

Daily Business REVIEW

DELIVERING MONEY AND POWER EVERY BUSINESS DAY

November 17, 2003

INVESTMENT

Fairness, access and sovereignty

FTAA opponents argue that the investment chapter of the proposed treaty encroaches on the sovereignty of member countries by prohibiting passage of local laws that restrict commerce.

They claim corporations have used similar language in what's known as Chapter II of the North America Free Trade Agreement to overturn environmental laws that restrict the usage of certain chemicals.

"This doesn't have to do with trade," said spokesman Chris Slevin of Public Citizen, a public-interest organization that opposes the FTAA.

"These are investor protections that are put in under the guise of a trade agreement. Chapter II to us represents an extraordinary attack on normal government activity."

Slevin does not plan to attend the workshop, but he said he is confident that someone from the loose-knit anti-FTAA coalition will turn out to raise objections.

The workshop's coordinators are not as sure, based on the 12 position papers already filed.

"It wasn't really an issue in the position papers," said the workshop's vice rapporteur, David Wernick, research director of the Knight Ridder Center for Excellence in Management at Florida International University's College of Business Administration. "I think it may be an issue that the people outside the workshops are concerned with."

Wernick expects the two-day workshop instead to focus on so-called national treatment, property expropriation and laws that require companies to purchase domestic goods.

National treatment involves the creation of safeguards so that foreign companies have equal access to markets in which they invest. For example, international overnight delivery companies are lobbying for language that would protect them against customs procedures that put them at a disadvantage against local companies.

The expropriation section addresses whether governments should have the right to nationalize or expropriate lands within their territory and, if so, under what circumstances.

Some countries also are pushing for limits on requirements that foreign investors purchase a certain percentage of local materials for local manufacturing.

"Governments, in order to maximize the benefits of foreign investment, do like to have the right to require these performance requirements," Wernick said. "It creates jobs and provides value in the domestic economy. That is really where the rubber meets the road."

— Peter Zalewski