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CANADIAN ENVIRONMENTAL LAW ASSOCIATION.

"The relationship among trade unions and other sectors of society to address the proposed Free Trade Area of the Americas - a perspect...RN23144

"The relationship among trade unions and other sectors of society to address the proposed Free Trade Area of the Americas - A perspective from the environmental movement"

*Speaking notes for Kathleen Cooper
for a panel discussion held at the Parallel Forum -
Our Americas, Belo Horizonte, Brazil, May 13, 1997*

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Appended to this submission are two declarations prepared at the Parallel Forum and endorsed by the trade unions and civil society organizations in attendance

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Our Americas, Belo Horizonte, Brazil, May 13, 1997**

Sisters and brothers, Good Morning. To begin I would like to thank the CUT-Brazil and ORIT for the opportunity to attend this conference and to speak to you. It is an honour and a privilege to be here.

At the Canadian Environmental Law Association, we have been analyzing the environmental effects of free trade agreements for over ten years. Since 1988, the federal governments of Canada have committed the country to five "free" trade agreements: the Canada-US Free Trade Agreement, NAFTA, the new World Trade Organization agreement, and bi-lateral deals with Chile and Israel. They have simultaneously pursued economic policies which emphasize perpetual export-led growth as the central strategy for wealth and job creation in Canada.

From the beginning of this work and ever more in recent years, we have reached out and worked with others in the Canadian labour movement and activists in environmental, health and social justice organizations.

During these last ten years, consciousness has grown world wide of the negative impacts on the environment and on environmental protection flowing from the implementation of these trade agreements. When we criticized the first trade agreement, an editorial in a Canadian national newspaper, the Globe and Mail, entitled "Exotic Claims Department" dismissed our analysis. However, our predictions of the effects of free trade are coming true; as are the predictions made by the labour movement in Canada.

As you all know, we are all facing many serious environmental problems: climate change, unsustainable forestry and land use practices that see only the bottom line of maximizing output and profits, misuses of pesticides, toxic pollution, and the list goes on and on.

It has always been our analysis, and confirmed by the last ten years, that the power of national, state, and provincial governments to respond to the many environmental problems that we all face is declining rapidly under free trade agreements. NAFTA for example, not only de-regulates by removing tariffs, it also severely limits many governmental powers.

NAFTA is, like GATT, a massive deregulation document, limiting governmental powers to control corporate activities. It limits governmental powers to manage natural resources, to control rates of extraction and export, and to use strategies such as local processing to increase job creation. These forces have accelerated Canadian natural resource depletion. The collapse of our Atlantic fishery is a graphic example of our unsustainable (mis)management policies.

However, the free trade agreements are only the beginning. In Canada and the US, governments are rapidly removing environmental and labour protection laws, and harmonizing standards down to the lowest common denominator.

The priority for all OECD countries now is further deregulation, often accompanied by government downsizing and devolution of environmental powers to lower levels of government that may not have the resources or the inclination to enforce these laws.

For example, in Canada, the federal government has shrunk its Environment department by over 30% and is busy devolving its roles and responsibilities to the provinces.

Deregulation in Canada has taken many forms and we have not been able to stop much of it. However, at the federal level, we did have one important victory. We were able to mount enough pressure to prevent the passage of a proposed law with a very 90s name; it was called the "Regulatory Efficiency Act". This law would have permitted our federal government to exempt businesses and individuals from regulations under *any* federal law by substituting privately negotiated contracts known as "compliance plans". It could have undermined literally all of our public safety and environmental protection laws and our political and legal systems. One commentator called it "a repugnant assault on the rule of law". Many forces led to the demise of this bill but key among them was the coordinated efforts of a broad coalition of environmental, labour and health activists from across Canada. We know that this massive deregulation effort will continue in smaller and less sweeping packages but for now, defeating that bill was an important victory.

At the provincial level in Ontario, the Province where I live, deregulation is in full swing. Ontario is a highly industrialized province that, until recently could boast some of the most progressive environmental laws in the world. It is fair to say that free trade and the concerted push of right wing ideologues at the federal level contributed two years ago to the successful election of an extremely right wing government in the province of Ontario. Deregulation of environmental and labour laws quickly followed. And here I want to draw some comparisons using three examples: Ontario, New Jersey in the United States, and the situation in Chile, as documented by Sara Larrain with the Chilean Environmental Action Forum.

