze through the US Congress with a close 217-215 vote in the House of Representatives on July 27, 2005. Congressional approval followed months of uncertainty. While the White House deservedly claims CAFTA as a victory, the nature of the CAFTA victory confirms the near-total collapse of a bipartisan trade consensus in Washington. Eleventh hour side deals and arm twisting made CAFTA's passage in the House of Representatives possible. However, such a strategy does not bode well for future bilateral and multilateral trade agreements with Latin America.

The current Andean Free Trade Agreement – which the US is negotiating with Colombia, Ecuador and Peru (with Bolivia participating as an observer) – is next on deck but even when negotiations are completed, it stands little chance of reaching a vote in the US Congress before the 2006 congressional elections in which all members of the House of Representatives and some Senators stand for re-election. Partisan politics is the biggest obstacle currently standing in the way of a more productive US trade agenda with the Americas. Constituent and sectorial concerns clearly block free trade. The sugar lobby, for example, contributed to congress's challenge in passing CAFTA. However, bitter partisanship will continue to be the greatest challenge to greater free trade with the Americas in the coming period.

What Went Right and What Went Wrong with CAFTA?

It is nothing new for trade agreements to be a major source of contention in the US Congress. Free trade creates anxiety among a large sector of the American public who perceive US job loss as directly linked to the signing of free trade agreements. This in turn makes legislators equally wary.¹ The Central American Free Trade Agreement clearly provided such anxiety. One simple but important argument that has been made is that CAFTA quite simply rhymed with NAFTA (the acronym used to describe the North American Free Trade Agreement) and brought back memories of the battle that President Clinton had to wage within the Democratic Party to get NAFTA approved in the US Congress.²

As opposed to NAFTA, the market size of the six CAFTA countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic) is no larger than that of a medium-sized US city such as Columbus, Ohio or Orlando, Florida. Therefore, specific threats to constituents as a result of CAFTA's implementation are minimal. Sugar and textile interest

¹ Eric Jacobstein, "Barely Squeezing Through? US Politics and the Central American Free Trade Agreement," *FOCALPOINT: Spotlight on the Americas*, April 2005.

² Stuart Eizenstat and David Marchick, "Trade Wins," *Wall Street Journal*, March 8, 2005, A20.

groups were galvanized in the CAFTA battle, putting pressure on members of Congress from both sides of the aisle to reject the trade accord. This eroded CAFTA support from the Republican party which has a majority in both the Senate and the House of Representatives.

The principle argument against CAFTA made by lead Democrats was that the agreement's labor provisions were unnecessarily weak. While the agreement calls on countries to be held to the standards of the International Labor Organization (ILO), there is no serious enforcement mechanism. Democrats called on US trade negotiators to put stricter labor provisions in CAFTA, especially in light of Central America's dismal labor record. Even Democratic presidential candidate John Kerry rejected CAFTA in May 2004 noting his consistent support for free trade agreements but his sense that CAFTA was a "disappointing and unnecessary step backwards in our nation's efforts to ensure that opening markets results in higher living standards on all sides and not a race to the bottom on workers rights."³

Beyond the specifics of labor provisions, Democrats felt that they were insufficiently consulted in the crafting of the CAFTA accord. Representative Charles Rangel of New York – the lead Democrat on the House Ways and Means Committee which has jurisdiction over US trade policy – argued that "the White House ignored virtually all Democrats when it negotiated this CAFTA." This lack of consultation further crystallized partisan divisions on the CAFTA agreement in the US Congress.

While key Democrats probably should have been further consulted in crafting the CAFTA accord, weak labor standards cannot bear full responsibility for Democrats' rejection of the agreement. Much of the trade challenge in congress can be attributed to the process of redistricting which has made most US congressional districts either safe Democratic or Republican seats. As a result, real electoral contests take place in primary elections rather than in the elections themselves. Elected officials are thus increasingly beholden to core constituencies who influence their positions on trade agreements. For Democrats, this is organized labor groups such as the AFL-CIO.⁴ Even the so-called New Democrats – a group of centrist Democrats who generally support free trade agreements – rejected CAFTA.

A final push by the White House and the Republican majority included a rare visit by President Bush to Capitol Hill the day of the CAFTA vote and a number of side deals made by former Republican Majority Leader Tom Delay and other senior Republicans with members of their own party. The scenario was similar to that of the approval of trade promotion authority in 2002 and represented a true breakdown in any semblance of a bipartisan trade consensus that previously existed. The good news for Central America was that CAFTA was able to squeeze through. The bad news for Latin America is that if a small, trade agreement with Central America caused such political agony, getting an Andean Free Trade Agreement or a hemisphere-wide trade pact through the US Congress will be an even more arduous task.

³ "Kerry Statement on CAFTA," May 28, 2004.

