

# Partial Revocation of the Caribbean Basin Trade Partnership Act: An Analysis of Hemispheric Injuries and Domestic Benefits

Hale E. Sheppard, Esq.\*

## Introduction

When it comes to international trade, there is at least one immutable truism: those who are hurt by a trade bill or existing trade program often complain loudly and incessantly, while those who benefit tend to remain silent, unaware of the advantages potentially or actually conferred to them.<sup>1</sup> A classic example of this phenomenon is currently underway on Capitol Hill, where the U.S. textile industry, a legendarily boisterous and influential group, is attempting to pressure U.S. lawmakers into partially revoking the trade preferences granted to several dozen Latin American nations under the Caribbean Basin Trade Partnership Act (CBTPA).<sup>2</sup>

The predecessor to the CBTPA was originally introduced in the early 1980s, and was designed primarily to diversify and strengthen the troubled Caribbean economies by increasing exports, reducing the incidences of drug trafficking, and diminishing illegal immigration to the United States.<sup>3</sup> The

---

\* Hale E. Sheppard (B.S. Journalism, *with distinction*; M.A. Latin American Studies, *with honors*; J.D. — University of Kansas; Magister (LL.M. equivalent) in International Law, *with highest distinction* — University of Chile) is an attorney in Washington, D.C., working primarily in the areas of trade regulation, customs, export controls, and international transactions. Eternally grateful for their kindness, unconditional generosity, and inspiration to embrace the complexities of U.S.-Latin America relations, Mr. Sheppard dedicates this article to Ann and Sonny Johnston.

<sup>1</sup> See John Burgess & Matthew Vita, *House Vote for Textile Trade Ends Long Fight*, WASH. POST, May 5, 2000, at E1.

<sup>2</sup> *Id.*

<sup>3</sup> OFFICE OF U.S. TRADE REPRESENTATIVE, 4TH REPORT TO CONG. ON THE OPERATION OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT, at 15 (Dec. 31, 2001)

CBTPA was introduced in 2000 to expand trade preferences to U.S. imports of, among other products, certain textile and apparel goods from the Caribbean region, to counteract the unintentional trade advantages over the Caribbean nations that Mexico received in 1994 as a result of the enactment of the North American Free Trade Agreement (NAFTA).<sup>4</sup>

Although the U.S. textile industry has fervently opposed this expansion from the outset, previous efforts to repeal the CBTPA have failed.<sup>5</sup> However, harnessing all of its political leverage and capitalizing on the Bush Administration's seeming desperation to obtain trade promotion authority, it now appears that the domestic textile industry has achieved a strategic victory: trade preferences to the Caribbean nations will likely undergo partial revocation in 2002 pursuant to a recent agreement between political leaders in the U.S. House of Representatives and certain lawmakers representing states whose economies are heavily dependent on textile production.<sup>6</sup> While this legislative modification may temporarily benefit the 440,000 American textile jobs still in existence today, a broader analysis reveals that this ephemeral reprieve enjoyed by a relatively small portion of the domestic workforce will generate enormous and perhaps unforeseen problems, both for the United States and Latin America.<sup>7</sup>

Predicated on this premise, this article is organized in the following manner: the first section describes the evolution and most important provisions of the CBTPA; the second section provides a chronological overview of the activities (legislative and otherwise) related to the proposed partial revocation of trade preferences currently granted to the Caribbean nations under the

---

[hereinafter U.S. TRADE REPRESENTATIVE, 4TH REPORT].

<sup>4</sup> U.S. INT'L TRADE COMM'N, THE IMPACT OF THE CARIBBEAN BASIN ECON. RECOVERY ACT, 15TH REPORT, Publication No. 3447, at 43 (Sept. 2001) [hereinafter U.S. INT'L TRADE COMM'N, 15TH REPORT].

<sup>5</sup> See generally *U.S. Dyers Lose Ground on CBI*, WOMEN'S WEAR DAILY, May 29, 2001, at A7.

<sup>6</sup> See generally Rossella Brevetti, *House Passes TPA measure by One Vote after GOP Sways Vote with Textile Promise*, 18 Int'l Trade Rep. (BNA) No. 49 (Dec. 13, 2001).

<sup>7</sup> See Kristi Ellis, *U.S. Mills Threatened As Quotas Are Lifted*, WOMEN'S WEAR DAILY, Jan. 29, 2002, at 2 (indicating that the current U.S. textile industry encompasses approximately 440,000 jobs).

CBTPA; in the third section, the positive results rendered by the CBTPA thus far are set forth, as well as the inevitable negative ramifications that retracting trade preferences to the Caribbean nations will have on the Western Hemisphere in its entirety. Based on these arguments, while acknowledging the fact that the U.S. textile industry may indeed be in dire straits, this article concludes that altering the CBTPA at this juncture to temporarily protect a rather limited amount of domestic positions constitutes misguided trade policy for the United States and a serious threat to many Latin American nations.

### **I. Evolution of the Caribbean Basin Trade Partnership Act**

Enacted in August 1983, the Caribbean Basin Economic Recovery Act (CBERA) is a preferential trade program whereby the United States allows certain imports from Caribbean nations to enter the U.S. market without paying any customs duties.<sup>8</sup> In short, this program was designed to diversify and strengthen the Caribbean economies by increasing exports and expanding investment (foreign and domestic) in nontraditional sectors. Originally scheduled to expire in September 1995, the CBERA was modestly enhanced in 1990 and made permanent.<sup>9</sup> The impact of the CBERA on both the Caribbean nations and the United States during the initial years of the program was minimal, but positive.<sup>10</sup>

With regard to U.S. imports of apparel throughout the 1980s, the United States introduced several trade initiatives that encouraged U.S. apparel producers to establish production-sharing arrangements with businesses located in developing areas such as the Caribbean.<sup>11</sup> For instance, under Chapter 98 of the Harmonized Tariff Schedule of the United States, Caribbean apparel exports received a partial duty exemption such that duties

---

<sup>8</sup> Caribbean Basin Economic Recovery Act was enacted August 5, 1983, as part of Public Law 98-67, Title II (codified at 19 U.S.C. §2701 (2001)), and became effective on January 1, 1984, pursuant to Presidential Proclamation 5133.

<sup>9</sup> Caribbean Basin Economic Recovery Expansion Act of 1990 was enacted on August 20, 1990, as part of the Customs and Trade Act of 1990, Public Law 101-382, Title II.

<sup>10</sup> U.S. INT'L TRADE COMM'N, 15TH REPORT, *supra* note 4.

<sup>11</sup> *Id.*

were charged only on the value added to the goods abroad.<sup>12</sup> In other words, in addition to enjoying virtually unlimited access to the U.S. market in terms of quantity, Caribbean apparel exporters were required to pay duties only on the difference between the value of the components (i.e., the fabric and other inputs shipped from the United States) and the apparel (i.e., the finished product).<sup>13</sup>

However, when NAFTA was promulgated in 1994, apparel produced in Mexico with U.S. components entered the United States completely duty-free.<sup>14</sup> Consequently, the U.S. gave Mexico a significant amount of production-sharing arrangements and foreign investment, thus rendering the CBERA less beneficial to the Caribbean nations.<sup>15</sup>

On May 18, 2000, President Bill Clinton rectified the situation when he signed the Caribbean Basin Trade Partnership Act (CBTPA), which provides NAFTA-parity to the Caribbean nations.<sup>16</sup> With regard to apparel goods assembled in the Caribbean, the CBTPA significantly expanded the preferential treatment previously granted under the CBERA by conferring duty-free and quota-free access to the U.S. market for apparel goods made entirely of U.S. components.<sup>17</sup> In addition to apparel, the CBTPA grants NAFTA-equivalent duty preferences for certain goods that were previously excluded under the CBERA, including footwear, canned tuna, petroleum products, watches and watch parts.<sup>18</sup>

In order to qualify for such preferential duty treatment, each

---

<sup>12</sup> Harmonized Tariff Schedule of the United States, Section 9802.00.80.

<sup>13</sup> *Id.*

<sup>14</sup> U.S. INT'L TRADE COMM'N, 15TH REPORT, *supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, 114 Stat. 251 (2000). The CBTPA took effect in October 2000 after the U.S. Customs Service issued its interim regulations implementing the law. *See* United States-Caribbean Basin Trade Partnership Act and Caribbean Basin Initiative, 65 Fed. Reg. 59,658, 59,650, 59,668 (Oct. 5, 2000) [hereinafter Caribbean Basin Initiative].

<sup>17</sup> Trade and Development Act § 211 (granting preferential treatment to certain knit apparel made in the Caribbean from fabrics formed in the Caribbean, provided that U.S. yarns are utilized to make the fabric, and to apparel made from fabrics that are deemed to be in "short supply" in the United States).

<sup>18</sup> *Id.*

Caribbean nation must meet various “designation criteria.” For instance, a country (i) cannot be communist; (ii) may not take measures that have the effect of nationalizing, expropriating, or seizing property owned by U.S. citizens or companies without prompt and adequate compensation; (iii) must act in good faith in recognizing and enforcing arbitral awards in favor of U.S. citizens or companies; (iv) must provide effective protection of intellectual property rights; and (v) must take steps to grant internationally recognized worker rights.<sup>19</sup> In addition to satisfying these criteria, eligibility under the CBTPA requires that each country implement, or make substantial progress towards implementing, certain customs procedures based on those contained in NAFTA.<sup>20</sup> Currently, fourteen of the twenty-four Caribbean nations satisfy this requirement (Barbados, Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Saint Lucia, and Trinidad and Tobago) and thus enjoy those benefits provided by the CBPTA.<sup>21</sup>

As with the CBERA, studies conducted by the Office of the U.S. Trade Representative indicate that while the impact of the CBTPA has been limited but positive thus far, substantial benefits for both the Caribbean nations and the United States are anticipated soon, since, despite various problems with their implementing regulations, the new provisions have been “used extensively” during their first few months of existence.<sup>22</sup>

## II. The Proposed Revocation of Benefits Under the CBTPA

On October 5, 2000, shortly after the enactment of the CBTPA, controversy erupted over the implementing regulations issued by the U.S. Customs Service. For example, section 211 of the CBTPA dictates that duty-free treatment shall be granted to apparel assembled in the Caribbean from fabrics that are “wholly formed in the United States.”<sup>23</sup> In its interim regulations, the U.S.

---

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Kristi Ellis, *Mills Threatened as Quotas are Lifted*, WOMEN'S WEAR DAILY, Jan. 29, 2002, at 2.

<sup>22</sup> U.S. TRADE REPRESENTATIVE, 4TH REPORT, *supra* note 3.

<sup>23</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, § 211, 114 Stat. 251 (2000).

Customs Service determined that the phrase “wholly formed” did not require the fabric to be dyed and finished in the United States in order to qualify for preferential treatment.<sup>24</sup>

Arguing that this interpretation contradicts the “intent” of Congress when passing the CBTPA, Senator Jesse Helms (R-N.C.), whose textile-dependent home state of North Carolina would conceivably be hurt by such a determination, blocked confirmation of four high-level U.S. Treasury Department nominees in June 2001.<sup>25</sup> In addition to impeding the confirmation of the proposed Treasury officials, Senator Helms enlisted other techniques such as attempting to place the dyeing-and-finishing language into a tax reduction bill as a last-minute rider.<sup>26</sup> Much to Senator Helms’s chagrin, neither of these legislative maneuvers proved successful, and the four Treasury officers were confirmed in August 2001.<sup>27</sup>

Notwithstanding this initial defeat, the dyeing-and-finishing controversy surfaced yet again in late 2001 amid a seemingly unrelated issue. On December 6, 2001, the U.S. House of Representatives approved a bill, S. 3005, granting the President trade promotion authority (TPA) by a one-vote margin of 215 in favor, to 214 opposed.<sup>28</sup>

Formerly known as “fast track authority,” TPA allows Congress to participate in trade policy by setting formal guidelines according to which the President (vis-à-vis the U.S. Trade Representative) must conduct trade negotiations.<sup>29</sup> However, once TPA is granted and a potential trade pact is brokered within the congressional framework, lawmakers may only approve or reject a

---

<sup>24</sup> Caribbean Basin Initiative, *supra* note 16.

<sup>25</sup> Helms Still Blocks Treasury Nominees Because of Customs’ Textile Rules for CBI, 18 Int’l Trade Rep. (BNA) No. 24, 937–38 (June 14, 2001); see also Rossella Brevetti, *Possible Compromise on CBI/AGOA Textile Rules Floated by Industry Groups*, 18 Int’l Trade Rep. (BNA) No. 34, 1321–22 (Aug. 23, 2001); Joanna Ramey, *Flare-Up in Helms’s Dyeing Fracas*, WOMEN’S WEAR DAILY, July 31, 2001, at 7.