Ontario first. In less than two years, the Ontario government dismantled almost the entire environmental law framework to suit the exclusive interests of polluters, resource extraction industries, and land developers. (Labour laws have also been significantly rolled back).

Every aspect of environmental protection is at risk from these changes. Controls have been weakened or are soon to be weakened on air pollution, water pollution, pesticides, waste disposal and recycling, urban sprawl, energy use and climate change, natural heritage and biodiversity protection, mining and forestry.

The government has also rolled back citizens rights; rights of access to information and to decision-making. Huge cuts to government programs and staff now limit the government's ability to monitor pollution and resource use and to enforce laws. The Ontario government is also pushing hard to privatize natural resources including forests, natural areas and water. We have been analyzing and publicizing these changes. The next step is monitoring the impact. That work is just beginning.

This kind of monitoring is already happening in New Jersey. Like Ontario, deregulation of environmental and labour laws happened very quickly after the election of a right wing governor in 1994. The approach is practically identical to what we have been documenting in Ontario. The results in New Jersey have been extensive worker layoffs, higher levels of pollution and, of course, increased corporate profits.¹

Now to Chile.² The Chilean analysis by Sara Larrain of the Chilean Environmental Action Network raises all of the same issues that we have been raising about free trade for ten years and many parallels to the Ontario situation are obvious.

Chile has experienced high levels of economic growth with GDP figures showing 6 and 7% annual growth rates. Tremendous economic success. However, it has been achieved by ignoring environmental and social costs. In the mining, forestry, fishing, and agriculture sectors, Sara Larrain points out enormous problems with externalized social and environmental costs. For example, in the mining sector, there has been widespread air, land and water pollution, and health problems. A clean-up price-tag of more than \$900 million has been estimated - money that neither the state or the private sector says it has available. Nor does Chilean law require restoration of land after mining ceases.

Continuing the comparison to Ontario is useful here. We have retained a very minimal amount of legislative control over mine clean-up, but our deregulation has been in the form of removing government oversight for mine closure plans. We also have replaced clear requirements for posting money up front, with a dubious formula for ensuring that money will exist to pay for clean-up. We have very quickly lost one of the most progressive legal frameworks for controlling mining closure plans. It was a framework that was put in place by the previous social democratic government in response to a huge tailings spill from a mine that was abandoned in the 1950s. Mining deregulation in Ontario was clearly the result of lobbying by many of the same Canadian companies that are heavily investing in mining in Central and South America. We are predicting that these legal changes in Ontario will add to our toxic legacy of abandoned mine sites, of which there are already over 2000 across northern Ontario.

There are many more parallels that can be drawn between our two situations. Overall, the regulatory requirements in Chile are still weaker than what we have left in Ontario but it is clear that the same forces are at work in this "race to the bottom".

Another important parallel - which is again more pronounced in Chile than in Canada - is the

¹ See for example *Special Reprint, The New Jersey Record, "Open for Business"*, reprint of award-winning series of reports published June 23-26, June 30-July 3 and July 14-15, 1996. October, 1996.

² Larrain, Sara, Chilean Environmental Action Network, *Free Trade and the Environment: the Chilean Model and its Implications for the Asia Pacific. Focus on the Global South*, Number 13, April, 1997, Special Issue on Trade and the Environment.

increasing divide between rich and poor. The Chilean analysis shows that despite the steady and high GDP growth rates, the Chilean "success story" has intensified inequality and greatly increased the number of people living in poverty. So too in Canada, under free trade, we have had consistently high unemployment, huge losses in well paying jobs which have been replaced with fewer, lower paying, lower skilled jobs, often in the service sector and often only part-time. Everywhere, under globalization, the divide between rich and poor expands.

Public opinion polls in Canada consistently show very high public support for environmental protection laws, and no support for voluntarism. Much of the deregulation in Canada has been a switch to industry self-monitoring and voluntary compliance. The public understands that, if voluntarism could deliver high standards of ethical practices, we would have them, since there's obviously nothing preventing companies from operating at high levels. Nothing of course, except their concern for maximizing profit above all.