⁴ Eric Jacobstein, "Barely Squeezing Through? US Politics and the Central American Free Trade Agreement," *FOCALPOINT: Spotlight on the Americas*, April 2005.

Looking Ahead: The Andean Free Trade Agreement and Beyond

The Andean Free Trade Agreement is the next logical step in the Bush administration's current piecemeal approach to hemispheric trade. The US currently extends duty-free treatment to over half of all imports from Colombia, Ecuador, Peru and Bolivia through the Andean Trade Promotion and Drug Eradication Act (ATPDEA).⁵ Negotiations for a more permanent free trade agreement between the US and Colombia, Ecuador and Peru (with Bolivia participating as an observer) are now underway. Those favoring such an agreement argue that ATPDEA preferences expire in December 2006, making it crucial to lock market access into place.

Negotiations thus far have moved particularly slowly and are not expected to come to a conclusion anytime soon. The most contentious areas in ongoing trade negotiations are agriculture and intellectual property rights. Colombia, Ecuador and Peru are seeking real, substantive access to the US agricultural market. Even if this kind of access is negotiated in an Andean Free Trade Agreement, agriculture is a politically sensitive issue in the US Congress and one that could ultimately threaten the agreement's approval.⁶ Ensuring that cheap agricultural products from the US do not flood the markets of the Andean region is also essential for both Andean and US policymakers who do not want trade negotiations to be counterproductive to anti-narcotics efforts.

With negotiations stagnant, an Andean trade pact will likely not face US and Andean legislatures anytime soon. Furthermore, US congressional elections in November 2006 will hold up any sort of desired, expedited approval of an Andean trade pact. Upcoming presidential elections in Colombia, Ecuador and Peru could also further politicize a free trade agreement and will probably contribute to delays. With this in mind, it is likely that ATPDEA preferences will be expanded to allow for additional time for negotiation and approval of an Andean pact.

With diminishing political capital – even within his own party – it is unlikely that President Bush will be able to fight another “CAFTA-esque” battle for an Andean Free Trade Agreement. Partisan divisions on trade have become more locked in place than ever before. The Andean Free Trade Agreement will face further scrutiny as a result of US investment disputes in Ecuador and Peru and concerns about labor rights both of which were highlighted at hearings of the House Subcommittee on the Western Hemisphere in October 2004 and again in April 2005. Agriculture, of course, will also be a serious, deal-breaking concern in the US Congress's consideration of the Andean trade pact.

US Trade Representative Rob Portman, however, has pledged to make the US Congress his number one priority in moving ahead with the US trade agenda. Portman is no stranger to congress having served there prior to his recent appointment. It will be essential for Portman to work with both Democrats and Republicans in shaping the Andean Free Trade Agreement and getting members of congress on board from the start and throughout the process. Yet, even with

⁵ Lenore Sek, “Andean – US Free Trade Agreement Negotiations,” *Congressional Research Service Report for Congress*, June 29, 2005.

⁶ Eric Jacobstein, “Advancing the Legislative Debate on the Andean Free Trade Agreement,” US/Andean Legislative Exchange Rapporteur's Report, April 23, 2005.

such efforts at greater inclusion, an Andean Free Trade Agreement is not likely to face a vote in the US Congress anytime soon.

Conclusions

In the wake of the CAFTA battle, it seems unlikely that the Bush administration will be able to push through any further upcoming trade agreements with its Latin American partners in the short term. As a key partner in the US drug war and one of the largest recipients of US foreign assistance, Colombia is perhaps viewed by US policymakers and legislators more in need of a free trade agreement than Ecuador, Peru or Bolivia. Still, the breakdown of any semblance of a trade consensus in the US Congress will make even the approval of an agreement with Colombia difficult in the short term.

The Free Trade Area of the Americas (FTAA) – launched in 1994 at the first Summit of the Americas and initially positioned for completion by January 2005 – is no longer on the radar screen in the US Congress. Furthermore, given the difficulties that a small trade agreement such as CAFTA provided for US agricultural producers, an FTAA with agricultural giants such as Brazil and Argentina seems in many ways politically impossible. Real compromises on agriculture are much more likely to come via the ongoing Doha round of the World Trade Organization.

The Bush administration and members of congress must now focus their attention on working hard to rebuild a viable bipartisan consensus on trade that cuts across party lines. Passing trade agreements by one or two votes is not a sustainable method. Given the agricultural implications of upcoming trade pacts and the Bush administration's diminishing political capital, it will be hard to pull off another trade victory without ensuring enhanced participation from all members of congress throughout the negotiation process. This will not be an easy task for the administration, especially given increased political polarization and party pressures from both sides of the aisle. And even with such efforts, reducing trade partisanship may be impossible. Nevertheless, it is the only viable path for increased trade liberalization.