<sup>26</sup> U.S. Dyers Lose Ground on CBI, WOMEN’S WEAR DAILY, May 29, 2001, at 7.

<sup>27</sup> R.G. Edmenson, *A Future in Textiles? Dyeing and Finishing Issue Threatens Evolution of Caribbean Apparel Industry*, JOURNAL OF COMMERCE, Aug. 20, 2001, at 1; see also Dave Boyer, *Senator Abandons His Hold on Nominees; Helms Takes Hint by White House*, WASH. TIMES, Aug. 7, 2001, at A6.

<sup>28</sup> Brevetti, *supra* note 6, at 1977.

<sup>29</sup> *Id.*

trade bill in its entirety, without making modifications.<sup>30</sup> In this manner, U.S. trade negotiators possess the requisite credibility to finalize trade agreements because potential trading partners are assured that the commitments made in good faith on behalf of the United States during negotiations will not later be excessively delayed, conditioned or fundamentally altered by Congress.<sup>31</sup>

Approval of TPA was extremely controversial because the necessary votes were obtained only after Republican leaders promised lawmakers representing states with textile-dependent economies (the Textile Caucus) that they would “correct” existing and future trade bills to address concerns regarding textiles.<sup>32</sup> Specifically, the written pledge stated that trade-related bills such as the CBTPA would be amended to require that all fabrics undergo dyeing and finishing operations in the United States in order to qualify for duty-free treatment (the Dye-and-Finish Pledge).<sup>33</sup>

Because TPA is key to its trade agenda, the Bush Administration has continually supported the Dye-and-Finish Pledge.<sup>34</sup> As evidence thereof, in January 2002, the U.S. Secretary of Commerce, Donald Evans, announced that an interagency textile task force had been created to adhere to the Dye-and-Finish

---

<sup>30</sup> *Id.*

<sup>31</sup> John H. Jackson et al., *LEGAL PROBLEMS OF INTERNATIONAL ECONOMIC RELATIONS* 81–87 (4th ed., West Group 2002) (1977).

<sup>32</sup> Brevetti, *supra* note 6, at 1977. The Dye-And-Finish Pledge was formalized in a letter signed by Speaker of the House Dennis Hastert (R-Ill.), House Majority Leader Richard Armey (R-Tex.), and House Majority Whip Tom DeLay (R-Tex.), which said

[W]e pledge to bring no future bills with trade provisions to the House floor until the Trade and Development Act [that contains the CBTPA] is corrected to require that U.S. knit and woven fabrics be required to undergo all dyeing, finishing and printing procedures in the United States in order to qualify for the benefits.

*Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Chris Rugaber, *Bush Pledges Support for Textile Promises Made to Win TPA Passage*, 18 Int'l Trade Rep. (BNA) No. 50, 2017–18 (Dec. 20, 2001). Asked if President Bush had second thoughts about the promises made (*i.e.*, the Dye-and-Finish Pledge) to secure the passage of TPA, the White House Press Secretary answered in the negative, claiming that Congress “did the right thing, for the right policy reasons, to promote American trade, which helps all workers.” *Id.*

Pledge.<sup>35</sup> Leaving no room for misinterpretation regarding the Bush Administration's support for this political maneuver, Secretary Evans stated that

[b]oth the President and I are committed to doing what it takes to ensure that this industry can compete in world markets. This is exactly what textile-state representatives asked us in advance of the vote [for TPA] this past December, and this Administration will work to ensure that we accomplish this goal.<sup>36</sup>

In addition to these unequivocal statements, fulfillment of the Dye-and-Finish Pledge is evidenced by the meetings of a recently formed, ad hoc, textile taskforce, which have been attended by representatives from the U.S. Departments of Commerce, Labor, Treasury, State, and Justice.<sup>37</sup>

Opponents of the Dye-and-Finish Pledge initially hoped to find a middle ground on the issue,<sup>38</sup> but members of the Textile Caucus have been notably inflexible.<sup>39</sup> Just as Senator Helms argued in early 2001, certain lawmakers remain convinced that the CBTPA regulations were drafted too liberally in the first place, and they insist on full implementation of the Dye-and-Finish Pledge: "This is not an area that [leaves] any place to compromise."<sup>40</sup> In fact, many members of the Textile Caucus have demanded that Congress implement the Dye-and-Finish Pledge immediately in order to protect their credibility by demonstrating to their constituents that they received legitimate commitments in

---

<sup>35</sup> Rossella Brevetti, *Commerce Secretary Announces Working Group on Textiles in Wake of TPA*, 19 Int'l Trade Rep. (BNA) No. 5, 176 (Jan. 31, 2002).

<sup>36</sup> *Id.*; see also Rossella Brevetti, *ATMI Calls on Congress and White House to Help Industry*, 19 Int'l Trade Rep. (BNA) No. 2 (Jan. 10, 2002). Predictably, the American Textile Manufacturers Institute also urged the Bush Administration to uphold its end of the Dye-and-Finish Pledge, especially in light of the alleged "crisis" in the U.S. textile industry. *Id.*

<sup>37</sup> Rossella Brevetti, *Textile Task Force Holds Organizational Meeting*, 19 Int'l Trade Rep. (BNA) No. 6, 228-29 (Feb. 2, 2002).

<sup>38</sup> *Thomas Floats Knit-Woven Split as Solution to Dyeing and Finishing*, 20 INSIDE U.S. TRADE 9 (Mar. 1, 2002).

<sup>39</sup> See *id.* at 2.

<sup>40</sup> Rossella Brevetti, *Hayes Says He Will Not Compromise on Dyeing and Finishing Promise*, 19 Int'l Trade Rep. (BNA) No. 13, 544 (Mar. 28, 2002); see also *Thomas Floats Knit-Woven Split as Solution to Dyeing and Finishing*, *supra* note 38, at 1.



exchange for their TPA votes.<sup>41</sup> For its part, even though the Bush Administration is unable to force Congress to amend the CBTPA (expeditiously or otherwise) to reflect the Dye-and-Finish Pledge, it has assured the Textile Caucus that it will take all conceivable measures to fulfill its obligation and accept any recriminations arising therefrom.<sup>42</sup> In a recent announcement by Commerce Secretary Evans about the intentions of the Bush Administration, he reaffirmed that “[w]e will keep our word and we don’t mind being held accountable.”<sup>43</sup>

### III. Arguments in Favor of Preserving the CBTPA

Examined below are the positive results rendered by the CBTPA thus far, as well as the negative repercussions that retracting trade preferences to the Caribbean nations will have on the Western Hemisphere in its entirety.

#### A. *Facilitates the Free Trade Area of the Americas*

The Bush Administration has identified the negotiation and completion of the Free Trade Area of the Americas (FTAA) by 2005 as one of its primary goals on the international trade agenda.<sup>44</sup> The FTAA, in short, will be a free trade zone encompassing the thirty-four democratic nations of the Western Hemisphere.<sup>45</sup> In terms of positive effects of the FTAA on Latin America, the Deputy U.S. Trade Representative explains that this proposed trade pact will benefit this region by (i) increasing access to foreign markets, which will permit economic diversification; (ii) promoting transparency, competition and impartial regulation of sectors such as telecommunications, insurance and financial services; (iii) fostering foreign investment (both direct and

---

<sup>41</sup> *Hastert Tells Textile Caucus Leadership Will Keep Fast-Track Promises*, 20 INSIDE U.S. TRADE 7, 15 (Feb. 15, 2002).

<sup>42</sup> Brevetti, *supra* note 40.

<sup>43</sup> *Id.*

<sup>44</sup> Press Release, Office of the Press Secretary, The President’s 2001 International Trade Agenda, at <http://www.whitehouse.gov/news/releases/2001/05/20010511.html> (May 10, 2001) [hereinafter President’s 2001 International Trade Agenda]; see also OFF. OF THE U.S. TRADE REP., 2001 TRADE POLICY AGENDA AND 2000 ANNUAL REPORT OF THE PRESIDENT OF THE U.S. ON THE TRADE AGREEMENTS PROGRAM, at 3, 110, at <http://www.ustr.gov/reports/2002.html>.

<sup>45</sup> President’s 2001 International Trade Agenda, *supra* note 44.

indirect) by creating the world's largest trade area composed of some 800 million people; and (iv) reinforcing the values of openness, accountability, democracy and rule-of-law that are critical to any real effort to combat narco-trafficking.<sup>46</sup>

Partial revocation of the trade preferences granted under the CBTPA will undermine the FTAA process in two main ways. First, to be capable of surviving the fierce inter-hemispheric competition that will emerge when the free trade zone is instituted in 2005, all of the Latin American economies, including those in the Caribbean, must first be diversified and strengthened.<sup>47</sup> Paramount to the fortification of the Caribbean economies is the establishment of production-sharing arrangements involving apparel and the receipt of foreign investment, both of which will decline if the CBTPA preferences are partially revoked.<sup>48</sup> In other words, if the Dye-and-Finish Pledge is implemented, the ability of the CBTPA to meet its purpose of serving as a provisional "bridge" to a successful FTAA will be severely weakened.

Second, partial retraction of preferences under the CBTPA may make many Latin American nations unwilling to continue participating in the FTAA process, thereby making TPA essentially ineffectual. After all, as a procedural mechanism, TPA theoretically allows the President to expedite the negotiation and

---

<sup>46</sup> Deputy United States Trade Representative, Ambassador Peter Allgeier, Testimony on Renewal of the Andean Trade Preference Act Before the Senate Finance Committee, Subcommittee on International Trade, at [http://www.ustr.gov/speech-test/assistant/2001-08-03\\_Allgeier.pdf](http://www.ustr.gov/speech-test/assistant/2001-08-03_Allgeier.pdf) (Aug. 3, 2001).

<sup>47</sup> U.S. Trade Representative, Ambassador Charlene Barshefsky, The Turning Point: The Caribbean Basin Initiative and the Free Trade Area of the Americas in 2000, Speech Before the Inter-American Development Bank, Washington, DC, at [http://www.ustr.gov/speech-test/barshefsky/barshefsky\\_98.pdf](http://www.ustr.gov/speech-test/barshefsky/barshefsky_98.pdf) (Sept. 11, 2000).

<sup>48</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, §§ 202(b)(2), 211(b)(5)(D), 114 Stat. 251 (2000). This second section provides that the CBTPA will expire on September 30, 2008, unless the FTAA or a comparable free trade agreement between the United States and the Caribbean nations enters into force prior to that date. *Id.* at § 211(b)(5)(D). See also Rossella Brevetti, *Rep. Crane Signals Readiness to Advance Andean Renewal Measure*, 18 Int'l Trade Rep. (BNA) No. 32, 1268 (Aug. 9, 2001) (discussing the production-sharing arrangements contained in the Andean Trade Preference Act and the importance of its goodwill to FTAA success); Gary G. Yerkey, *U.S. Wants to Extend Andean Trade Law to 2005 and Extend Product Coverage*, 18 Int'l Trade Rep. (BNA) No. 9, 751 (May 10, 2001) (discussing the production-sharing arrangements contained in the Andean Trade Preference Act).

passage of trade pacts.<sup>49</sup> However, if potential trade partners lack the requisite trust or willingness to effectuate trade deals with the United States, or if a sufficient amount of disgruntled congressmen unify to bar certain trade initiatives in spite of TPA, then this tool will have little practical use.<sup>50</sup>

The detrimental impact of the Dye-and-Finish Pledge on future FTAA negotiations is evident in both the United States and Latin America. For example, in the United States, upon the issuance of the Dye-and-Finish Pledge, Congressman Charles Rangel (D-N.C.) warned that renegeing on concessions granted to the Caribbean nations under the CBTPA would be interpreted by these nations as an utter betrayal.<sup>51</sup> Congressman Rangel argues, in particular, that “[i]t comes at the expense of hundreds of thousands of Caribbean workers, as well as their governments, who trust[] that when the United States gives its word in trade matters, that word means something.”<sup>52</sup> He warns, moreover, that the United States “will have no credibility in international trade negotiations” if it demonstrates that in order to pass TPA it is willing to undo existing trade commitments.<sup>53</sup>

In addition to politicians, various commentators have emphasized the potential negative effects caused by the Dye-and-Finish Pledge. One respected columnist, for example, classified it as a “shaky victory on trade” since TPA was obtained in a manner that will likely make future trade pacts (like the FTAA) “hard to sell.”<sup>54</sup> Likewise, other trade-policy analysts argue that the TPA

---

<sup>49</sup> See Rossella Brevetti & Fawn H. Johnson, *Baucus Sees TPA Trade Package Moving to Senate Floor in March*, 19 Int'l Trade Rep. (BNA) No. 7, 268 (Feb. 14, 2002).

<sup>50</sup> See *id.* (emphasizing that TPA alone is meaningless unless future trade agreements like the FTAA can actually be facilitated by using this tool.) Congressmen have explained that “[i]f the Bush Administration wants to pass trade acts, it needs to build a record of trust.”

