

Impact of the Free Trade Area of the Americas on Forests

A forest-specific analysis of the draft text of the FTAA

The Free Trade Area of the Americas (FTAA) risks undermining forest and ecosystem health by accelerating industrial clearcut logging, weakening protection from invasive species and genetically modified organisms (GMOs), and binding the hands of countries from using various policy tools for the conservation of their natural resources. The FTAA would cause these environmental impacts by embracing many of the most ecologically problematic elements of the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO)—and by embarking upon new international trade and investment terrain—in its efforts to subjugate the health of the hemisphere’s forests and ecosystems to the goal of trade and investment liberalization.*

1. The FTAA would cause the acceleration of industrial clearcut logging and conversion of native forests.

Accelerated logging. Logging pressures on native forests, including the conversion of primary forests to tree plantations, would increase in critical regions of the hemisphere as a result of the elimination of tariffs on forest products. Particular concern arises when considering the impact on the globally significant old growth temperate forests of Chile, which harbor high levels of biological diversity and have been identified in a study by the office of the U.S. Trade Representative as an area where heightened exploitation would result from global forest products tariff elimination. *Relevant portion of draft text: Chapter on Market Access, Article 4.*

Forest conversion. Conversion of native forests to export-oriented agricultural uses would accelerate due to the reduction, and eventual elimination, of tariffs on agricultural products such as beef and soybeans. The expansion of crop acreage will put new pressures on forest regions, particularly the Amazon, as landless people are pushed further into undeveloped areas. *Relevant portion of draft text: Chapter on Agriculture, Article 4.*

2. The FTAA would impede the authority of governments to protect their forests or to provide standards, incentives, or quantitative restrictions aimed at ensuring sustainable forest management.

Lawsuits preventing forest protection. Foreign companies could be empowered to sue governments when they feel that their ability to earn a profit from their investment is inhibited by forest management and protection standards, or by the return of land to indigenous communities. These investor protection suits ensure against not only “expropriation” of corporate profits, but also against environmental safeguards that are “tantamount” to expropriation. As has been the case under NAFTA, transnational corporations have used investment rules to pursue awards of up to \$970 million, as well as the overturning of environmental laws. The FTAA may further impede measures enacted by countries to strengthen their forest protection laws by forcing them to compensate timber companies for lost profits resulting from stronger laws. *Relevant portion of draft text: Chapter on Investment, Articles 10 and 15.*

Elimination of forest protection policy tools. If the hemisphere’s nations agree to accept the proposed text, they would be prohibited from enacting regulations for forest protection, such as eco-labeling laws and bans on raw log exports, where they are deemed to be “non-tariff” barriers to trade or competition. Likewise, governments would be restricted in their ability to establish product standards or government



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purchasing requirements with forest protection as the objective, including the adoption of certification standards. FTAA rules could also prevent countries from enacting “quantitative restrictions,” or quotas, on the importation of wood products, including the massive influx of heavily subsidized lumber sourced from Canadian old growth forests into the United States. *Relevant portion of draft text: Chapter on Market Access, Article 10; Chapter on Standards and Technical Barriers to Trade, Article 3; Chapter on Competition, Article 1; Chapter on Government Procurement, Article 26.*

Limiting conservation measures in the service sector. Countries would be prohibited from taking appropriate measures to protect the environment and natural resources in a broadly defined “service sector”—including energy, water, tourism, and waste disposal—under proposed language. This would prevent governments from adopting “limitations on the number of service suppliers” for hazardous waste facilities, oil and gas operations, mechanized vehicles used in heavy tourism areas, and water providers. As a result, local, state, and federal lawmakers would lose the ability to set specific limits on the number of facilities for these industries, potentially resulting in the loss of forests, coral reefs, and wetlands, disturbance to migration patterns, harm to wildlife, and intense localized pollution. *Relevant portion of draft text: Chapter on Services, Article 7.*

Loss of democracy and public involvement. Under the draft language governing dispute settlement, governments would surrender to unelected international tribunals the adjudication over their safeguards for forest protection. This applies broadly, not only to forest protection laws and regulations in which the FTAA is deemed to be “prejudiced” or “frustrated,” but also “... when a Party considers that an actual [or proposed] measure of another Party is [or would be] inconsistent with the obligations of the FTAA Agreement [or, even if not inconsistent, could cause nullification of impairment of any benefit that a Party could reasonably have expected to accrue to it under this Agreement...].” The participation of non-governmental organizations in FTAA tribunals may not be permitted, even though the binding decisions by “neutral panels,” are not subject to appeal and favor the removal of environmental laws where they conflict with the FTAA. *Relevant portion of draft text: Chapter on Dispute Settlement, Articles 2, 4, 39, and 45.*

3. The FTAA would weaken standards that prevent the importation of invasive pests species or threats from genetically modified organisms (GMOs).

Spread of invasive species. Precautionary measures aimed at preventing the spread of ecologically and economically destructive invasive plants and animals would be further impeded if proposed Sanitary and Phytosanitary (SPS) measures are adopted. FTAA member countries would have the burden of providing costly scientific proof that measures were justified, if national safeguards exceed international standards adopted by industry-influenced, quasi-governmental organizations that are relatively closed to public scrutiny. More species with impacts similar to the Asian long-horned beetle, zebra mussel, and gypsy moth, may take hold in FTAA member nations as a result of the link of increased flow of invasive species to heightened levels of trade. *Relevant portion of draft text: Chapter on Agriculture, Article 17.*

Genetically modified tree risks. If the draft text is accepted by FTAA countries, they will be required to allow the patenting of genetically modified organisms, including genetically engineered vascular plant and tree species capable to disrupting native ecosystems. *Relevant portion of draft text: Chapter on Intellectual Property Rights, Section 10.*

* Since the FTAA text that has been released exists in a draft form, this analysis is based on an evolving document. Most of the draft text has been provided in brackets, indicating an unknown level of consensus between countries, and complicating an assessment as to whether each of the provisions harmful to forests would exist in a final FTAA agreement. Thus, the impacts of the FTAA on forests described in this analysis could be maintained, altered, removed, or made worse, through the process of negotiations by the participating countries, and if a final trade deal is reached. This analysis estimates possible effects that the FTAA could have, based upon the draft text, as released on July 3, 2001.