It is important to be clear in our own minds that voluntarism is only another word for deregulation, and elimination of standards, that the battles will be long and hard to retain some legal controls, and that we'll have to look to other strategies for confronting corporate activity across the hemisphere.

Despite the fact that we in Canada are at such a different starting point than many countries in the South, the effects of these free trade agreements are the same. They are the same because the same narrow-minded forces are at work. We are experiencing massive deregulation. For countries that do not have progressive environmental and labour standards, such laws will be that much harder to achieve as countries like Canada continue to dismantle progressive laws.

So what are some other strategies?

We cannot rely on the side agreements under NAFTA. When President Clinton proposed side deals "with teeth" it was because of the widespread belief that Mexico had lower standards than the US, so a side deal would help prevent movement of US companies to Mexico to avoid supposedly tougher US laws. The problem with the side deals arrangement is that it ignores the movement of US companies, including from Canada, to low-standard US states, and to other countries, as had been occurring for years, and which was accelerated by the Canada-US Free Trade Agreement. The side deals have also not prevented a rapid expansion of the maquiladora industries in Mexico.

Nor did the side deals result in strong enforcement measures in either the labour or environment side agreements. Instead, we have "toothless" and, in the case of environment, well-funded commissions with legal enforcement processes too long and tortuous to be useful, and a mandate for environment which excludes resource management.

Most important for now, the side deals provide no means of protection against the deregulation agenda now proceeding quickly across the globe. The issue now is not failure to

enforce standards; rather, it is the failure to have standards.

Similarly, there are some limitations of a social charter. We share the concern of some Southerners that including environment and labour standards in trade agreements can be harmful, when used by powerful governments in their own interests to justify trade sanctions.

There are various types of trade sanctions possible: from tariff walls to outright bans on trade. For example:

In South Africa - trade sanctions were a powerful positive symbol.

However, the US Cuban trade embargo has caused serious problems for Cuba.

The European fur ban had very negative consequences for Canada's aboriginal communities.

In deciding to support or not support a social charter as part of trade agreements, it is necessary to examine carefully how it could be used, and by whom, and to what extent it could provide a mechanism to further undermine worker's rights.

Trade sanctions to pursue environmental, social, or human rights goals can sometimes be very effective, but in other instances, they can be too punitive or simplistic to result in good policy changes.

Together, we could certainly, collectively, draft a good social charter. But the more difficult questions are the political ones: how would it actually be used? How do we create political and economic opportunities to use it positively? How could a charter be used to control specific individual companies? How could the international community prevent its unilateral use by the US government as another element of its enormous trade powers?

Another key point to raise about the social charter notion is that we should not underestimate the huge task of introducing this agenda into these trade agreements. Our experience with the free trade fights in Canada and the US has been one of extremely tough resistance to introducing labour and environmental standards into these agreements.

So given the withdrawal of governments from standard setting, we need new initiatives for confronting corporate powers. Unions have more experience with this than environmentalists, since they have on-going bargaining relationships with companies.

We need to approach environmental issues as encompassing the environment in the workplace and outside it, including entire communities. We can, in many cases, stop the division between unionists and environmentalists, who are, after all, both essentially working on environmental issues, but in very different contexts.

There is a terrible Canadian example where, after community complaints, plant emissions were stopped by confining them inside the plant, increasing worker exposures. This is clearly unacceptable.

In the border region of Mexico there are many graphic examples of how working people are being poisoned both in the workplace and the surrounding community, on land, water, and air.

We see another step to collaboration by continuing our work on building campaigns based on Canadian corporations operating in other countries. For example, we are working with groups confronting mining companies in Chile, Peru and Mexico. Our experience in that work has shown that the negative effects on workers and the environment are intermingled and that links and cooperation between ecologists and trade unionists are essential.

There are other strategies for working together. I want to leave you with the sense that the Canadian Environmental Law Association is one of the environmental groups that sees the linkages across our various sectors in the social justice movement. We see our way forward as stemming from a rock bottom realization that all groups present in this forum, and the broader movement that it represents, are negatively affected by the same forces. We must confront this agenda of globalization and corporate control with cooperation among all our democratic forces.