<sup>51</sup> Press Release, Office of Representative Charles B. Rangel, Rep. Rangel Blasts Republican Leaders' Reported Commitment to Undo Past Trade Bill in Order to Pass Fast Track Bill by One Vote, at [http://www.house.gov/apps/list/press/ny15\\_rangel/pr070302immigration.html](http://www.house.gov/apps/list/press/ny15_rangel/pr070302immigration.html) (Dec. 6, 2001).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> David S. Broder, *A Shaky Victory on Trade*, WASH. POST, Dec. 12, 2001, at A35; see also Christopher Farrell, *Globalism, the Cure for War and Misery*, BUS. WK. ONLINE (Dec. 14, 2001) (classifying passing the TPA vote in exchange for increasing protectionist barriers against the textile makers in Africa as “a step in the wrong

vote should have demonstrated that the United States is prepared to deal on trade, yet it left many international observers “skeptical about the reliability of American promises.”<sup>55</sup> According to other ideologues, several Latin American nations have manifested considerable reluctance to proceed with FTAA negotiations due primarily to the “do what I say not what I do” U.S. trade negotiating posture toward the region and the recent incidents of U.S. protectionism involving steel, lumber and textiles.<sup>56</sup> Critics warn that despite official pronouncements to the contrary, several Latin American nations have little enthusiasm for further trade liberalization and that “U.S. trade hypocrisy gives the foot draggers all the excuse they need.”<sup>57</sup>

In terms of the negativity toward the FTAA in Latin America, Brazil has been increasingly vocal about its reluctance to continue the negotiating process. For instance, after the TPA bill — passed in the U.S. House of Representatives in December 2001 — restricted the ability of the U.S. President to reduce tariffs on certain items without congressional approval, the Brazilian President Fernando Henrique Cardoso warned that if TPA is not modified, it “will doom any prospects for approval of the [FTAA] by Brazil.”<sup>58</sup> Brazil has also manifested its anger about President Bush’s recent decision to impose tariffs on U.S. steel imports.<sup>59</sup>

---

direction”), at [http://www.businessweek.com/bwdaily/dnflash/dec2001/nf20011214\\_3105.htm](http://www.businessweek.com/bwdaily/dnflash/dec2001/nf20011214_3105.htm); see also Edward Gresser, *Dark Victory: TPA Passage, CBI Retreat, and the Next Steps*, PROGRESSIVE POL’Y INST. (Jan. 14, 2002) (claiming that the Dye-and-Finish Pledge will dilute some of the strategic benefit of passing TPA, which is simply a procedural mechanism used in trade negotiations), at [http://www.ppionline.org/ppi\\_ci.cfm?contentid=250005&knlgAreaID=108&subsecid=900010](http://www.ppionline.org/ppi_ci.cfm?contentid=250005&knlgAreaID=108&subsecid=900010).

<sup>55</sup> Lael Brainard, *Textiles and Terrorism*, N.Y. TIMES, Dec. 27, 2001, at A19.

<sup>56</sup> Brink Lindsey, *U.S. Protectionism Imperils Free Trade Talks with Latins*, WALL ST. J., Mar. 22, 2002, at A15.

<sup>57</sup> *Id.* (criticizing the Bush Administration’s support of recent protectionist measures such as the Dye-and-Finish Pledge, which may cause the FTAA negotiation process, scheduled to begin in May 2002, to “go nowhere”). Pointing out the inconsistency between the Bush Administration’s constant rhetoric about free trade and the recent trade measures designed to protect U.S. industries like steel, lumber and textiles, this article warns that “[i]f the stumbling doesn’t stop soon, the president’s [sic] big plan for hemispheric free trade is likely to fall flat on its face.” *Id.*

<sup>58</sup> Ed Taylor, *Brazilian Officials Upset at House TPA Bill May Seek to End FTAA Discussions*, 18 INT’L TRADE REPORTER 50, 2041 (Dec. 20, 2001).

<sup>59</sup> *Steeling for a Fight*, ECONOMIST, Mar. 23, 2002, at 36; see also Noam Scheiber, *Trading Places*, THE NEW REPUBLIC ONLINE (Mar. 26, 2002) (noting that the thirty

As one commentator explained, “[e]ven before George Bush slapped tariffs of up to thirty percent on imported steel this month, Brazil wondered if there was much prospect of a fair deal from the proposed [FTAA]. Now, it has further reason for doubt.”<sup>60</sup> Citing the strengthening of the Southern Cone Common Market (MERCOSUR), in which Brazil holds a dominant position, some Brazilian legislators have lobbied for simply withdrawing from further hemispheric negotiations, as an attractive alternative to proceeding with the FTAA process.<sup>61</sup> Momentum for this position is increased by the recent economic crisis in Argentina, which has triggered many doubts about whether the Western Hemisphere is prepared for true trade competition.<sup>62</sup> With Brazil’s growing aversion to the FTAA and the economic turmoil in Argentina that calls into question the preparedness of Latin America for enhanced trade liberalization, the Dye-and-Finish Pledge will undoubtedly make the FTAA even less appealing.

### *B. Avoids Capital and Production Shifts to Mexico*

As noted above, one of the explicit rationales for enacting the CBTPA was to eliminate the competitive edge (in apparel production and other sectors) that Mexico received when NAFTA took effect in 1994.<sup>63</sup> Since U.S. imports of apparel from Mexico entered duty-free under NAFTA, while the Caribbean nations, pursuant to Chapter 98 of the Harmonized Tariff Schedule of the

---

percent tariffs imposed by the U.S. will cost Brazil \$1 billion over the next three years, causing the Brazilian government to conclude that “America talks constantly about free trade but when it come to practice, it is protectionist”), at <http://www.tnr.com/doc.mhtml?i=express&s=scheiber032602>.

<sup>60</sup> *Steeling for a Fight*, *supra* note 59.

<sup>61</sup> Matthew Flynn, BRAZIL INCREASINGLY UNENTHUSIASTIC ABOUT U.S. FTAA PROPOSALS: HAS BUSH’S “CENTURY OF THE AMERICAS” ALREADY COME AND GONE? (Feb. 1, 2002) (“If the United States can pull out of the Anti-Ballistic Missile Treaty because that doesn’t suit its interests, why shouldn’t we pull out of negotiations that are not going to be of any benefit to us?”), at [http://www.americaspolicy.org/briefs/2002/body\\_0202brazil.html](http://www.americaspolicy.org/briefs/2002/body_0202brazil.html).

<sup>62</sup> Finaly Lewis, *A Stop in Mexico to Open Bush Latin America Trip*, SAN DIEGO UNION TRIBUNE, March 20, 2002, at A3; see also Joachim Bamrud, *FTAA: What Now?* LATIN BUS. CHRON., at <http://www.latinbusinesschronicle.com/reports/reports/ftaa.htm> (Jan. 14, 2002) (speculating that Argentina’s new protectionist government could unify with Brazil to decelerate or even derail FTAA negotiations).

<sup>63</sup> U.S. INT’L TRADE COMM’N, 15TH REPORT, *supra* note 4.

United States, were forced to pay duties on the value added to their apparel exports, a significant amount of capital and production-sharing arrangements shifted to Mexico in the mid-1990s.<sup>64</sup> As one representative of Jockey International, Inc. explains, with the

elimination of tariffs under NAFTA and with the slightly easier and cheaper transportation between Mexico and the United States versus that between the Caribbean and the United States, Mexico has a significant trade advantage. Competition from Mexico caused many United States apparel companies to move their investments and contracting relationships from [Caribbean] countries to Mexico.<sup>65</sup>

Thanks to the NAFTA-parity provided in the CBTPA, foreign investment and production-sharing arrangements began to relocate to the Caribbean after 2000.<sup>66</sup> In particular, considerable funds were directed towards constructing “full package” apparel facilities wherein the entire production process (including assembly, finishing, packaging and distribution) can be performed in one single location in the Caribbean.<sup>67</sup> If preferential treatment under the CBTPA is partially revoked pursuant to the Dye-and-Finish Pledge, the likely result will be a 1994 *déjà vu*: investment and production will shift to Mexico because intense price

---

<sup>64</sup> See, e.g., *Costa Rica Wants CBI Program To Be Enhanced*, Rodriguez Says, 15 Int'l Trade Rep. (BNA) No. 24, 1052 (1998); His Excellency René A. León, Ambassador to the U.S. from the Republic of El Salvador, Testimony on H.R. 984 before the Subcommittee on Trade, the House Committee on Ways and Means, the “Caribbean and Central American Relief and Economic Stabilization Act”, at <http://waysandmeans.house.gov/trade/106cong/3-23-99/3-23leon.htm> (Mar. 23, 1999) [hereinafter Testimony on H.R. 984].

<sup>65</sup> *U.S. Relief Efforts in Response to Hurricane Mitch: Hearing Before the Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism, Committee on Foreign Relations*, 106th Cong. 3 (1999) (statement of Mark Jaeger, Vice-President and Gen. Counsel, Jockey Int'l) [hereinafter *U.S. Relief Efforts: Hearing*]; see also Testimony on H.R. 984, *supra* note 64, at 95–98. As expressed by Martin, NAFTA, albeit unintentionally, has led to the diversion of existing and potential investment from the Caribbean region to Mexico and Asia. Testimony on H.R. 984, *supra* note 64, at 95–98. Without the “level playing field” provided by the CBTPA, warns Martin, “U.S. companies already in the region, competitively disadvantaged by the elimination of Mexican duty rates and quotas, will move new investment elsewhere and disinvest existing manufacturing facilities.” *Id.* at 98.

<sup>66</sup> U.S. INT'L TRADE COMM'N, 15TH REPORT, *supra* note 4.

<sup>67</sup> *Id.*

competition makes the apparel industry a “penny-pinching business” in which “[d]eals have been lost over a nickel.”<sup>68</sup>

*C. Prepares for the Onslaught of Asian Apparel in 2005*

The Agreement on Textiles and Clothing, under the World Trade Organization (WTO), imposes quotas on U.S. apparel imports from Asia until 2005.<sup>69</sup> Thereafter, Caribbean apparel producers must fully compete with their Asian rivals, who have the advantages of lower labor costs and access to an abundance of low-cost, high-quality fabrics.<sup>70</sup> According to industry experts, the relocation of U.S. apparel operations is inevitable due to the relatively high wages in the United States within this labor-intensive business.

The issue becomes, therefore, where to re-establish the operations. While Asia does offer lower labor prices, collaborating with companies in that region would not benefit apparel-related industries in the United States whatsoever, since Asian producers tend not to utilize U.S. fabrics, cotton, or other inputs. Non-utilization of U.S. inputs causes the elimination of domestic jobs. As one industry representative explains, “a partnership that has been in place since the mid-eighties with the [Caribbean] region will serve U.S. interests of stability and growth and allow apparel manufacturers to provide jobs in that region and maintain to the extent feasible jobs in the United States.”<sup>71</sup>

---

<sup>68</sup> *Andean Trade Preference Act: Hearing Before the Subcommittee on Int'l Trade, Senate Committee on Finance*, 107th Cong. 12 (2001) (statement of Paul Arcia, Pres., A.R.C. Int'l) (explaining that this production-and-capital-shift phenomena is characteristic of the apparel business in general) [hereinafter *Andean Trade Preference Act: Hearing*]. Alluding to the shift to the Caribbean region from the Andean region after the enactment of the CBTPA, this expert explains that the negative impact for the Andean region was immediate: orders by major clients such as Target, Wal-Mart, Costco and Fruit of the Loom were instantly canceled, thus forcing the company to lay off approximately one-third of its workforce. *Id.* at 11–12. This shift was not, however, a surprise to this executive who explained that the apparel industry “is a miserable penny-pinching business. With the advent of the super-retailer and the consolidation of many customers, cutting costs is a paramount objective. Deals have been lost over a nickel.” *Id.* at 12.

<sup>69</sup> U.S. INT'L TRADE COMM'N, 15TH REPORT, *supra* note 4.

<sup>70</sup> *Id.*

<sup>71</sup> *U.S. Relief Efforts: Hearing, supra* note 65, at 22 (testimony of Mark Jaeger, Vice-Pres. And Gen. Counsel of Jockey Int'l); Testimony on H.R. 984, *supra* note 64, at 93–98 (statement of Larry K. Martin, Pres., Amer. Apparel Manufacturers, as presented

In addition to preserving as many jobs in the United States as possible, establishing production-sharing arrangements under the CBTPA (i) helps eliminate poverty and drug trafficking in the region through market-led economic growth; (ii) reduces the flow of immigration-by-necessity by providing employment opportunities in the region; (iii) fosters hemispheric stability; and (iv) increases U.S. exports of fabrics and other components.<sup>72</sup> At the time of its implementation, other industry experts categorized the CBTPA as “one of the last opportunities” for the Western Hemisphere’s textile and apparel industries to forge the alliances necessary to survive under worldwide quota-free trade in 2005.<sup>73</sup> Stating it even more bluntly, a former U.S. trade negotiator warned that “[y]ou’ve got five years to get your act in gear.”<sup>74</sup>

Because of the uncertainty regarding the CBTPA regulations, many U.S. companies were reluctant to invest in the Caribbean in 2000 and 2001. If the Dye-and-Finish Pledge passes, it is clear that foreign investment in the Caribbean, especially in terms of the “full package” facilities, will decrease. Accordingly, the Caribbean nations will not be prepared to compete with the dramatic increase of low-priced apparel from Asia in 2005, and U.S. producers of cotton, fabrics and other inputs will suffer, too.

