

# Fact Sheet 2001

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# How The FTAA Threatens Post-Secondary Education

## The New Regime

The *Free Trade Area of the Americas* (FTAA) is the name given to the process of expanding the *North American Free Trade Agreement* (NAFTA) to all other countries of the Western Hemisphere, except Cuba. The FTAA would be the most far-reaching trade agreement ever negotiated with a scope that will reach into every area of life. It will have the legislative and judicial authority to challenge any laws, practices and policies of individual countries and strike them down if they are deemed to be 'barriers' to trade. It will give private investors and transnational corporations unprecedented powers. They will have sweeping authority even in the supposedly protected areas of education (including post-secondary) healthcare, social security, the environment, water, culture and all government services whether First Nations, federal, provincial, regional or municipal.

## Background

The FTAA was launched by the leaders of 34 countries of North, Central and South America and the Caribbean (except Cuba) at the December 1994 Summit of the Americas in Miami, Florida. At that meeting, then United States President Bill Clinton pledged to fulfill former U.S. President George H.W. Bush's dream of a free trade agreement that linked the economies of the hemisphere and that expanded the social and political integration among the countries based on the same free market model as NAFTA. With 800 million people and a combined Gross Domestic Product of U.S.\$11 trillion the FTAA will be the largest free trade zone in the world.

It was at the subsequent Summit of the Americas, in Santiago, Chile in April 1998 that the FTAA was launched. A Trade Negotiations Committee was set up, consisting of the vice ministers from each country. Nine working groups were established to deal with the major areas of negotiations: services; investment; government procurement; market access (covering tariffs and non-tariff measures,

customs procedures, rules of origin, standards and technical barriers to trade); agriculture; intellectual property rights; subsidies, anti-dumping and countervailing duties; competition policy; and dispute settlement.

## The Rules of Global Trade

The FTAA must be understood as a trade and investment *regime* - a body of rules governing the hemisphere's economy, entrenched as international law and with enormous powers of enforcement. But the regime has political power as well. The rules, conventions and procedures that it constitutes will confer unprecedented rights to investors, will limit countries' sovereignty and will subvert local, democratic self-government. The rules are enforced through a set of legally-binding constraints, backed up by trade sanctions. Here is a sample of some of the rules of this new regime.

## Selling Rights as 'Services'

The first rule of the FTAA is to turn human rights and the public good, such as education and healthcare, into commodities or products that can be bought and sold for profit. The products in this case are called 'services' and they are labelled a 'sector' of the economy. Examples of such products include: courses, degrees, even colleges and institutes.

The attempt to turn fundamental human rights into for-profit services has been undertaken by the ongoing process known as the *General Agreement on Trade in Services* (GATS), which is now being negotiated in Geneva. The GATS is the services agreement of the World Trade Organisation (WTO) and is mandated to gradually phase out all 'barriers' to international competition in the services sector. A barrier is defined as a 'tariff' (border tax) or 'non-tariff' (any set of laws, practices or policies that are deemed to restrict trade).

The GATS framework is the basis for the FTAA services agreement. Canada led the way in developing this proposal through its participation in the Trade Negotiations Committee of the FTAA.

**“Since services do not face trade barriers in the form of border tariffs or taxes, market access is restricted through national regulations. Thus the liberalisation of trade in services implies modifications of national laws and regulations, which make these negotiations more difficult and more sensitive for governments.”**

- Sherri M. Stephenson, Deputy Director for Trade, Organization of American States *The Globe and Mail*, March 25, 2000.

**“The combination of a whole new services agreement in the FTAA [and] the existing NAFTA investment provisions [...] will give transnational corporations important new rights, even in the supposedly protected areas of healthcare ...education, environmental protection... water delivery, culture, natural resources protection and all government services - federal, provincial and municipal.”**

- Maude Barlow, Volunteer National Chairperson, Council of Canadians, “The Free Trade Area of the Americas and the Threat to Social Programs, Environmental Sustainability and Social Justice in Canada and the Americas,” January 18, 2001.

## **The Rules of ‘National Treatment’ & ‘Most-Favoured-Nation’ Treatment**

The most dramatic rules being proposed for the FTAA are already found in NAFTA. Investors from the other NAFTA partners must be treated in the same way as domestic investors (the principle of ‘National Treatment’) and at least as well as investors from any another country (the principle of ‘Most-Favoured-Nation’ treatment). The goal of the FTAA is to include the rules of ‘National Treatment’ and ‘Most-Favoured-Nation’ to all services, even ones like education and health, that are still protected in some countries. These rules will prohibit citizens from designing economic policies in the public interest, such as:

- publicly funded and administered colleges
- academic and publicly accessible research
- the regulation or elimination of tuition fees.

## **The ‘Investor-State’ Provisions**

Perhaps the most remarkable feature of NAFTA which is being proposed for the FTAA is known as the ‘investor-state’ principle - the extraordinary and highly coercive enforcement mechanism. This is the right of private foreign investors to challenge a host government through a process of legally binding international arbitration. This feature overturns an enduring principle that *only states* are recognised as actors under international law.

## **FTAA Will Undermine Democracy**

What these rules mean is deeply disturbing to anyone concerned about democratic rights and social justice. The powerful combination of a new services agreement with the ‘investor-state’ rules means that the FTAA will give transnational corporations unprecedented new rights. By transferring power away from democratically elected governments, the FTAA will subvert any public control over the economy.

## **FTAA Will Destroy Public Education**

Currently, many Canadian provinces allow training companies to sell diplomas for profit.

However, they are not legally recognized as universities because under law the granting of university degrees is restricted to domestic, non-profit institutions. This will change. When for-profit universities are established in Canada degree-granting authority will have to be given to any foreign private for-profit education companies to ensure compliance with ‘National Treatment’ and ‘Most-Favoured-Nation’ rules.

By simply following the rules, these foreign-based corporations will have rights that limit government policy to a greater extent than with domestic investors under Canadian law. Foreign investors will have the right to establish themselves in any FTAA country, they will have the right to compete for public dollars with public institutions like colleges and universities. Even worse, from the moment a public service is privatised, the FTAA rules will make it impossible for citizens to reclaim public space and retreat from privatisation initiatives because foreign investors will have the right to sue Canadians for compensation for lost current and future profits.

## **Public Funding is Not a Trade Barrier**

The aim of the FTAA is to remove ‘barriers’ to trade and investment. In the world of international trade our public schools themselves are considered such barriers. Public funding is defined as an unfair subsidy. Public administration is called ‘government monopoly’. The public regulation of tuition fees is seen as ‘predatory pricing’. These forms of public financing and democratic control of post-secondary institutions will be challenged as non tariff barriers. Any policy that restricts investment by foreign-based, for-profit universities and colleges (like affirmative action hiring or residency requirements for governing boards) could be challenged as a trade barrier. Public subsidies will have to be made available to the private, for-profit institutions.

Under the FTAA, the public education system itself will become slowly dismantled as public funds are depleted.

<sup>1</sup>This fact sheet draws from two documents written by Maude Barlow, Volunteer National Chairperson, The Council of Canadians: “The Free Trade Area of the Americas and the Threat to Social Programs, Environmental Sustainability and Social Justice in Canada and the Americas,” (January 18, 2001) and “A GATS Primer” (February 8, 2000). For copies, go to: <http://www.canadians.org/campaigns/campaigns-trade/pub.html>. For information about alternatives to the FTAA see the publication: Alliance for Responsible Trade, et al *Alternatives for the Americas: Building a People’s Hemispheric Agreement* (Canadian Centre for Policy Alternatives/Common Frontiers, 1999).