
Free Trade in the Americas and the Role of Parliamentarians

by Roger Bertrand, MNA

In December 2000 the Committee on Institutions of the National Assembly tabled a report entitled Quebec and the Free-Trade Area of the Americas: Political and Socioeconomic Effects. Among other things it called for parliamentary representation in any free trade agreement among nations of the western hemisphere. This article summarizes the main points in that report. It is a revised version of his presentation to the House of Commons Standing Committee on Foreign Affairs and International Trade on April 5, 2001.



I would like to begin with a few words about the Committee on Institutions of the National Assembly. It is one of ten standing committees and is composed of twelve members from all political parties in the National Assembly. The committee's terms of reference include the fields of justice, public security, the Constitution and international affairs, relations with

aboriginal people, youth, elections and the regulation of professional bodies, as well as everything concerning the Executive Council.

Like all Quebec committees it has the power of initiative which means that, with the consent of a majority of members of each party, it may initiate examination of subjects that it deems to be important in keeping with its duties. All the committee members agreed that it was urgent and necessary to study this issue. I must point out that the work done as part of this exercise was ap-

proached in a completely non-partisan manner. The report produced by the committee was unanimous, and I think that this is a fundamental consideration when judging the significance of the report and the soundness of its recommendations.

We began this study in January 2000 and then in June we launched a far-ranging public consultation. We innovated by calling for public briefs in the traditional manner, namely through notices in newspapers, but also by allowing our fellow citizens to express their views and opinions by means of the Internet. I believe it is important, for the sake of democracy, to use and to take advantage of this opportunity to reach even more people and obtain their input. In many cases, we are reaching citizens who are not necessarily represented within large organizations.

In response to our invitation, we received 41 briefs, collected 25 opinions from the Internet and met with 36 people and groups. The report was tabled in December and, in the committee's view, is only an initial step.

The plan for hemispheric integration has four main components: first, preserving and strengthening democracy; second, economic integration and free trade; third, eradicating poverty and discrimination; four, sustainable development and the environment.

We therefore clearly realize that this is a huge, comprehensive undertaking that encompasses not only eco-

Roger Bertrand is the Member of the Quebec National Assembly for Portneuf and Chairman of the Committee on Institutions.

conomic and financial issues, but political, social and democratic considerations as well.

However, we must keep in mind that the Free Trade Area of the Americas is the only component of this huge initiative of hemispheric integration that seems to be moving ahead as was more or less planned. It is only one of the components, but, clearly, it is the one that has made the most progress. Committee members were concerned that the other three major components of this huge undertaking were dragging behind.

As we all know, it is an ambitious undertaking. Let me recall the main features of the Free Trade Area of the Americas: an agreement that could be concluded as early as 2003 and implemented as early as 2005; 800 million consumers; a total GDP of \$10,000 billion annually, a single large market; an incomparable variety of economies and people participating. Therefore, as parliamentarians, we have no choice but to look very carefully at such initiatives, through the lenses of democracy, the economy, the environment, social policies, culture and many others.

Let me go directly to our recommendations and conclusions. The first main observation is the noticeable lack of transparency that seems to characterize the whole process. Of course, this is nothing new, as everyone has been talking about it for some time now. All of the groups and individuals who testified before our committee mentioned a definite lack of information, despite the commitments that had been made by the heads of state at the start of the process.

The witnesses were almost unanimous in levelling this criticism. Of course, such a situation has the effect of fueling the worst fears and leaving room for all kinds of speculation, for example, on the future of public services and on the treatment that will be given to water as well. In such a context, the issue of water is a topical one. The committee deplores this situation and believes that we should take steps to make this process much more transparent than it is now. It also believes that, in order to clarify the issues, we should conduct an in-depth evaluation of the lessons learned from these major free-trade associations that we have belonged to for a number of years, at least a decade. Although it would be a complex task, why do we not undertake an exhaustive study of the advantages and disadvantages, the pros and cons of the NAFTA and the FTA? For example, the North American Free Trade Agreement, is often credited – and perhaps a little too quickly – with ushering in the period of prosperity that we have experienced in the last few years and the increase in wealth that has been observed in the participating countries. But to what extent are the advantages that are currently observed attributable to an initiative

like the NAFTA? It is responsible for 90%, or perhaps for 10%, of the advantages. No one can say today.

We therefore ask the following question: before venturing rashly into an even broader economic association, can we reasonably do without an in-depth study of the results of our experience in the last 10 years? The committee consequently makes the recommendation – I will speak to it a little later – that a thorough analysis and assessment be conducted. Although it recognizes that there will be obstacles and difficulties, these should not prevent us from going ahead with such an analysis.

The second main observation, which is also receiving more and more attention, is that there is a democratic deficit. To begin with, the implication of the first observation is that the lack of transparency leads to the conclusion that there may be a democratic deficit. In addition, however, despite the limited involvement of civil society in the negotiating process itself, there is nothing to prevent broader, more frequent and more constant participation by the various groups of civil society in consultations and in monitoring the process than has been the case up to now.

