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US-Panama Trade Talks

by LADB Staff

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Panama and the US finished the third round of free-trade negotiations on July 16 without progress on the protection of Panamanian farmers and without US concessions on shipping. There was some forward motion on the less controversial rules-of-origin and investment guarantees. One round remains to deal with the most difficult subjects.

While farmers and others who stand to be bruised by an agreement that would make them instantly disadvantaged in their own markets or noncompetitive in the US market demonstrated their disagreement in the streets (see NotiCen, 2004-06-17), chief negotiator Regina Vargo of the US team put a happier spin on the just-concluded events. "We had a tremendously productive third round because we advanced in access to industrial markets and started to discuss the most sensitive agricultural categories," she said at the closing news conference. It is technically true that they "started" to discuss agricultural sensitivities, but a more substantive truth is that a full airing of the category was doomed from the start.

Panama's trade minister Joaquin Jacome said he tried to get the agenda changed so that agriculture discussions could begin earlier. This effort failed because US negotiators said they could not make an earlier flight to get there on time. Nor is it certain the US contingent would have agreed to the change. Their modus operandi is to leave the most difficult issues for last. Vargo said the achievements of the past five days in Panama City opened the door to a focused and successful final round Aug. 9-13 in Tampa, Florida. Even if something should come up to upset the planned four-round schedule, plenty of time would remain for cleanup sessions before President Mireya Moscoso's term ends Sept. 1.

And even if, after that, they still need more time to come to an understanding, all bases are covered; negotiators for the incoming Martin Torrijos government have been on hand to take over without missing a beat. "We haven't spoken of a fifth round, nor have we ruled it out, but we share the objective of getting as far as possible at the next one," said Vargo.

Storm clouds on the horizon

There is the potential for high drama in this. Torrijos appointees have been consulting with the Moscoso government about this negotiation at least since mid-June, when Trade and Industry Minister-designate Alejandro Ferrer was reported to have asked the Moscoso government to consult more closely with the productive and popular sectors. Ferrer said then that Torrijos wanted a "coherent" policy as part of his development, anti-poverty, and employment strategy, which would presumably include a trade agreement with the US. But it is also clear that the social sectors with which the incoming president is concerned were not in the least mollified by this round, and negotiations under a Torrijos administration could take a different path.

Fearful farmers and agribusiness representatives were also present at the news conference, straining for details, which were not forthcoming, said reporters, to prevent an unscripted reaction. These private-sector producers had been complaining of being left in the dark during discussions of their livelihoods and futures. Irritation with bureaucrats and elites bargaining away people's way of life has become a regular feature of this international deal making.

Seeking to oil the heaving waters, Vargo told the assembly, "There are several ways of dealing with sensitive issues. Therefore, we will discuss each product individually to see what tools there are with which to reach agreements," she said. It is unclear, however, just how concerned the principals are with the concerns of the producers. The day before, July 15, saw demonstrations in the streets protesting an agreement. "Panama is at a disadvantage with the US, so it would only be underprivileged with this FTA," said economist Juan Jovane, a protest organizer. He estimated the deal as it is currently being discussed would, besides threaten Panamanian agriculture generally, cost the jobs of more than 100,000 of the approximately 250,000 agricultural workers in the country. Marchers came from at least 30 different organizations representing workers, campesinos, bureaucrats, academics, and professionals.

The demonstration was not nuanced. The shouts, slogans, banners, and pickets were not calling for specific remedies, but mainly focused on the single sentiment, "No al Tratado de Libre Colonizacion" (no to the free-colonization treaty). The demonstration ended without violence and with the delivery of a letter to President Moscoso demanding suspension of the talks. The talks thus far have followed the pattern seen in the still unratified Central America Free Trade Agreement (CAFTA) and elsewhere (see NotiCen, 2004-01-29). That is to say that the process has created, widened, or exposed fracture lines between social sectors.

The private productive sector is at odds with the government on questions of input and influence in the negotiations. The popular sector, including workers, agricultural smallholders, and farm workers, are pitted against the business sector on a variety of issues, including workers' rights and protections for the survivability of campesinos, most of which can be seen as challenges to democracy.

Only in Panama

Setting this negotiation apart from others, however, is that Panama holds at least one ace, unique to its geography: the rebuilding of the Panama Canal. During this round, the US indicated that it would tend to be more flexible on some demands in exchange for major participation in the immensely lucrative upgrading of the transoceanic facility (see NotiCen, 2004-04-15). Without offering details, itself a familiar feature of trade negotiations, Vargo alluded to a "great flexibility" on the part of her country on the canal question. To guarantee participation, she said, "we are disposed to make some adjustments over some obligations" within the chapter on government purchasing. "We are not interested in imposing any obligation whatsoever" over the Autoridad del Canal de Panama (ACP). She made mention that the US had determined that Panama manages the canal "without corruption."

The ACP is expected to present, within just a couple months, a plan for enlarging the canal, a hugely expensive proposition, the price of which will also be estimated in the plan. Whether this, the fattest carrot in Panama's garden, is worth concessions on the other crops was difficult to discern from the cryptic Vargo, who would only say that she didn't want to use a hammer where a scalpel was called for and that each product and each area would receive the individual attention it merits. At the end of this round, there was no indication anything like that has happened. If there is an equivalent brass ring for Panama, it is probably the issue of maritime services.

Vargo admitted that would be "very difficult for the US." She said the US "offers really excellent access" to Panama but still wanted to keep what she termed "a small slice" for the US. The small slice is the right to ship between US ports. Panama, however, is not looking for small slices. They want access for their ships to internal US traffic, but their principal interest is to become a "distant port," a designation it does not now have. Without that designation, a ship coming from a US port cannot disembark passengers. For each passenger who does disembark in violation, there is a fine of US\$200. Panama wants a 50% reduction of the fine, which is levied under the provisions of the Jones Act of 1917.

In the mid- and late 1990s, there was a debate about the continued need for US cabotage laws, key among which is the Jones Act. A group calling itself the Jones Act Reform Coalition (JARC) tried to repeal the law but was unsuccessful in its efforts. To the contrary, the effort galvanized the shipping industry into a coalition that won statements of support for the Jones Act from a majority of the US House of Representatives, the Clinton and Bush administrations, and the Department of Defense. JARC disbanded. Given the recent history of the Jones Act, it is unlikely Vargo can get a repeal done. That, rather than speculation that she is holding out for the Panamanians to sell out their agricultural sector, provides a rationale for her characterization of the demand as "very complicated."

Other points that could prolong, if not scuttle, the talks include:

Intellectual property. The US wants Panama to subscribe to international conventions on trademarks and other rights, but that would take business from Panamanian lawyers.

Caribbean Basin Initiative (CBI). Panama wants to retain the benefits for its exports that it now possesses under the CBI.

Tariff rate quota (TRQ) items. The US presented a list of products it considers sensitive and on which it wants to impose TRQs. They include dairy products, cacao, sugar, and corn. Panamanians have said they have moved as far as they can in agriculture already.

Telecommunications. This category was not expected to produce problems, but after an unusually long session, consensus among sector representatives, who had to cool their heels outside the meetings as "information flowed drop by drop" was that little had been accomplished.

They called the summaries they received ambiguous and very general in content. Tampa will be rife with portent.

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