#### *D. Protects U.S. Interests Through Designation Criteria*

U.S. companies and organizations are concerned about several issues in the Caribbean region, including adherence to international labor standards, enforcement of intellectual property rights, and fair payment for expropriated land. The CBTPA is designed in a manner that allows the United States to use its leverage to ensure that the Caribbean nations address these issues, among others. Specifically, the “designation criteria” considered in determining if a particular nation is eligible to receive preferential treatment under the CBTPA can be used to pressure certain Caribbean nations into making local changes that will be

---

by Stephen Lamar, Dir. of Gov. Relations).

<sup>72</sup> Hearing on H.R. 984, *supra* note 64, at 14 (statement of Hon. Jim Kolbe, Cong. Representative, Ariz.).

<sup>73</sup> Kathleen DesMarteau, *TDA Implementation: The Clock Is Ticking*, BOBBIN, Nov. 2000, at 11; *see also* Jordan Speer, *CBI Splashdown*, BOBBIN, Nov. 2000, 25–32.

<sup>74</sup> DesMarteau, *supra* note 73, at 13.



beneficial to the United States.<sup>75</sup>

### 1. *International Labor Standards*

The designation criteria of the CBTPA require that each Caribbean nation take steps to grant internationally-recognized worker rights in its country, including the right of association, the ability to organize and bargain collectively, a prohibition against any form of forced labor, a minimum age for employment of children, and acceptable conditions in terms of wages, hours, and occupational safety and health.<sup>76</sup> Upon enacting the CBTPA, the United States had serious concerns about worker rights in El Salvador, Guatemala, Honduras and Nicaragua. Accordingly, in order to improve the situation in these nations, the United States utilized the CBTPA to allow the Office of the U.S. Trade Representative to conduct initial studies, as well as subject these countries to ongoing monitoring.<sup>77</sup>

A recent report by the Government Accounting Office (GAO) on the worker-rights situation in six major apparel countries in the Caribbean indicates that while these nations have made significant efforts to improve worker rights, problems persist.<sup>78</sup> In terms of progress, the GAO study reveals that the Caribbean governments have (i) reformed their labor laws to meet international standards; (ii) fortified and simplified procedures to form unions and negotiate collective bargaining agreements; (iii) established labor courts; (iv) enhanced labor enforcement and inspection capabilities of the labor ministries; and (v) increased training and salaries for labor inspectors.<sup>79</sup> In addition to these local

---

<sup>75</sup> U.S. TRADE REPRESENTATIVE, 4TH REPORT, *supra* note 3. The criteria for eligibility under the CBTPA program come from one of three sources: mandatory factors under the CBERA, discretionary factors under the CBERA, and mandatory factors under CBTPA to be eligible for the advanced benefits. *Id.*

<sup>76</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, § 211, 114 Stat. 251 (2000).

<sup>77</sup> U.S. Dept. of State, Int'l Info. Programs, *Fact Sheet: Caribbean Trade Partnership Act*, at <http://usinfo.state.gov/regional/ar/islands/trade03.htm> (Oct. 3, 2000).

<sup>78</sup> U.S. GEN. ACCOUNTING OFFICE, CARIBBEAN BASIN: WORKER RIGHTS PROGRESS MADE, BUT ENFORCEMENT ISSUES REMAIN, at 4 (GAO/NSAID-98-205, July 1998) [hereinafter WORKER RIGHTS].

<sup>79</sup> *Id.*; see also Press Release, Office of U.S. Trade Representative, U.S. Trade Rep. Concludes Review of Guatemala's Labor Practices and Trade Preferences under U.S. Law, at <http://www.ustr.gov/releases/2001/05/01-31.pdf> (May 31, 2001). Because of

governmental efforts, the private sector has contributed by developing various “codes of conduct,” which may be adopted by businesses desirous of projecting a worker-friendly image to their concerned customers.<sup>80</sup> Despite these positive steps, the GAO report warns that allegations of violations are still commonplace and the enforcement of labor laws remains problematic.<sup>81</sup> Moreover, with regard to the voluntary “codes of conduct,” the study concludes that there is no effective manner of monitoring or enforcement.<sup>82</sup>

## 2. *Intellectual Property Rights*

The designation criteria for benefits under CBTPA require that each Caribbean nation provide effective protection of intellectual property rights.<sup>83</sup> Piracy of works protected by copyright is not as endemic to the Caribbean region as it once was, but problems persist. For example, according to a recent study by the Office of the U.S. Trade Representative, widespread incidents of intellectual property crimes occur in the Bahamas,<sup>84</sup> Barbados,<sup>85</sup> Costa Rica,<sup>86</sup> the Dominican Republic,<sup>87</sup> Guatemala,<sup>88</sup> and Haiti.<sup>89</sup>

---

long-standing concerns about violence against Guatemalan workers, the U.S. government recently conducted a follow-up investigation in Guatemala. WORKER RIGHTS, *supra* note 78. The study identified several “meaningful advances” made by the Guatemalan government, including (i) enactment of reforms to labor law in May 2001 to comport with international standards; (ii) strengthening the enforcement authority of the ministry of labor; (iii) holding significant meetings with members of the International Labor Organization to identify problems and solutions; and (iv) facilitating the resolution of a labor dispute involving banana workers, which allowed the re-employment of approximately 600 workers who were illegally terminated. *Id.*

<sup>80</sup> WORKER RIGHTS, *supra* note 78, at 5.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, § 211, 114 Stat. 251 (2000).

<sup>84</sup> U.S. TRADE REPRESENTATIVE, 4TH REPORT, *supra* note 3, at 20.

<sup>85</sup> *Id.* at 22.

<sup>86</sup> *Id.* at 26.

<sup>87</sup> *Id.* at 29.

<sup>88</sup> *Id.* at 38.

<sup>89</sup> *Id.* at 43.

### 3. *Expropriation*

The designation criteria to the CBTPA also mandate that a country may not be eligible for benefits if it takes measures that have the effect of expropriating property owned by U.S. citizens or companies without prompt and adequate consideration.<sup>90</sup> Nevertheless, certain incidents involving U.S. interests have occurred. For example, during the past thirty years “the government of Costa Rica [has] expropriated large tracts of land for national parks, biological reserves and indigenous reservations.”<sup>91</sup> According to a report by the Office of the U.S. Trade Representative, “[c]urrent and past governments have made efforts to resolve several pending expropriation cases involving U.S. citizens, but the process has been slow and there have been few successful resolutions.”<sup>92</sup> While the government of the Dominican Republic has not expropriated property of U.S. citizens for several years, it failed to make full payment under exclusive power purchase agreements with several U.S.-owned independent energy producers.<sup>93</sup> The Honduran government, similarly, has been the target of over 150 property and investment disputes involving U.S. citizens.<sup>94</sup> During the Sandinista-era in the mid 1980s, the Nicaraguan government seized homes, farms, bank accounts and other assets of American citizens.<sup>95</sup> As a result, over 900 American citizens have solicited the assistance of the U.S. Embassy in Nicaragua regarding more than 2,500 separate claims.<sup>96</sup>

Despite the existence of the CBTPA “designation criteria,” problems in the areas of international labor standards, intellectual property protections, and expropriations obviously remain. Caribbean government officials have admitted, though, that by using preferential duty treatment under CBTPA as an incentive, the U.S. government has had “substantial leverage” in encouraging

---

<sup>90</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, § 211, 114 Stat. 251 (2000).

<sup>91</sup> U.S. TRADE REPRESENTATIVE, 4TH REPORT, *supra* note 3, at 27.

<sup>92</sup> *Id.* at 27-28.

<sup>93</sup> *Id.* at 31.

<sup>94</sup> *Id.* at 47.

<sup>95</sup> *Id.* at 52.

<sup>96</sup> *Id.*

improvements in certain areas.<sup>97</sup> If, however, the benefits of the CBTPA are significantly lessened by the implementation of the Dye-and-Finish Pledge, Caribbean nations may depend less on the CBTPA, and thus be less motivated to make changes necessary to fulfill the designation criteria.

*E. Subverts the War on Terrorism*

In response to the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, President Bush declared a war on terrorism that was designed in large part to deprive all terrorists of financial resources. Upon signing Executive Order 13,224 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten or Support Terrorism (the Executive Order), Bush was unambiguous regarding the intended effects of this mandate on persons and entities that fail to collaborate with the United States, including those in Latin America.<sup>98</sup> Bush stated specifically: “[i]f you do business with the terrorists, if you support them, you will not do business with the United States of America.”<sup>99</sup>

Although the Executive Order does not identify specific persons or entities in the Caribbean, this region will nonetheless be extremely important to the war on terrorism due to the high incidence of drug trafficking and money laundering, both of which are inextricably linked to terrorism. With respect to drug trafficking, the U.S. Drug Enforcement Agency now uses the term “narco-terrorism” to describe (i) cultivating, manufacturing, transporting, or distributing controlled substances; and (ii) taxing, providing security for, or otherwise aiding or abetting drug trafficking endeavors in an effort to further or fund terrorist activities.<sup>100</sup> Despite longstanding efforts by the United States to

---

<sup>97</sup> WORKER RIGHTS, *supra* note 78, at 9; see also *GAO Sees Lax Labor Enforcement in Trade-Preferred Caribbean Nations*, 15 Int'l Trade Rep. (BNA) No. 31 (Aug. 5, 1998).

<sup>98</sup> Exec. Order No. 13,224, 66 Fed. Reg. 186 (Sept. 25, 2001).

<sup>99</sup> President George W. Bush, Secretary of the Treasury Paul O'Neill, Secretary of State Colin Powell, Remarks at the White House, at <http://www.whitehouse.gov/news/releases/2001/09/20010924-4.html> (Sept. 24, 2001).

<sup>100</sup> *Narco-Terror: The World Wide Connection Between Drugs and Terrorism: Hearing Before the Subcommittee on Technology, Terrorism and Gov't Info., U.S. Senate Committee on the Judiciary* (Mar. 13, 2002) (statement of Asa Hutchinson,

eliminate or minimize narco-terrorism in the Caribbean, recent studies by the U.S. State Department clearly indicate that nearly all countries in the region either produce illegal drugs or serve as major transit points (from Latin America to the United States) for them.<sup>101</sup> Still more distressing is the high degree of infiltration by several criminal groups in the seven Eastern Caribbean countries and the potential harmful effects on the U.S.-led war on terrorism.<sup>102</sup> According to the State Department study, “[t]errorist organizations could easily tap into the infrastructure built by [international drug trafficking organizations] operating in the region, *and may already have done so.*”<sup>103</sup> Like narco-terrorism, money laundering [defined as the process whereby funds derived from an illicit source (e.g., drug trafficking, terrorism, extortion, etc.) are disguised through a series of financial transactions at various institutions] is a severe problem in the Caribbean. For example, a recent State Department study indicates that the majority of Caribbean countries are of “concern” or “primary concern” to the United States in terms of money laundering.<sup>104</sup>

The Bush Administration is acutely aware of the link between desperate economic circumstances and terrorism, especially in Latin America. In fact, one of the purposes of President Bush’s trip in March 2002 to El Salvador, Mexico, and Peru was to re-focus attention on the region and to develop a strategy to eliminate terrorism’s “breeding grounds in Latin America’s [urban] slums and impoverished rural areas.”<sup>105</sup> As President Bush expressed in a recent speech before the Inter-American Development Bank,

---

Administrator of the U.S. Drug Enforcement Agency), at <http://judiciary.senate.gov/hearing.cfm?id=196> [hereinafter *Narco-Terror: Hearing*].

<sup>101</sup> U.S. DEPARTMENT OF STATE, INT’L NARCOTICS CONTROL STRATEGY REPORT, at <http://www.state.gov/g/inl/rls/nrcrpt/2001/rpt/8479.htm> (2001) [hereinafter NARCOTICS CONTROL REPORT].

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* (emphasis added); see also *Narco-Terror: Hearing*, *supra* note 100 (explaining that U.S. spending on international drug control measures reveals that this country has long been aware of the pervasiveness of the drug trade in Latin America).