In the thirty years that CELA has existed we have always been committed to the need for local people to be involved in the decisions that affect them. We know from our experience in a broad range of environmental work, in Canada, and abroad, that solutions are found at the local level grounded in people's direct experience. Yes, we need regional, national and international strategies and laws and policies, but it has been our repeated experience that issues require a locally defined solution. We are committed to that ground level sense of democracy and participation. We also know that it is exactly these kinds of democratic processes that these trade agreements are designed to circumvent or prevent.

Finally, we need to recognize that we have a tracking problem. With so much change happening so quickly, and with very limited resources, we need to be strategic, to take small steps, to win small battles along the way towards collective goals.

Thank you again for the opportunity to speak and thank you for your time.

DECLARATION OF THE WORKERS OF THE AMERICAS

DEMOCRACY, DEVELOPMENT, AND SOCIAL JUSTICE IN THE AMERICAS

The representatives of the Trade Unions Confederations of the Americas, affiliated and fraternal organizations of the Inter-American Regional Organization of Workers (ORIT) and the International Trade Secretariats (ITS) met in Belo Horizonte, Brazil, on May 12 and 13, 1997. We express once again our concern with the FTAA process and offer recommendations to our government and societies that this process reflect the principles of democracy and broad-based development and social justice.

For many years the trade union movement has been monitoring the disastrous consequences for workers and the peoples of the Americas of a market-driven integration process. This process is causing the loss of jobs, reduction of wages and social services, and the erosion of fundamental principles of democracy.

In Denver we drew attention to the need for effective involvement of different social sectors in the negotiation of the FTAA. We deplore the anti-democratic attitude of governments, such as those of Mexico, Costa Rica, Columbia and Peru, that oppose the creation of a Labour Forum. This opposition ignores workers' contributions to the creation of wealth. The exclusion of labour from this process is unacceptable, especially in light of the official recognition of the Business Forum.

The FTAA, as currently implemented, is an unjust and anti-democratic process, that we will oppose. It will be the largest commercial agreement in the hemisphere, involving countries of disparate size and of contrasting social and political conditions. It will not lead to broad-based social and economic development.

Free Trade, a model of exclusion

The integration of the Americas must take into account social imbalances between and within countries. We do not believe that free market forces will automatically generate long term economic growth and employment. In Latin America, unemployment has increased along with the process of unilateral and accelerated trade liberalization. The number of excluded people and those who survive only by turning to the informal sector has increased while wealth has become concentrated. The ongoing liberalization process has contributed to the decline of the family farm and an increase in food dependence. The growth in rural migration has led to increased poverty, unemployment and violence in urban areas. United Nations data show that in 1960 the wealthiest 20% of countries owned the equivalent of 30 times what the poorest 20% of countries owned. The difference has doubled. Today it is 61 times. We live in a world in which 15% of the world's population owns 80% of the world GDP.

It is imperative that economic and social policies are coordinated at the international level to overcome inequalities, create jobs, improve the quality of life and guarantee sustainable economic growth. We must counter the growing strength of international oligopolies which act globally without any governmental control. In addition, the integration process should respect the right of each country to seek food self-sufficiency. Food is not just a commodity, but a basic human right. Agrarian reform is an instrument of social justice, development and generation of employment that should be adopted in the majority of countries of the hemisphere.

For workers, international trade is not an end in itself. It must benefit all peoples. We oppose free trade without social safeguards, without appropriate guarantees for conditions of labour and social rights and without protection of the environment. Comparative advantage must not be founded on the violation of basic human rights. Workers will not continue to pay for the consequences of intensified international competition resulting from free trade.

Challenge for the Americas

As workers we have accumulated experience on the effects of trade liberalization. We observe a generalized trend to attack our rights, and pressure for greater flexibility and growing precariousness of the labour market. The

progress promised to us in the struggle against poverty and disease, and for education, nutrition and employment has not been achieved. Latin America faces a great social challenge, and we believe that FTAA does not recognize this.

