

A potential deal-breaker is the ability of new US President Bush to get Fast Track negotiating authority from Congress. Fast Track means that deals negotiated by the president are subject to a straight yes or no vote in Congress. Without Fast Track, domestic political considerations would mean that Congress would pick apart a deal and demand additional concessions before approval. Other countries would effectively need to negotiate twice with the US, something no one is inclined to do.

Nonetheless, a draft "bracketed text" has been compiled (brackets indicate areas of disagreement). This is a compilation of the many different proposals that have been put forward to date. This text has not been publicly released. Both Canada and the US have posted information about their positions on the web, although their usefulness is questionable. Despite taking a leadership role in the FTAA process, Canada has not submitted official positions (or has not made them public) on services, investment and dispute settlement—the most controversial areas of the FTAA.

Perhaps the biggest danger in the FTAA is an expansion of the NAFTA investor-state dispute settlement process, which enables foreign corporations to directly sue national governments through a "kangaroo court" that bypasses national judicial systems. Claims can be made for any action by government that is deemed to "expropriate" the corporation's current or future profits. Numerous cases to date under the NAFTA have targetted Canadian laws and regulations in the public interest. Trade Minister Pierre Pettigrew has repeatedly stated that he will not sign onto a NAFTA-style investor-state mechanism, but his careful choice of words suggests that he and Canada's trade bureaucrats still support investor-state in principle.

The FTAA Services negotiations pose challenges to public services and domestic regulation. The issues in this area parallel the WTO's GATS negotiations, and will be influenced by the "progress" made there. The US is pushing for a "top-down" formulation, meaning all sectors are covered except for those explicitly negotiated off the table. Other countries are resisting this approach, but it is possible that the FTAA services chapter could go much deeper than the GATS.

There are other areas of importance to Canadians that have not been addressed by Canadian negotiators. In Agriculture, the US is targetting state trading enterprises, like the Canadian Wheat Board, and supply management programs in dairy, eggs and poultry. Both are institutional structures designed to ensure stable incomes for farmers. Yet, in spite of the crisis on Canadian farms in recent years, Canada does not even mention these in its public negotiating positions.

In the area of Competition Policy, the US is recommending rules that attack the viability of Crown corporations. Again, Canada is silent on this issue.