<sup>104</sup> NARCOTICS CONTROL REPORT, *supra* note 101, at 33–34. The Caribbean countries listed include Antigua and Barbuda, Bahamas, Cayman Islands, Dominica, Dominican Republic, St. Vincent, Aruba, Barbados, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. *Id.*

<sup>105</sup> Lewis, *supra* note 62, at A3.

while poverty does not directly cause terrorism, persistent oppression leads to hopelessness.<sup>106</sup> If governments such as those in Latin America fail to counteract this despondency by meeting the basic needs of their people, then these areas will become “havens for terror.”<sup>107</sup> This threat is keenly applicable to Central America and the Caribbean, a region which has recently been negatively impacted by civil wars; natural disasters such as hurricanes and earthquakes; drastically falling market prices for some of its chief agricultural products like bananas and coffee; and uncontrollable urban growth.<sup>108</sup> Other realities harming the Caribbean economies after the terrorist attacks on September 11, 2001, include drastic drops in revenue from tourism and decreases in foreign investment due to risk aversion.<sup>109</sup> According to members of the U.S. State Department, when the Caribbean economies struggle and unemployment rises, a “‘shadow’ economy” fueled by the smuggling of drugs, arms, and persons becomes even stronger in this “critical part of the world’s criminal pipelines.”<sup>110</sup>

As discussed earlier, many of the Caribbean economies are heavily dependent on apparel production facilitated by, among other things, the CBTPA. If the benefits of this trade arrangement

---

<sup>106</sup> Press Release, U.S. White House, President Proposes \$5 Billion Dollar Plan to Help Developing Nations, Remarks by President George W. Bush at the Inter-American Development Bank, at <http://www.whitehouse.gov/news/releases/2002/03> (Mar. 14, 2002) [hereinafter Remarks by President George W. Bush at the Inter-American Development Bank].

<sup>107</sup> *Id.*; see also Jim Vandehei, *In Latin America, Bush Will Focus on Poverty, Drugs and Terrorism*, WALL ST. J., Mar. 21, 2002, at A24 (“In countries where there are not good policies, and where there is hopelessness, and where there is poverty, you can create conditions of the kind that you had in Afghanistan, where the parasites latch on.”).

<sup>108</sup> David Gonzalez, *Central America’s Cities Grow Bigger and Poorer*, N.Y. TIMES, Mar. 17, 2002, at 3. In Central America, nearly seventy-five percent of the population lives in cities. *Id.* Those peasants for whom subsistence farming has become untenable arrive in urban areas only to find more despair. *Id.* They live in “flimsy houses on dirty streets that are often ruled by violent youth gangs [and] governments have failed to provide enough water, sanitation or jobs for the thousands of desperately poor newcomers.” *Id.*

<sup>109</sup> Lino Gutierrez, September 11 and Its Aftermath: The Impact of Doing Business in the Americas, Remarks before the George Washington University Center for Latin American Issues, at <http://www.state.gov/p/wha/rls/rm/2001/6706pf.htm> (Nov. 27, 2001).

<sup>110</sup> *Id.*

are partially revoked in accordance with the Dye-and-Finish Pledge, the local economies will suffer. Hence, given the high incidence of drug trafficking and money laundering already in the region, as well as President Bush's unequivocal awareness of the relationship between poverty and terrorism, modifying U.S. trade policy such that the Caribbean nations are in jeopardy of becoming a "haven for terror" is contradictory to the war on terrorism.

*F. Undermines a U.S.-Central America Trade Pact*

The Bush Administration announced on January 16, 2002, that the United States plans to "explore" a free trade agreement with the nations of Central America (i.e., Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua), which already enjoy preferential duty treatment under the CBTPA.<sup>111</sup> According to official sources, the purpose of forming such a trade arrangement is three-fold: to promote U.S. exports to the region, to support democracy and economic reform, and to make progress towards finalizing the FTAA.<sup>112</sup> More importantly, perhaps, representatives of the Bush Administration explain that announcing this potential trade pact at this precise moment is paramount to reassuring Central American countries that the United States has not forsaken them.<sup>113</sup> In other words, President Bush desires to clarify that despite the fact that the war on terrorism has recently become the central point of U.S. foreign policy, he has not forgotten "the foreign policy commitment he made last year: A new focus on the Western Hemisphere."<sup>114</sup>

The Central American leaders reacted enthusiastically to the possibility of a free trade agreement. For example, only hours after the announcement, the president of El Salvador appeared on

---

<sup>111</sup> President George W. Bush, *The Future of the Americas*, Remarks at the World Affairs Councils of America (Jan. 16, 2002) (on file with the North Carolina Journal of International Law and Commercial Regulation).

<sup>112</sup> Press Release, Office of the Press Secretary, U.S. White House, Fact Sheet: U.S.-Central America Free Trade Agreement, at <http://www.whitehouse.gov/news/releases/2002/01/20020116-11.html> (Jan. 16, 2002); see also Rossella Brevetti, *United States to Explore FTA with Central America, Bush Says*, 19 Int'l Trade Rep. (BNA) No. 4, 127 (Jan. 24, 2002).

<sup>113</sup> David E. Sanger, *Bush Declares Free Markets Are Essential for Americas*, N.Y. Times, Jan. 17, 2002, at A19.

<sup>114</sup> *Id.*

national television, declaring that this potential trade pact with the United States represented the dawning of a new era.<sup>115</sup> Following suit, other regional leaders openly supported the initiative; local newspaper headlines alluded to increased exports, job opportunities, and foreign investment. Preliminary work began to arrange a regional presidential summit that would identify a common negotiating strategy.<sup>116</sup> When asked the reasons for such excitement, the Salvadoran Ambassador to the United States explained that “[i]t is the first time a U.S. president has announced anything like this. *We are taking him at his word* and we are ready.”<sup>117</sup>

The initial eagerness notwithstanding, the feasibility of completing the proposed free trade agreement is questionable for several reasons. First, forming a trade pact with only the Central American members of the CBTPA nations may prove extremely divisive in the region. As evidence thereof, Jamaican officials warned of immediate protests to any such action, and argued that “even if the Caribbean was later included in an FTAA, giving Central American countries a competitive edge in the short term would be devastating to the island nations covered by the CBTPA.”<sup>118</sup>

Second, while President Bush consistently touted free trade during his recent visit to El Salvador, he arrived bearing no tangible plans in terms of negotiating schedules.<sup>119</sup> Third, despite the generalized excitement of Central American leaders for a free trade agreement, this measure may not enjoy the necessary popular support due to the regional belief that trade liberalization tends to

---

<sup>115</sup> Marcela Sanchez, *The Power of a President's Word*, WASH. POST, Jan. 25, 2002, at <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentID=A36938-2002Jan25&notFound=true> (on file with the North Carolina Journal of International Law and Commercial Regulation).

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* (emphasis added).

<sup>118</sup> Joanna Ramey, *The Wait for TPA*, WOMEN'S WEAR DAILY, Feb. 12, 2002, at 16.

<sup>119</sup> Edwin Chen, *Bush Talks Trade in El Salvador, Lauds Democratic Progress*, L.A. TIMES, March 25, 2002, at A3; see also Elisabeth Bumiller, *Diplomatic Two-Steps in Latin America Trip*, N.Y. TIMES, March 25, 2002, at A16. Secretary of State, Colin Powell, announced that the United States would not be “exploring” a free trade agreement with Central America soon because several other existing trade issues take precedence. Chen, *supra* at A3.



disproportionately benefit the wealthy elites, thereby creating even larger income disparities.<sup>120</sup> Finally, and perhaps most noteworthy, the Dye-and-Finish Pledge may thwart any possibility of a free trade pact. As noted above, the Central American nations contemplated by such a trade agreement with the United States already benefit from the CBTPA. These countries, however, are now in jeopardy of having certain existing benefits retracted less than two years after they were granted. Logic dictates that this unexpected revocation of benefits will be considered by many in these Central American countries as a blatant betrayal by the United States, and the trust upon which the negotiations of the free trade agreement with Central America were to be based will be severely diminished, if not destroyed outright.<sup>121</sup>

*G. Safeguards Existing U.S. Investments in Central America*

As explained previously, the regulations implementing the CBTPA provided that the phrase “wholly formed in the United States” did not require the fabric to be dyed and finished in the United States in order to qualify for preferential treatment. Based on this determination, many U.S. companies made “significant investments” in their partners in the Caribbean region to purchase equipment for cutting, stonewashing, and dyeing fabrics.<sup>122</sup> According to a recent study by the U.S. International Trade Commission, allowing these processes to occur in the Caribbean under the CBTPA has led to (i) improved turnaround time from order date to delivery; (ii) increased efficiency in apparel logistics; (iii) creation of many new jobs, including over 10,000 in Guatemala alone; and (iv) enhanced foreign investment in the Caribbean garment sector.<sup>123</sup>

With regard to U.S. investment and job creation, a study indicates that over forty apparel operations were established in Guatemala, and Honduras has greatly benefited from sizable foreign investment in its thirty-six industrial parks dedicated

---

<sup>120</sup> Catherine Elton, *Central America Ambivalent Toward Free Trade*, CHRISTIAN SCI. MONITOR, March 22, 2002, at 7.

<sup>121</sup> *See id.*

<sup>122</sup> U.S. INT’L TRADE COMM’N, 15TH REPORT, *supra* note 4, at 43.

<sup>123</sup> *Id.* As an indicator of size, the government of El Salvador alone reported over \$1.1 million in foreign direct investment in the garment sector in 2000. *Id.*

primarily to garment production.<sup>124</sup> In addition to this initial investment during the first two years of the CBTPA's existence, based on the "high degree of interest" in the program thus far, experts predict that it will have a "major impact on growth and investment" in the Caribbean in the future.<sup>125</sup>

If the Dye-and-Finish Pledge is upheld, the millions of dollars invested by U.S. companies will be essentially lost and the economies of the Caribbean nations will suffer. Alluding to a recent visit to the Caribbean by members of the House Subcommittee on International Trade, Congressman Charles Rangel explained that "[t]he information . . . gathered indicates that any change to the dye and finish rule will have a direct, adverse impact on an already ailing Caribbean Basin textile and apparel industry."<sup>126</sup> This lawmaker argues, in particular, that partial revocation of preferences will hurt both existing and future investment in the region.<sup>127</sup> Agreeing with this position, the ambassadors of the Caribbean nations sent a letter to the Speaker of the House, Dennis Hastert, explaining that the proposed Dye-and-Finish Pledge is extremely untimely since the local apparel industry has recently been injured by increased competition from Asian competitors as well as the generalized slowdown in the world economy after the terrorist attacks of September 11, 2001.<sup>128</sup>

#### *H. Advances Accomplishments under the CBTPA*

Since its introduction in 1983, the Caribbean Basin Economic Recovery Act (CBERA) has rendered small but positive results for the Caribbean and the United States alike. According to a recent report by the U.S. International Trade Commission, this preferential trade program triggered some foreign direct investment and economic diversification in the region.<sup>129</sup> The benefits reaped by the Caribbean nations would have been considerably larger, though, if not for the fact that (i) most goods

---

<sup>124</sup> *Id.* at 81–85.

<sup>125</sup> *Id.* at 91, 120.

<sup>126</sup> Brevetti, *supra* note 40, at 544–45.

<sup>127</sup> *Id.*

<sup>128</sup> See *Ambassadors, Rangel Urge Bush to Keep CBI Apparel Benefits*, 20 *INSIDE U.S. TRADE* 1, 8–9 (Jan. 4, 2002).

<sup>129</sup> U.S. INT'L TRADE COMM'N, 15TH REPORT, *supra* note 4, at xi-xiii.

eligible under CBERA already entered duty-free under other trade programs such as the Generalized System of Preferences; and (ii) goods in which Caribbean nations had a considerable comparative advantage (e.g., textiles) were excluded under CBERA.<sup>130</sup> Of greater relevance perhaps is the fact that Caribbean nations obtained benefits under CBERA without threatening the U.S. economy or employment. For example, a recent report by the U.S. Department of Labor found that “[p]referential tariff treatment under the CBERA does not appear to have had an adverse impact on, or have constituted a significant threat to, U.S. employment generally.”<sup>131</sup> Concurring with this conclusion, a U.S. International Trade Commission analysis of the twenty leading imports benefiting exclusively from the CBERA did not uncover even the minimum amount of U.S. industry displacement (five percent) to warrant a further investigation.<sup>132</sup>

In the aftermath of hurricanes Mitch and Georges in 1998, which severely damaged the Caribbean, the CBTPA was enacted with the belief that granting enhanced trade preferences to this region would effectively promote economic recovery, decrease illegal immigration, improve regional cooperation efforts to halt drug trafficking, and foster opportunities for U.S. companies to establish production-sharing operations in the Caribbean in order to preserve certain manufacturing operations in the U.S. that would otherwise be lost.<sup>133</sup> Moreover, expansion of the trade program vis-à-vis the CBTPA was warranted since this constituted an “important affirmation of the United States’s ongoing commitment to economic development in the Caribbean Basin.”<sup>134</sup> Apart from official government proclamations, the CBTPA received support from various U.S. industries, including the

---

<sup>130</sup> *Id.* at 94.