During the past 12 years, the United States and Canada have also experienced significant trade liberalization. Meanwhile, real wages have decreased, job instability has increased, inequality and poverty have grown, and there has been an alarming reduction in employment in the manufacturing sector.

Our hemisphere is characterized by enormous inequalities between and within countries. The United States has a GDP equal to 75% of the total goods and services produced in the hemisphere. Its capacity to mobilize technological and capital resources is far greater than that of countries in the southern part of the Americas. Therefore, trade agreements must include a balanced and sustainable strategy for social integration. The problem of foreign debt needs to be addressed as part of this strategy. The debt still has a harmful effect on the economies of most FTAA countries because it greatly reduces governments' capacity to intervene in key areas of development such as housing, health, education and the environment.

The labour movements of the hemisphere are offering concrete proposals to confront the challenges of sub-regional agreements like NAFTA, MERCOSUR, CARICOM, the Andean Pact, and SICA. Our goal is integration that preserves the gains we have made, promotes social development, and strengthens workers' rights as an integral part of these agreements.

Concrete proposals regarding the negotiation of the FTAA

For these reasons, we oppose the current commercial model of the FTAA. The process needs to be democratic, transparent, and open to much broader participation. It must recognize the immense economic and social disparities in the region.

- Once again, we demand the official recognition of the Labour Forum and the establishment of a Working Group on Labour Rights. But this is not sufficient.

- New bi-lateral and multi-lateral trade agreements must include a social dimension.

- There must be recognition of core labour standards and the creation of mechanisms for effective compliance with these by countries in the FTAA, including:

Freedom of association

Right to organize and bargain collectively

Restrictions on child labour and forced labour

Banning of employment discrimination on the basis of sex, race, or religion

- We demand the creation of environmental protection mechanisms to regulate the actions of large corporations and conglomerates which threaten the quality of life. In addition, social justice demands that agrarian reform be implemented in order to improve the quality of life of the rural population.

- We demand a gradual negotiation process, allowing each country to adopt appropriate transitional policies. Progressive negotiations will allow better identification of opportunities and threats faced by different economic sectors.

- We demand access to information, the establishment of mechanisms facilitating collective bargaining, and

democratic control over the actions of transnational corporations operating in the region, since these are the principle beneficiaries of economic integration.

- We demand the adoption of a Charter of Social and Labour Rights by the countries of the Americas.

To conclude, the ORIT-ICFTU, the International Trade Secretariats, and fraternal organizations declare our firm determination to fight for democratization of the FTAA process.

We workers produce all goods and services. Without our participation, the negotiation and implementation of continental integration and of our countries' involvement in international commerce are problematic.

Belo Horizonte, 13th May, 1997

DECLARATION

BUILDING A HEMISPHERIC SOCIAL ALLIANCE TO CONFRONT FREE TRADE

On the occasion of the Third Trade Union Summit, parallel to the Ministerial Meeting of the FTAA in Belo Horizonte on the 12th and 13th of May, 1997, representatives of the trade unions of the organizations of the Americas, affiliated and fraternal organizations of the ORIT/ICFTU and a number of important social organizations have had the opportunity of sharing our respective work on the social dimensions of integration.

As a part of this meeting, the trade union movement has reviewed the joint text prepared by networks of organizations from Mexico, the United States, Canada, Chile and El Salvador and presented to U.S. President Clinton during his recent tour of Mexico, Central America and the Caribbean and signed by other organizations.

As an example of the will to achieve an effective complementarity between the perspectives and action strategies of the trade union movement and other social movements, we have approved this declaration based on the aforementioned document and on the trade union experience acquired in the various subregional processes of integration. Therefore this declaration can be seen as complementary to that of the III Trade Union Summit.

1. There should be no FTAA if it is to be converted into an agreement similar to other existing agreements such as NAFTA. We need an agreement which promotes genuine development for all of the peoples of the hemisphere: one that recognizes and attempts to reduce the differences in levels of development; one that allows for integration of our economies, based on democratically determined national development models; and one that is based on a consensus. Strong national economies must be the basis for a strong continent. We are proposing an agreement designed for sustainable development rather than for trade liberalization.

