

CAFTA AND THE ENVIRONMENT

The Central American Free Trade Agreement (CAFTA) is a regional agreement between the U.S. and five Central American countries: Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica. The Dominican Republic was “docked” onto the agreement in March 2004. CAFTA is expected to be brought before Congress sometime in 2005, although it is as yet unclear when.

WHAT WOULD CAFTA DO TO THE ENVIRONMENT?

◆ ALLOW FOREIGN INVESTORS TO CHALLENGE ENVIRONMENTAL LAWS

Despite a few minor changes, CAFTA’s investor suit rules are similar to NAFTA’s Chapter 11, which has given foreign investors broad rights and privileges that do not exist under U.S. law. Such rules allow foreign investors to challenge hard-won environmental laws and regulations in international tribunals that operate outside a country’s regular legal system. Both Mexico and Canada have lost Chapter 11 challenges to environmental protections, and the U.S. faces environmentally related suits totaling more than \$1 billion.ⁱ For Central America, the mere threat of such costly suits could keep the developing countries from adopting environmental laws. Including these rules in CAFTA is a dangerous precedent for other agreements, including the Free Trade Area of the Americas (FTAA).

◆ LEAVE ENVIRONMENTAL REGULATIONS UNENFORCED

Central America faces serious environmental challenges that vary from country to country, all resulting in severe impacts on the region’s sustainable development. According to the Inter-American Development Bank, 75 percent of Central America’s population already lives in conditions where pollution of both air and water and depletion of water have resulted in increased violence, and diminishing public health standards.ⁱⁱ Unfortunately, CAFTA does not require member countries to adopt a set of basic standards for environmental quality and protection. What’s more, the agreement does not even ensure that member countries enforce their existing domestic environmental laws, only allowing action to be taken for repeated failures while providing loopholes so that it would be extremely difficult to take action when a country fails to enforce its laws in an attempt to attract investment. In addition, the enforcement mechanism for even this inadequate provision, a limited fines regime, is significantly weaker than the sanctions provided for enforcement of CAFTA’s commercial provisions. This weak enforcement mechanism, coupled with Central America’s existing poor environmental standards, leaves critical problems in the region ignored and exacerbated.

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**CITIZENS TRADE CAMPAIGN IS A COALITION OF LABOR, ENVIRONMENTAL, RELIGIOUS,
FAMILY FARM AND CONSUMER ORGANIZATIONS UNITED IN THE PURSUIT OF SOCIAL
AND ENVIRONMENTAL JUSTICE IN TRADE POLICY**

◆ **THREATEN FOOD SAFETY AND UNDERMINE BIODIVERSITY**

Given that Central America is one of the most biodiverse regions in the world, environmental protections for flora and fauna are badly needed. The tropical areas of Central America contain many more species than other tropical regions of the world. Costa Rica, for example, is considered one of the most diverse regions in the world with an estimated 4% of all living species found in a country that comprises only 0.01% of the global territory.ⁱⁱⁱ Indeed, four of the five Central American countries included in CAFTA have tropical areas identified as “critical regions” that require the protection of biodiversity.^{iv} CAFTA’s rules on intellectual property (patents) would undermine efforts to defend biodiversity. For example, CAFTA could encourage “biopiracy” – the use by multinational companies of indigenous knowledge for patented products. The intellectual property rules could also make it difficult for small farmers to reuse seeds – a traditional planting approach – because doing so could violate seed patents held by U.S. multinationals. Many of these patents are on genetically modified seeds that could be widely used by multinational corporations in Central America under CAFTA.

◆ **UNDERMINE ENVIRONMENTAL REGULATIONS ON SERVICES**

In environmentally sensitive sectors such as water, tourism, forestry, transport, mining, and offshore oil development, the CAFTA’s rules on services could undermine critically needed environmental safeguards. In particular, the services rules prohibit efforts to place limits on the quantity of service operations and thereby threaten environmental laws and regulations that aim to rein in environmental damage. For example, the services rules could prohibit a locality from setting limits on the number of hotels that are permissible in a sensitive beach area, or on the number of oil wells in an ecologically important coastal area.

STOPPING CAFTA

The good news is that the CAFTA agreement has yet to be passed and it **can** be stopped. We can defeat CAFTA in Congress with education and organization. To learn more about the CTC campaign against CAFTA visit www.citizenstrade.org or contact the office directly at (202) 778-3320.

ⁱ Analysis of Public Citizen, *NAFTA Chapter 11 Investor-to-State Cases: Bankrupting Democracy*, September 2001., Friends of the Earth, *Glamis Gold: A Case Study of Investing in Destruction*, August 2003.

ⁱⁱ InterAmerican Development Bank, *Annual Report on the Environment and Natural Resources, 2002*.

ⁱⁱⁱ Instituto Nacional de Biodiversidad, *Informe*, Available at <http://www.inbio.ac.cr/en/biod/Biod.html>

^{iv} Conservation International, *Mesoamerica Hotspots*, Available at http://www.conservation.org/xp/CIWEB/regions/meso_america/meso_america.xml