<sup>131</sup> U.S. DEPARTMENT OF LABOR, BUREAU OF INTERNATIONAL LABOR AFFAIRS, TRADE AND EMPLOYMENT OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT, 15TH ANNUAL REPORT TO THE CONGRESS PURSUANT TO SECTION 216 OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT, at <http://www.dol.gov/dol/ilab/public/programs/oiea/cb98cong.htm> (1999).

<sup>132</sup> U.S. INT’L TRADE COMM’N, 15TH REPORT, *supra* note 4, at 64; *see also CBI, Andean Trade Acts Have Little Effect on U.S. Economy, ITC Report Finds*, 15 Int’l Trade Rep. (BNA) No. 40, 1713 (Oct. 14, 1998).

<sup>133</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, 114 Stat. 251 (2000).

<sup>134</sup> U.S. TRADE REPRESENTATIVE, 4TH REPORT, *supra* note 3, at 1.

National Cotton Council,<sup>135</sup> the National Retail Federation,<sup>136</sup> and even the U.S. textile industry.<sup>137</sup>

Implemented less than two years ago, the CBTPA has already rendered positive results. For example, according to a recent report by the Office of the U.S. Trade Representative, it is clear that the new CBTPA provisions are being “used extensively,” the value of U.S. imports from the Caribbean have nearly doubled, and the Caribbean economies have shown signs of diversification.<sup>138</sup> Just as the CBTPA has positively impacted the Caribbean, the United States has also benefited by way of: increased U.S. exports of fabrics, cotton and yarn; new business

---

<sup>135</sup> Testimony on H.R. 984, *supra* note 64, at 83–86 (statement of F. Ronald Payner, President, National Cotton Council of America). Since approximately sixty percent of U.S. cotton is sold annually to the domestic textile industry, representatives of the cotton industry want both good international trade agreements and a healthy U.S. textile industry: “[T]he National Cotton Council has been supportive of a Caribbean Basin trade bill because we believe the right . . . bill will enable our industry to compete more efficiently with low-priced textile imports.” *Id.*

<sup>136</sup> *Id.* at 98–101 (statement of Erik O. Autor, Vice President, Int’l Trade Counsel, Nat’l Retail Fed’n). Interested in obtaining inexpensive imports to satisfy cost-sensitive consumers in the United States, representatives from this group emphasize the positive aspects of CBERA enhancement: “In focusing on the likely increase in U.S. imports, what is often overlooked in the debate over additional trade preferences for [Caribbean] countries is the growth potential for U.S. exports of yarn, fabric, and notions, not to mention the potential for export growth from U.S. machinery and equipment manufacturers.” *Id.* at 101.

<sup>137</sup> *Id.* at 88–93. While not relinquishing its argument that dyeing-and-finishing should be required to occur in the United States, as a matter of self-preservation, this industry realizes that apparel production in the Caribbean is preferable to that in Asia. *Id.* To this effect, the representative stated:

There is clearly a compelling need to extend duty-free treatment immediately to CBI apparel made from U.S. fabrics and U.S. yarns. Failing that, the Caribbean will lose its competitive edge and the region will be placed in even greater economic stress. And the U.S. textile industry will face larger and more serious job losses and even more plant closings in the face of unprecedented price declines from Asia.

*Id.* at 93.

<sup>138</sup> U.S. TRADE REPRESENTATIVE, 4TH REPORT, *supra* note 3, at 1, 11–14. With regard to economic diversification, the report explains that, although in 1984 the main exports from the Caribbean were primary goods such as coffee, bananas, and minerals, under the CBTPA, manufactured goods, such as apparel and machinery, constitute more than 50 percent of the U.S. imports under the program. *Id.* at 1; see also Rossella Brevetti, *USTR Report Says Countries Are Using Expanded CBI Benefits*, 19 Int’l Trade Rep. (BNA) No. 2, 67 (Jan. 10, 2002).

for U.S. transportation and logistics firms involved in apparel shipments;<sup>139</sup> and additional sources of revenue for U.S. port cities.<sup>140</sup> Experts argue that the benefits of CBTPA would have been even larger if not for the uncertainty caused by the dyeing-and-finishing controversy and the delay in publishing the final implementing regulations.<sup>141</sup> Although many industry experts call the opposition by Senator Jesse Helms baseless, they recognize the damaging effects for the CBTPA:

so long as this issue is under public review, important investments in finishing operations that have been made in the Caribbean and Central American countries are at risk. And even more important for the long-term partnerships is the fact that U.S. companies cannot take the risk of shifting new orders to beneficiary countries when the rules may change overnight, possibly even retroactively.<sup>142</sup>

In view of the positive results yielded for over two decades by these trade preference programs for the Caribbean, as well as predictions of increased benefits in the near future for both the United States and the Caribbean region under the CBTPA, impeding the momentum now by implementing the Dye-and-Finish Pledge appears, to put it lightly, counterproductive.

### *I. Upholds U.S. Foreign Policy Toward Latin America*

The Bush Administration has consistently maintained that Latin America constitutes an important part of its foreign policy agenda. According to Otto Reich, Assistant Secretary of State for Western Hemisphere Affairs, President Bush makes Latin America and the Caribbean a “high priority” because he “truly

---

<sup>139</sup> Jules Abend, *Carriers Eye CBI Expansion*, 42 *BOBBIN* 3, 52 (Nov. 1, 2000).

<sup>140</sup> Congressional Press Release from William J. Jefferson, Representative, House of Representatives, *The Trade & Development Act of 2000, Opportunities for New Orleans Companies*, at [http://www.lexis.com/research/retrieve?\\_m=1a70ea332db33e443957325e37111b17&docnum=37](http://www.lexis.com/research/retrieve?_m=1a70ea332db33e443957325e37111b17&docnum=37) (July 7, 2000).

<sup>141</sup> *Trade Agency Budget Authorizations and Other Customs Issues, Hearing Before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade*, 107th Cong. 94–95 (July 17, 2001) (testimony of J. Anthony Smith, Central American and Caribbean Textiles and Apparel Council) [hereinafter *Trade Hearings*]; see also *Bernal Calls on US to Clarify Provisions in CBTPA*, *THE GLEANER*, July 15, 2001.

<sup>142</sup> *Trade Hearings*, *supra* note 141, at 88 (testimony of Julia K. Hughes, U.S. Association of Importers of Textiles and Apparel).

believes that our future is inextricably tied to that of our hemispheric neighbors."<sup>143</sup> Other representatives of the Bush Administration share this opinion, explaining that due to the growing interdependence between Latin America and the United States, this region is "at the center of the President's world view."<sup>144</sup> Political rhetoric of this nature notwithstanding, angering Latin America by implementing the Dye-and-Finish Pledge would undermine U.S. foreign policy towards the region and be extremely untimely for a number of reasons.

First, although a temporary shift in political attention towards Afghanistan and its neighbors is understandable in the aftermath of the terrorist attacks on the Pentagon and the World Trade Center on September 11, 2001, the United States's neglect of Latin America since then is beginning to irritate many nations. A former U.S. diplomat to Latin America confirms that there is "general disappointment" with the Bush Administration because of the scant attention that has been given to the region lately.<sup>145</sup>

Second, along with the annoyance expressed by representatives of Latin America, respected U.S. trade experts have pointed out the inconsistencies in the Bush Administration's trade policy toward Latin America and the world. In the opinion of a former U.S. Trade Representative, while the Bush Administration's rhetoric on free trade is abundant, the corresponding actions are inconsistent. In other words, "the walk doesn't always follow the talk."<sup>146</sup> Other policymakers agree, arguing that amending the CBTPA to implement the Dye-and-

---

<sup>143</sup> Assistant Secretary of State for Western Hemisphere Affairs, Otto Reich, U.S. Foreign Policy in the Western Hemisphere, Remarks Before the Center for Strategic and International Studies, at <http://www.csis.org/americas/reich020313.pdf> (Mar. 12, 2002) (Citing the fact that political and economic instability in Latin America may lead to increased illegal immigration, drug trafficking, terrorism and social turmoil, Reich claims that the importance of the region cannot be underestimated: "It is hard to exaggerate all that we have at stake here.").

<sup>144</sup> Acting Assistant Secretary for Western Hemisphere Affairs, Lino Gutierrez, Bush Administration Policies for Latin America and the Caribbean, Remarks Before the Board of Directors of the Pan American Development Foundation, at <http://www.state.gov/p/wha/rls/rm/2001/4089pf/htm> (July 10, 2001).

<sup>145</sup> Tim Johnson, *Powell: Latin America Important to U.S.*, MIAMI HERALD, Sept. 10, 2001, at 1A.

<sup>146</sup> David R. Francis, *Why Some U.S. Industries Don't Welcome Freer Trade*, CHRISTIAN SCI. MONITOR, Jan. 28, 2002, at 21.

Finish Pledge will make the United States not only appear “flaky and unreliable,” but also directly contradict the longstanding U.S. policy of attempting to use trade preferences as a catalyst for economic development, political stability, and improved working conditions in some of the poorest countries in the Western Hemisphere.<sup>147</sup>

Third, while U.S. efforts are centered elsewhere, many Latin American countries are experiencing serious problems that may prove detrimental to the entire hemisphere. For example, because of a violent coup in April 2002 during which over a dozen persons were killed and several hundred others were seriously injured, Hugo Chavez, the former President of Venezuela, was forced to resign his position.<sup>148</sup> Although President Chavez was reinstated two days later, this event was a sign of the troubled state of democracy in Latin America, foreshadowing additional coups in Venezuela,<sup>149</sup> and, an opportunity to question the democratic principles of the United States.<sup>150</sup> Meanwhile, in Peru, the terrorist group Shining Path appears to be staging a comeback after nearly a decade of relative inactivity. They detonated car bombs in close proximity to the U.S. embassy in Lima just prior to President Bush’s recent visit in March 2002, and have issued death threats to those opposing the reintegration of the group.<sup>151</sup> Political volatility, criminal scandals, and an economic crisis in Argentina threaten to destabilize this country and possibly spread to its neighbors. Specific examples of the present chaos in Argentina include: the appointment of five successive presidents during a two-week period in December 2001; the economic recession that

---

<sup>147</sup> CONSUMERS FOR WORLD TRADE, TEXTILES KIDNAP U.S. TRADE POLICY, at <http://www.cwt.org/news/articles/022202textiles.htm> (Feb. 22, 2002).

<sup>148</sup> Howard LaFranchi & Phil Gunson, *Democracy Shaky in South America*, CHRISTIAN SCI. MONITOR, Apr. 16, 2002, at 1 (pointing out that Chavez is the second South American president to be removed from office in six months).

<sup>149</sup> *After the Coup, the Reckoning*, ECONOMIST, April 18, 2002, at 35 (warning that “many successful coups are preceded by botched attempts”).

<sup>150</sup> See *Chavez Redux*, ECONOMIST, April 18, 2002, at 12; see also Marc Lisher, *Venezuela’s President Chavez Is Ousted in Military Uprising*, WALL ST. J., April 12, 2002, at A1.

<sup>151</sup> Lucien O. Chauvin, *Rebel Group’s Presence Growing Near Peru’s Capital*, CHRISTIAN SCI. MONITOR, April 12, 2002, at 7; see also *Car Bomb Near U.S. Embassy in Peru Kills 9*, WASH. TIMES, March 22, 2002, at A15, available at 2002 WL 2907107.

has devastated the country and triggered widespread social unrest; and the indictment of former president Carlos Menem and his aide, Domingo Cavallo, for allegedly approving more than \$100 million in illegal arms-sales to Croatia and Ecuador in violation of international arms embargoes.<sup>152</sup> In Mexico, one of the crucial components of the local economy, the manufacturing sector based largely in maquiladoras, continues to struggle in 2002 after eliminating nearly half-a-million jobs last year.<sup>153</sup> To exacerbate the situation, due in part to Mexican President Vicente Fox's perceived inability to advance projects with the United States while simultaneously addressing Mexico's internal problems, Fox has lost congressional support to proceed with certain U.S.-Mexico initiatives.<sup>154</sup> In Colombia, the national government, the Revolutionary Armed Forces of Colombia, and the United Self-Defense Forces of Colombia are engaged in a bloody guerilla war that entails conventional attacks, multiple bombings, mass killings, and kidnappings.<sup>155</sup> Regional stability is threatened by the widespread violence and the Colombian rebels' proven involvement in drug trafficking and international terrorism.<sup>156</sup> Finally, although no major event has occurred there recently, experts explain that Central America is "stuck in poverty, corruption, and an uphill experiment in democracy."<sup>157</sup>

---

<sup>152</sup> Larry Rohter, *Argentina's Former Economic Chief Indicted in 90's Arms Sales*, N.Y. TIMES, April 11, 2002, at A17; Colin Barraclough, *Argentines Look for New Leaders*, CHRISTIAN SCI. MONITOR, April 5, 2002, at 1.