Trade agreements are not an end in themselves, but rather a means toward combatting poverty and social exclusion for achieving just and sustainable development. We do not support isolationism or traditional protectionism. We are not nostalgic for the past. We are looking forward and we have viable proposals. We know that our economies cannot be isolated from the dynamics of the world economy, but we do not think that free trade is the solution. The problem is that free trade involves more than the opening of borders; it involves the abandonment of national development models and poses a serious threat to democracy.

Any national development model, to be viable, must take into account trade and world economic conditions. It must also build on each nation's potential and develop a strategy to establish its unique position in the world. It has never been demonstrated that the market achieves optimal distribution of resources and the fruits of development. So-called free trade is actually trade regulation that increases the advantages of international capital, speculative or not, over productive investment, and over the rights and well-being of workers.

2. There should be no FTAA if it does not include a social agenda that contains at least the following fundamental elements.

- i) There must be broadly-based citizen participation in the negotiation of any agreement, and its ratification must occur in each country through genuinely democratic means.
- ii) Any agreement must include respect for and improvement of the social and economic rights of workers, women who have suffered the greatest impact caused by restructuring of production, campesinos, indigenous peoples and migrant workers.

3. Competitiveness for our countries must not be based on the exploitation of workers and social dumping.

The current tendency towards downward harmonization of working conditions and wages must be stopped, promoting instead an upward harmonization of labour conditions over the medium term and a recovery of wages. The starting point should be International Labour Organization conventions that guarantee freedom of association, collective bargaining, prohibition of child labour and forced labour and no discrimination based on sex, race or religion. Moreover, we demand a Charter of Social and Economic Rights for Citizens of the Americas accompanied by democratic and transparent enforcement mechanisms.

4. There should be no FTAA if it does not also include protection and improvement of the environment, ensure respect for the rights of migrant workers and place special attention on food security, and therefore, on the protection and support for campesinos, small-scale farmers, and the social sector without subsidizing large agribusiness corporations. It should also protect and promote micro and small urban enterprises, because of their capacity for generating employment.

5. There should be no FTAA if it does not protect people from the vulnerability and instability caused by speculative capital and fly-by-night investments. Chile, despite the fact that it is the Latin American pioneer in free trade has protections on portfolio investment: authorization is required; a percentage must be deposited in the Central Bank; and it must be held in the country for a minimum period. Regarding foreign investment, performance requirements must be negotiated with regulation that protects labour rights. Intellectual property, which is primarily held by large corporations, should be protected, but not at the expense of global progress toward a social dimension, including national sovereignty. The subject of foreign debt must also be taken up again, as it continues to reduce the ability of governments to act in key areas of development, such as housing, health, education and environment.

6. On trade issues, the problem of non-tariff barriers must be resolved. The elimination of non-tariff barriers to legitimate trade should not be confused with lowering sanitary and phytosanitary barriers for environmental protection. The interaction of our economies should support national integration of productive linkages, for which we demand rules of origin with national content.

This Summit was a first step toward complementary work between trade unions and other social organizations, which could be made more concrete at the time of the Second Summit of Heads of States of the Americas next March in Santiago, Chile with the convening of a Peoples' Summit of the Americas, in order to build a hemispheric social alliance. Towards that end, in the coming months, we must establish mechanisms of communication and coordination, draw new organizations into the initiative, exchange joint proposals, and participate together in activities linked to these goals.

We will work in our respective countries to defeat any agreement that is not consistent with these demands.

This Declaration remains open to endorsements by other trade unions and social organizations.

ORIT/ICFTU

Mexican Action Network on Free Trade (RMALC)

Alliance for Responsible Trade (ART-US)

Common Frontiers (Canada)

Action Canada Network

Chilean Network for a Peoples' Initiative (RECHIP)

Brazilian Association of NGOs (ABONG)

Coalition for Justice in the Maquiladoras (US)

National Indigenous Council of Mexico

National Union El Barzon (Mexico)

Reseau Quebecois sur l'integration continental

Confederation des syndicats nationaux (CSN - Quebec)

Canadian Association of Labour Lawyers

Belo Horizonte, May 15, 1997



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