Furthermore, there is a democratic deficit because of the almost total absence of parliamentarians in the whole process, both upstream and downstream, that is, both before the negotiations are initiated and in the possible outcome of such negotiations.

I realize that, in the case of the Free Trade Area of the Americas, the negotiations are not over and so we parliamentarians cannot easily examine a possible agreement. But in other cases, for example the NAFTA, we found that parliamentarians were involved in a minimal way, after the fact.

Let us look at this question of the lack of upstream involvement on the part of parliamentarians, which I could compare to the process used in negotiating a collective agreement. What happens? There is a general assembly that usually mandates an executive to negotiate a certain number of items. In the second stage, the items are in fact negotiated. During the actual negotiating process, the details of the discussion are perhaps less distant, but information is nevertheless constantly made available to members so that they may form an opinion on how things are going. This is followed by the ratification of a draft agreement or a draft accord.

Naturally, no comparison is perfect, but I think that our executives should be wise enough to, in the first place, ensure greater involvement of parliamentarians in developing negotiating mandates and also in following the progress of the negotiations, without going into detail, by providing information. Of course, not everything can be made public during negotiations. There is no point in everything being public, as this might make negotiations difficult. I have less parliamentary experience than some of you around the table. I can understand that, but there should be clear mandates at the start, mandates that we think should be approved by parliaments. During the negotiations, there should definitely be much more information available than there is currently and, at the conclusion of the negotiations, parliaments should ratify the draft agreements signed in principle.

The second problem, then, is the democratic deficit, the fact that parliamentarians are absent from the process. This is particularly important in the case of parliamentarians within a federation, which is the situation of parliamentarians in the National Assembly of Quebec. Not only are we still kept away from these various stages within the process leading up to the signing of an agreement, but in addition, our own executive is not at the negotiating table. Consequently, there is a twofold problem.

As lawmakers, there are a number of responsibilities that we must exercise in our fields of jurisdiction. In these fields, we are not at all in a position to reassure in any way those people whom we have the duty to represent that, in the end, any agreement—signed or unsigned—is acceptable.

We have other reservations, and I will just mention them quickly. There is the sharing of wealth. All of the witnesses told us that they thought a Free Trade Area of the Americas could in fact help create more wealth for all of the peoples concerned. But the major obstacle is the sharing of the wealth. People who have given somewhat closer study to what has happened in the areas where we already operate, wonder whether the end result has not been to make the rich richer, while the poorest classes have not become any wealthier and have not gained any advantage from these large entities.

There are also the social clauses. To what extent could the agreements that we might sign, or that might be signed on our behalf, call into question some of the progress we have achieved in areas such as working conditions and the environment? If we sign them, to what extent might the social standards that we have adopted have to be revised, and possibly lowered?

The environment is another concern. There is the whole process of dispute settlement and its impact on legislatures, which we have noted so far with regard to

Chapter 11. This might force a parliament to amend a legislative provision as a result of a settlement or ruling of an international trade tribunal.

We have additional concerns regarding the marketing of certain commodities. I mentioned water and commercial services a few minutes ago.

I will attempt to group together under five main headings the committee's recommendations, that you will find in the report which has been made public.

Our first main recommendation is the duty to inform and involve. The general public must be informed, parliamentarians must be informed, and all those who may have reasonable concerns around the issues being discussed should be informed, and should also be involved.

Secondly, we recommend that we assume our responsibilities. This message is directed in large part at our parliamentary colleagues of the Americas. We believe that, together, we have not played our role as we could have. Parliaments are the places where debates ought to be held. They are intended to be places where people can make themselves heard on such fundamental issues. We have observed, however, that few parliaments and few parliamentarians have looked into these issues.

Few parliaments listened to what various groups of citizens had to say about this initiative. But if our constituents cannot make their views known to their elected officials, what will happen? They will take to the streets.

I will summarize our third main recommendation as follows: there must be respect. What has to be respected? Our jurisdictions must be respected. We want respect for our jurisdictions as parliamentarians in a parliament within a federation, and we want respect for our values. In Quebec—and it is probably true in the other provinces of Canada—we have a different way of doing things. We have economic tools, for example, that are not used in other provinces like Ontario, and that is okay. We have also opted for a pan-Canadian health care system that is largely publicly funded and operated. Will the agreement that is going to be signed jeopardize these choices that we have made in a democratic manner within our society? So, we must be careful. The third recommendation is that jurisdictions need to be respected, our values and our social choices need to be respected.

The fourth main recommendation is that we work on all the components. Currently, as I said earlier, true progress is being made on only one component, the Free Trade Area of the Americas strictly speaking. We are dragging our heels on the other three components.

Lastly, there is a set of recommendations that are intended more for our executive, for the government of Quebec, suggesting that Quebec prepare itself to enter into this new association.