<sup>153</sup> Graham Gori, *Latest Data Dampens Mexico's Hopes*, N.Y. TIMES, April 12, 2002, at W1 (warning that this continued decrease in industrial production may "spell political trouble" for Fox, whose campaign promises included a sizable increase in employment opportunities).

<sup>154</sup> See Traci Carl, *Mexican Senate Denies Fox's Trip*, ASSOCIATED PRESS NEWSWIRES, April 10, 2002, at 2002 WL 18181725. Mexican law dictates that the Senate must authorize any presidential trips outside the country. *Id.* Dissatisfied with Fox's "coziness with the United States," Fox's policy toward Cuba, and Fox's perceived unwillingness to deal effectively with local problems, the Mexican Senate recently refused to allow Fox to travel to the United States and Canada. *Id.*

<sup>155</sup> See, e.g., Mary Anastasia O'Grady, *Colombia's New Leader Will Face a War on Two Fronts*, WALL ST. J., May 24, 2002, at A13.

<sup>156</sup> See, e.g., Ken Guggenheim, *Colombian Instability Concerns GOP*, ASSOCIATED PRESS, April 11, 2002, at 2002 WL 18182465; Susannah A. Nesmith, *Rebels Kidnap Lawmakers in Colombia*, ASSOCIATED PRESS, April 12, 2002, at 2002 WL 18182737; Scott Wilson, *Colombia's Hit-And-Run War*, WASH. POST, March 27, 2002, at A12.

<sup>157</sup> See Alfredo Corchado, *As Latin American Simmers, Bush Says U.S. to Renew*



The fourth reason that further damaging Caribbean nations by implementing the Dye-and-Finish Pledge would be inadvisable is that foreign investment in the region is declining at an alarming rate. While the Bush Administration persists in espousing the benefits of open markets, free trade, and cross-border investment in Latin America, most prominent American brokerage firms do not appear to heed the message. On the contrary, because of the dreadful financial situation in Argentina and Venezuela and the overall unappealing nature of emerging-market investments, the majority of reputable investment organizations have recently removed their most influential Latin American strategists and reduced their research and sales operations.<sup>158</sup>

Fifth, as a result of the economic recession, triggered in part by the terrorist attacks of September 2001, many Latin American nations, including those in the Caribbean, have suffered significantly due to a drastic decrease in tourism, a slowdown in foreign investment, and diminishing U.S. demand for many items produced in the region.<sup>159</sup> The immediate result will be an increase in generalized poverty, which may transform itself into widespread social discontent that permits local leaders to capitalize by reintroducing increased state intervention or even authoritarian regimes.<sup>160</sup> Along with the problems sparked by the U.S. economic recession, Latin America finds itself in a precarious situation due to: increasing foreign competition in the area of apparel; an appreciable drop in the value of traditional exports from the region, such as coffee and bananas; and recent natural disasters, which have devastated the local economies and killed

---

*Focus*, DALLAS MORNING NEWS, Jan. 17, 2002, at 6A. Frustrated with the Bush Administration's inaction toward Latin America, experts on the region sarcastically ask: "Do we need a meteorite to hit the continent before we pay attention? Do we need the Chinese to invade? Any one of these countries are powder kegs that can explode at any moment." *Id.*

<sup>158</sup> Anthony DePalma, *Wall Street's Latin Spotlight Dims*, N.Y. TIMES, March 31, 2002, at 6. Brokerage firms that have introduced such "major strategic shifts" include Morgan Stanley Dean Witter, Merrill Lynch, Goldman Sachs and Lehman Brothers. *Id.*

<sup>159</sup> *Times Have Changed*, LATIN AMERICAN ECONOMIC POLICIES (Inter-American Development Bank, Washington, D.C.), 4th Quarter, Vol. 16, 2001, at 7.

<sup>160</sup> *Clouds on the Latin American Horizon*, LATIN AMERICAN ECONOMIC POLICIES (Inter-American Development Bank, Washington, D.C.), 4th Quarter, Vol. 16, 2001, at 2.

thousands of people.<sup>161</sup>

The growing pessimism regarding the future of Latin America, both within the region and abroad, is the sixth reason that the Dye-and-Finish Pledge is imprudent. Approximately a decade ago, Latin America was in good stead: dictatorships disappeared; optimism reigned; and the region embraced free-market theories, liberalized trade, and democracy.<sup>162</sup> Now, “the mood could hardly be more different” due to, among other things, widespread economic recession, an increasing dissatisfaction with democracy, massive migration from the region to the United States and Europe, political unrest in Argentina, and violence in Colombia.<sup>163</sup> What’s worse, many developed countries have not freed their markets for Latin America’s exports.<sup>164</sup> This loss of faith in Latin America is also common in the United States. The comment of one journalist who covers this region is representative of the attitude that has begun to pervade the U.S.:

For all its struggles, Latin America seems to be getting nowhere fast. After years of sacrifice, its people are still awaiting the payoffs of reform, and the promised bright future that never quite seems to arrive. To paraphrase an old Brazilian saying, it is the region of the future, and unfortunately it sometimes looks like it always will be.<sup>165</sup>

Finally, effectuating the Dye-and-Finish Pledge seems extremely unwise due to President Bush’s relative ineffectiveness during his March 2002 trip to several Latin American nations. Before his departure, U.S. government officials characterized the upcoming trip as a “concrete manifestation” of the Bush Administration to the region.<sup>166</sup> Despite these grandiose pronouncements, apart from a considerable amount of talk about “amigos” and abundant photo opportunities, little was truly

---

<sup>161</sup> Matthew Estevez, *Brass Ring*, LATIN TRADE, Dec. 1, 2001, at 42, available at 2001 WL 8667582 (arguing “there’s too much invested in the region for the United States to turn back now”).

<sup>162</sup> *Is Latin America Losing its Way?*, ECONOMIST, Mar. 2, 2002, at 11.

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> Laurie Goering, *The Future Is Bright and Always Just Ahead*, CHI. TRIB., Jan. 20, 2002, § 2 (Perspectives), at 3.

<sup>166</sup> Rossella Brevetti, *Bush to Discuss Central American FTA In Upcoming Trip to El Salvador*, Reich Says, 19 Int’l Trade Rep. (BNA) No. 11, 463 (Mar. 14, 2002).

accomplished during the brief mission. For example, concrete plans for migration reform with Mexico were not achieved, President Bush was unable to deliver an approved Andean Trade Preference Act to Peru, no official start date for negotiations of the proposed U.S.-Central America Free Trade Agreement was given, and U.S. representatives hardly mentioned potential solutions for the economic turmoil in Argentina.<sup>167</sup> Consequently, many Latin American leaders now claim that President Bush has failed them by not fulfilling his fundamental commitment of always “looking south.”<sup>168</sup>

*J. Protects the Bush Administration's Reputation As a Free Trader*

In addition to repeatedly classifying himself as a political leader focused on Latin America, President Bush, during both his presidential campaign and his time in office, has claimed to be a devout free-trader.<sup>169</sup> Recently, however, the Bush Administration has taken several measures designed to protect certain U.S. industries from outside competition. For example, under enormous pressure from domestic businesses and lawmakers, in March 2002, President Bush imposed significant tariffs on U.S. imports of certain steel and lumber products.<sup>170</sup> Likewise, in his zeal to obtain approval of TPA in the U.S. House of Representatives, President Bush has openly supported the Dye-and-Finish Pledge made in December 2001.<sup>171</sup> In an attempt to explain the apparent contradiction between these actions and Bush's constant rhetoric in support of free trade, the U.S. Trade Representative argues that promoting free trade requires the Bush Administration to address the “home front” and “international

---

<sup>167</sup> *Frustrated*, *ECONOMIST*, March 30, 2002, at 32.

<sup>168</sup> See Tony Smith, *Latin Americans Say Bush Failed Them*, *ASSOCIATED PRESS*, March 24, 2002, available at 2002 WL 17187756.

<sup>169</sup> THE PRESIDENT OF THE UNITED STATES, PRESIDENT'S 2001 INTERNATIONAL TRADE AGENDA, H.R. Doc. No. 107-69, at 1-8, at <http://www.whitehouse.gov/news/releases/2001/05/20010511.html> (May 10, 2001).

<sup>170</sup> See Peter Menyasz, *Resolving Softwood Lumber Dispute Top Canadian Trade Priority in 2002*, 19 *Int'l Trade Rep. (BNA)* No. 16, 716 (Apr. 18, 2002) (discussing the softwood lumber dispute between the U.S. and Canada).

<sup>171</sup> Rugaber, *supra* note 34, at 2017.

front” simultaneously.<sup>172</sup> With regard to the former, the trade official explained: “the only way we could get support from the American people for open markets and trade is to use our domestic laws and our international laws to the fullest.”<sup>173</sup>

In spite of such efforts to justify the recent protectionist maneuvers, these actions have ignited criticisms of the Bush Administration’s trade policy from many sources. Commentators have warned, for instance, that a U.S. President that tends to placate protectionists and influential domestic industries will be unable to lead the Western Hemisphere to “open markets, security, and strong democracy.”<sup>174</sup> In short, “[e]ither Mr. Bush will lead on trade or Latin America will flounder.”<sup>175</sup> Other experts, irritated with the Bush Administration’s apparent capitulation to powerful domestic industries, warn that Bush is in jeopardy of making a mockery of himself as a friend of free trade; with a nearly record-setting public approval rating of approximately eighty percent, they argue, President Bush should be in good stead to confront a clear-cut test: “He can take the politically expedient route or he can stand up for the cause he claims to believe in.”<sup>176</sup> Expanding on this position, other policy analysts assert that the recent protectionist measures involving steel, lumber and textiles have created “a schizophrenic trade policy” that may anger U.S. trading partners and lead to a trade war that would damage U.S. companies and consumers because of higher prices for imported products, shortages of important items, and shrinking markets for U.S. exports.<sup>177</sup> Perhaps of greater significance, protecting U.S.

---

<sup>172</sup> *Id.*

<sup>173</sup> Rossella Brevetti & Nancy Ognanovich, *Bush Announces Safeguard Tariffs As High as 30 Percent on Some Steel*, 19 Int’l Trade Rep. (BNA) No. 390, 392 (Mar. 7, 2002).

<sup>174</sup> Mary Anastia O’Grady, *Otto Reich Tackles a Big Repair Job, Hemisphere Policy*, WALL ST. J., Mar. 1, 2002, at A15.

<sup>175</sup> *Id.*

<sup>176</sup> *Bob Zoellick’s Grand Strategy*, ECONOMIST, Mar. 2, 2002, at 35; *see also Tangled Up In Textiles*, ECONOMIST, Mar. 30, 2002, at 25–26 (explaining that the recent decision to impose tariffs on steel and lumber have already called the Bush Administration’s dedication to free trade into question, and further protectionism for textiles may expose the free-trade façade as a “complete fraud.”).

<sup>177</sup> Richard S. Dunham, *A High-Risk, Two-Faced Trade Policy*, BUS. WK., Mar. 25, 2002.

markets may have relinquished the Bush Administration's "moral authority to preach free trade around the world," especially during the upcoming round of negotiations of the World Trade Organization.<sup>178</sup>

In light of the pervasive skepticism (both in Latin America and the United States) regarding the validity of the Bush Administration's free trade agenda and the obstacles that this attitude may present in future trade initiatives, further weakening the nation's alleged affinity for open markets by implementing the Dye-and-Finish Pledge seems ill-advised.

### *K. Strengthens U.S. National Security*

One of the major findings upon enacting the CBTPA was that expansion of this trade program to include, among other things, apparel manufacturing would serve to enhance U.S. national security by promoting legitimate economic opportunities in the Caribbean region.<sup>179</sup> Arguing in support of this bill, certain U.S. lawmakers explained that it is "critical" to American security that persons in the Caribbean have abundant opportunities in the legal economy so that they are not obligated to resort to drug trafficking or illegal migration to feed their families.<sup>180</sup> Caribbean officials also agree that apparel assembly, an industry that employs hundreds of thousands of persons and constitutes the region's third-largest source of income behind tourism and remittances, is absolutely fundamental to the well-being of both the Caribbean and the United States. According to the Dominican Ambassador to the United States, "[m]ore jobs means more political stability and a better climate for U.S. investments and tourism . . . . U.S. security objectives with respect to its southern neighbors would thus be strengthened."<sup>181</sup> From this perspective, then, preserving

---

<sup>178</sup> Neil King Jr., & Michael Phillips, *Bush's Wagering on Steel Tariffs Fails to Win New Trade Openings*, WALL ST. J., Mar. 27, 2002.

<sup>179</sup> Trade and Development Act of 2000, Pub. L. No. 106-200, § 202(a)(7), 114 Stat. 251 (2000).

<sup>180</sup> *Caribbean and Central American Relief and Economic Stabilization Act: Hearing on H.R. 434 before the Subcommittee on Trade, House Committee on Ways and Means*, 106th Cong. (Mar. 23, 1999) (statement of Senator Bob Graham) [hereinafter *Hearing on H.R. 434*].

<sup>181</sup> *Hearing on H.R. 434*, *supra* note 180 (testimony of Berardo Vega, Dominican Republic Ambassador to the United States).

the CBTPA is by no means a gesture of good will; rather, it is a self-interested policy decision designed to protect U.S. national security. Champions of this type of preferential trade program describe the benefits for the United States in broad terms, explaining that “[u]ltimately, we — as a nation — stand to lose or gain, depending on the economic health of our hemispheric neighbors. A more aggressive trade policy in the hemisphere is not only important for increasing markets for U.S. companies, *but it also enhances stability and promotes security in the hemisphere.*”<sup>182</sup> Thwarting the capacity of Caribbean nations to develop legitimate economies by revoking the CBTPA at a time when a guerilla war is being waged directly to the south in drug-laden Colombia, and the United States’s enhancement of security measures to fortify its borders against terrorist-affiliated immigrants would imperil U.S. national security.

*L. Undermines Recent United Nations Efforts for the Poor*

President Bush has acknowledged the link between poverty and terrorism, stating that the dire economic straits in Latin America make people vulnerable to outside influences and can convert this region into a “haven for terrorists.”<sup>183</sup> The leaders of poor nations clearly share this position, but warn the developed nations that “if they want a world free of terrorism, they will need to pay for it.”<sup>184</sup> With this in mind, in March 2002, President Bush attended the United Nations Development Summit in Monterrey, Mexico, at which he announced that the United States would increase its aid to eradicate poverty by fifty percent over the next three years, reaching \$15 million.<sup>185</sup> A portion of this money will undoubtedly be directed toward the Caribbean, a region characterized by varying degrees of poverty and underdevelopment. While the increased U.S. aid to eliminate

---

<sup>182</sup> 147 Cong. Rec. S2227 (daily ed. Mar. 13, 2001) (statement of Senator DeWine) (emphasis added).

<sup>183</sup> Remarks by President George W. Bush at the Inter-American Development Bank, *supra* note 106.

<sup>184</sup> Julie Watson, *Poor Nations Warn Rich on Terror*, ASSOCIATED PRESS, March 22, 2002; Brendan M. Case, *U.N. Leaders Link Poverty, Terrorism*, DALLAS MORNING NEWS, March 22, 2002.

<sup>185</sup> Pete Engardio, *A Down Payment in the War on Poverty*, BUS. WK., Mar. 20, 2002.

poverty is laudable, it may be counteracted by the Dye-and-Finish Pledge supported by the Bush Administration. Simply stated, the Bush Administration's support of this trade measure "risks canceling out much of the potential good that its aid will do. After all, what is the point of helping a poor . . . country to set up export business if you do not allow its products into your country?"<sup>186</sup>

*M. Identifies the True Sources of the U.S. Textile Crisis*

Implementation of the Dye-and-Finish Pledge represents bad policy because doing so will have little effect on saving already troubled U.S. textile businesses, while significantly damaging the Caribbean nations that depend to such a large extent on the apparel-related provisions of the CBTPA for their economic survival. Stated differently, the certain damage to the Caribbean overshadows any speculative benefits to the affected domestic industry. Losing approximately 700,000 jobs since 1994, the U.S. textile industry consistently (and perhaps correctly) claims that it is in a "state of crisis."<sup>187</sup> This grave situation, the textile industry argues, is attributable in part to preferential treatment programs such as the CBTPA.<sup>188</sup> The validity of this argument is questionable, however, for several reasons. First, establishing a causal nexus between trade initiatives such as the CBTPA and the demise of the U.S. textile industry is quite difficult because a

---

<sup>186</sup> *What the President Giveth . . .*, ECONOMIST, March 28, 2002.

<sup>187</sup> CONGRESSIONAL TEXTILE CAUCUS, REMARKS OF CHUCK HAYES, President, American Textile Manufacturers Institute, before the Congressional Textile Caucus (June 16, 2001); Press Release, American Textile Manufacturers Institute, Charels A. Hayes, Guilford Mills, Inc., President of the American Textile Manufacturers Institute, statement following today's approval of the Andean Trade Expansion Bill by the U.S. House of Representatives (Nov. 16, 2001); Letter from the Members of the Textile Caucus to President George W. Bush (August 2, 2001) (on file with the North Carolina Journal of International Law and Commercial Regulation.); Press Release, American Textile Manufacturers Institute, Textile Industry Year-End Trade and Economic Report (Jan. 2, 2002) (on file with the North Carolina Journal of International Law and Commercial Regulation); OFFICE OF THE CHIEF ECONOMIST AND THE INT'L TRADE DIVISION OF THE AMERICAN TEXTILE MANFUCTERES INSTITUTE, CRISIS IN U.S. TEXTILES: THE IMPACT OF THE ASIAN CURRENCY DEVAULATIONS AND THE U.S. GOV'T ACTIONS URGENTLY NEEDED TO REBALANCE THE COMPETITIVE SITUATION (Aug. 2001) (copy on file with the North Carolina Journal of International Law and Commercial Regulation) [hereinafter CRISIS IN U.S. TEXTILES].

<sup>188</sup> Will Pinkston, *Burlington Industries Plans to Cut Up to 4,000 Jobs in Restructuring*, WALL ST. J., Jan. 11, 2002.

myriad of factors have played a role. Among the contributing factors to the downfall of the U.S. textile industry are: unwise business decisions made by certain American textile entities,<sup>189</sup> increased technology and mechanization that has decreased the need for employees; the overall weakened economy experienced in the United States recently;<sup>190</sup> the failure of U.S. firms to prepare themselves for stiffer foreign competition by developing production-sharing arrangements in Latin America;<sup>191</sup> the Asian currency devaluations and strong U.S. dollar that together caused artificially-low-priced textiles to flood the U.S. market; and the increasing incidence of customs fraud whereby Asian textiles and apparel goods are shipped through Mexico to fraudulently receive preferential treatment under NAFTA.<sup>192</sup> Second, the textile industry's "crisis" argument is also discounted when one realizes that the U.S. government has already put into place a "social safety net" to help those domestic textile workers hurt by trade arrangements such as the CBTPA. In particular, the trade adjustment assistance program (TAA) allows those workers displaced due to the CBTPA to obtain money for necessary relocations and job-skills training, wage insurance to compensate for any loss of salary incurred at a new position, and health

---

<sup>189</sup> 147 Cong. Rec. H8299 (daily ed. Nov. 16, 2001). This lawmaker argues that, in the case of Burlington Industries, Inc., a major textile company located in North Carolina that recently declared bankruptcy, the cause of its demise was not an influx of foreign imports. *Id.* Rather, troubles resulted mainly from a focus on protecting itself against a hostile takeover bid and, ironically enough, a large investment in Mexico to build a new plant to take advantage of preferential textile treatment under NAFTA. *Id.*

<sup>190</sup> Pinkston, *supra* note 188. Instead of taking personal responsibility for the events that forced Burlington to recently lay off approximately 4,000 workers amid its corporate reorganization, the CEO of the company argued that the cuts were due mainly to U.S. trade policy since "the U.S. government unfairly allows into the country a flood of imports subsidized by foreign governments while not doing enough to police goods entering illegally." *Id.*

<sup>191</sup> Dan Morse, *Unraveling Under Pressure of Debt, Imports, U.S. Textile Makers Also Face End of Quotas*, WALL ST. J., Dec. 27, 2001. In the opinion of this author, although U.S. textile firms say that they are facing the worst economic crisis since the Great Depression, they have failed to prepare themselves by solidifying duty-free partnerships with factories in Latin America. *Id.* Instead, these companies are focused on surviving by fending off creditors, closing factories, and simply waiting until the U.S. economy improves. *Id.*

<sup>192</sup> CRISIS IN U.S. TEXTILES, *supra* note 187, at Part 2.



insurance.<sup>193</sup> Third, blaming the CBTPA for the woes of the U.S. textile industry is tenuous since it is merely one of numerous programs by which foreign apparel products are granted preferential access to the U.S. market.<sup>194</sup> Finally, the crisis claim and attendant request for trade protectionism may be suspect in light of the comments by Alan Greenspan, Chairman of the U.S. Federal Reserve, regarding the inevitability and benefits of foreign competition. According to Greenspan, interfering with foreign competition by placing barriers to imports will prevent U.S. markets and others from deploying capital appropriately; that is, to the most cost-effective production of goods and services that are most highly valued by consumers.<sup>195</sup> Instead of expending more efforts on protecting domestic industries (such as textiles), argues this preeminent economist, the focus should be on job-skills enhancement and retraining.<sup>196</sup>

## V. CONCLUSION

Although the preliminary results from the CBERA were not spectacular, this trade program proved mutually beneficial to the Caribbean and the United States. Congressional support for this Caribbean initiative was such that, when Mexico was placed in an advantageous position because of the passage of NAFTA, the CBTPA was introduced in 2000 to expand duty preferences to, among other things, certain textile and apparel goods from the Caribbean.

As expected, the CBTPA has yielded small yet positive results despite numerous (and initially unsuccessful) efforts to derail this program in the name of protecting certain domestic industries.

---

<sup>193</sup> See Deborah Billings, *DOL Statistics Show Significant Jump in Estimates of Job Losses Related to Trade*, 19 Int'l Trade Rep. (BNA) No. 8, 309 (Feb. 21, 2002) (trade adjustment assistance information); Fawn H. Johnson, *House Approves Bill to Reauthorize Trade Adjustment Assistance Plans for Workers*, 18 Int'l Trade Rep. (BNA) No. 49, 1984 (Dec. 13, 2001); *Senate Democrats Take Hardline on TAA-Health Care Debate*, 20 INSIDE U.S. TRADE 11, 35-36 (Mar. 15, 2002).

<sup>194</sup> 147 Cong. Rec. H8292 (daily ed. Nov. 16, 2001) (statement of Representative Watt).

<sup>195</sup> *International Trade and the American Economy*: Hearing Before the U.S. Senate Committee on Finance, April 4, 2001, at 5 (statement of Dr. Alan Greenspan, Chairman of the Board of Governors, Federal Reserve System) (asserting that "[p]rotectionism will also slow the inevitable transition of the workforce to more productive endeavors.").

<sup>196</sup> *Id.* at 6.

More importantly, recent reports by several governmental agencies predict that, barring any alteration to the CBTPA, this program will generate increased benefits for the Caribbean and the United States in the near future. Through sheer persistence and opportunism, however, the U.S. textile industry has now managed to unravel the CBTPA with the Dye-and-Finish Pledge.

This partial revocation of the CBTPA is designed to temporarily protect the 440,000 textile-related jobs that currently exist in the United States. In doing so, however, many negative effects will be triggered: passage of the FTAA will be frustrated, foreign investment and production-sharing arrangements will shift from the Caribbean to Mexico, the Western Hemisphere will be unable to prepare itself for the flood of Asian textiles in 2005, protection of international labor standards and property rights in the Caribbean will deteriorate, the war on terrorism will be undermined, the potential U.S.-Central America Free Trade Agreement will be jeopardized, existing U.S. investments in the Caribbean will diminish in value, the Bush Administration's reputation as an advocate for both Latin America and free trade will be weakened, and advancement under the CBTPA will be essentially stymied.

To make matters worse, in light of the multiplicity of factors that conspired to imperil the U.S. textile industry and the inevitability of increasing foreign competition, limiting the CBTPA alone will likely have a negligible effect on remedying the situation. Establishing certain safeguards for vulnerable domestic industries is undoubtedly an important element of any cohesive trade policy. Introducing drastic measures (especially through legislative maneuvering) that cause numerous hemispheric injuries while generating relatively few domestic benefits, however, is injudicious.<sup>197</sup>

---

<sup>197</sup> *Trade Off*, THE NEW REPUBLIC, Dec. 24, 2001, available at <http://www.thenewrepublic.com> By opposing free trade, certain politicians are basically conveying the message that

they value the jobs of a comparatively tiny number of politically influential workers in a handful of industries and regions over the good of the entire population. Or, put differently, that they'd prefer to lavish benefits on a small, exclusive minority at the expense of the vast majority of Americans. They had better hope that the vast majority of Americans aren't paying attention. *Id.*