



CAFTA FAILS STANDARDS OF JUSTICE

Introduction

In 2003 numerous religious, humanitarian, development, labor and public policy organizations called on the United States to honor a set of standards of fairness and justice in trade negotiations with Central America.¹ A reading of the final text of the U.S.-Central America Free Trade Agreement (CAFTA) makes it clear that these standards have not been met. In our judgment, CAFTA, as negotiated, will harm, rather than help, farmers and workers in Central America who are struggling to overcome poverty. We believe as well that CAFTA will not benefit ordinary people in the United States. CAFTA will not contribute to equitable, just and sustainable development in the United States or Central America. For this reason, the undersigned organizations oppose ratification of CAFTA. We call on members of Congress to vote against the Central America Free Trade Agreement.

Process and transparency / *What we said:* The CAFTA negotiations should have mechanisms for broad and representative participation that includes workers, women, indigenous and ethnic groups and other affected communities in both the United States and Central America. The draft text, member country proposals, and agendas must be made publicly available.

CAFTA: The trade agreement was not negotiated within a framework of democratic accountability and did not include broad-based citizen participation. The text was only made public after the negotiations were completed. There were no social reviews or impact assessments by independent bodies on the potential impact of CAFTA on workers, people living in poverty, women, indigenous and ethnic groups, or the environment. The CID Initiative, a Central American coalition that participated in a side room of the negotiations, called for a moratorium mid-way through the process, due to the limited participation.

Worker Rights / *What we said:* The international community must take concerted action to create strong and effective oversight and enforcement mechanisms to protect labor and social rights. It is inadequate to seek only a commitment from Central American countries to enforce their own labor laws.

CAFTA: The agreement merely states, “[a] Party shall not fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties.”² For countries where labor violations are egregious and systemic, this clause is insufficient to guarantee protection of workers' rights. Although fines may be levied against a trading partner, the money collected is not required to be used to remedy the labor rights violation, but is designated vaguely for “appropriate” labor initiatives. Suitable labor initiatives are never defined. CAFTA allows a trading partner to re-impose import duties if the violating government does not pay the fine, but not for failure to correct the labor rights violation. The labor provision in CAFTA will also replace the Generalized System of Preferences (GSP), which includes a petition process, leading to the loss of a useful, if modest

¹ These standards were expressed in two documents: “Principles of Unity on Trade with Central America,” October 2003, and “Equitable Trade and Central America: Does CAFTA Measure Up?,” July 2003.

² See <http://www.ustr.gov/new/fta/Cafta/text/index.htm>

enforcement mechanism. Finally, no protection systems are established for rural or urban workers adversely affected by the trade agreement.

Agriculture / What we said: Any trade agreement on agriculture must guarantee governments' authority to pursue tariffs and subsidies that safeguard their nations' food security, promote poverty eradication, boost crop diversification, improve physical infrastructure and protect the environment. Governments must be able to enact legislation that excludes staple crops such as corn, beans and rice from trade liberalization, and implement other policies that protect their citizens. The U.S. government must prevent private and public dumping of U.S. grains in the region, a practice that adversely affects small farmers in Central America.

CAFTA: Central American countries will be required to eliminate import tariffs on rice, beans, yellow corn and dairy products, staple products on which the livelihoods of 5.5 million small and medium producers depend. The U.S. refused to negotiate the agricultural subsidies and supports it provides that enable U.S. agribusinesses to export goods at below the costs of production, undermining Central American farmers. Without the compensating protection of tariffs, Central America's doors will be opened to the dumping of U.S. farm products, risking massive displacement of rural workers and increased food insecurity in Central America.

Traditional Knowledge & the Right to Access to Medicine / What we said: Any trade treaty must reject "TRIPS-plus" provisions [the provisions protecting intellectual property that limit access to generic drugs] and not diminish Central American countries' rights and abilities to exercise the flexibilities granted them in the WTO TRIPS agreement to secure access to affordable medicines. In addition, any agreement should respect governments' responsibilities to protect and promote farmers' rights to save, use, exchange and sell farm-saved seed and propagating material.

CAFTA: CAFTA provisions on intellectual property threaten to place HIV/AIDS treatment beyond the reach of many Central Americans in need. CAFTA provides for expanded patent rights for brand-name medicines and new restrictions on using inexpensive generic versions. This will drive up the cost of life-saving drugs, and delay or obstruct generic competition. It will become almost impossible for Central Americans to acquire affordable medicines for HIV/AIDS and other diseases. In addition, CAFTA will place restrictions on Central America farmers' ability to use and save certain seeds, undermining traditional agricultural practices. CAFTA goes beyond World Trade Organization (WTO) regulations, and violates the spirit of the Doha Agreement and the Convention on Biodiversity.

Investment rules / What we said: Any trade agreement should preserve government authority to regulate foreign investment in order to achieve national sustainable development policies. It must not prohibit performance requirements to support an emerging productive sector or meet community development plans. Governments should be able to impose capital controls to protect their economies from destructive flows of speculative investment. In general, investor-to-state lawsuits should not be included in provisions of trade agreements.

CAFTA: Under CAFTA, national development needs will be secondary to the rights of foreign investors. A USTR fact sheet on free trade with Central America states that U.S. investors will enjoy "in almost all circumstances the right to establish, acquire and operate investments in Central American countries on an equal footing with local investors, and with investors of other countries."³ Accordingly, governments will not be able to harness foreign investment for economic development strategies that promote domestically-oriented growth or support new domestic industries. "Furthermore, CAFTA includes NAFTA-like investor-to-state lawsuits, which will allow corporations to sue governments over regulations that they believe infringe on their business interests." Finally, investors do not have binding responsibility to comply with International Labor Organization (ILO) standards.

³ See <http://www.ustr.gov/new/fta/Cafta/2003-12-17-factsheet.pdf>

Essential Public Services / *What we said:* Essential public services, such as education, health care and water, should be exempt from "national treatment" standards. National treatment might make it impossible for governments to adequately subsidize the provision of those services, resulting in price increases that are prohibitive to low-income consumers. Negotiators should utilize a "positive list" approach for any agreements on services, liberalizing only those sectors specifically included in the negotiations.

CAFTA: CAFTA negotiators did not exempt essential public services from the national treatment standards. Governments will lose the flexibility to subsidize these services and guarantee adequate provision of these services to citizens.

Conclusion: Many people in the United States are wary of free trade agreements. They are concerned about losing their jobs because of imports from developing countries or because U.S. businesses move overseas or outsource employment. Many Central American citizens' groups, farmers' organizations, labor unions, and church organizations also oppose CAFTA. A ratified CAFTA would represent a clear danger to farmers, farm laborers, working people and impoverished communities in Central America. Many Central American farmers would be bankrupted, urban workers would be subjected to continuing labor rights' abuses, generic medications would be less available, and more of Central America's scarce capital resources could leave the region in the form of payments for usage of copyrighted and patented items. These losses are unlikely to be off-set by greater access to the U.S. import market, which is projected to shrink by \$90 billion to \$375 billion over the coming decade⁴.

CAFTA fails to meet up to basic standards of justice and fairness. It will not benefit ordinary people in the United States and Central America. We call on members of Congress to vote against the Central America Free Trade Agreement (CAFTA).

⁴ "<http://www.cepr.net/Import_Projections.htm>Fool's Gold: Projections of the U.S. Import Market", by Dean Baker and Mark Weisbrot, Jan. 8, 2004. Center for Economic and Policy Research, Washington DC.

1. Washington Office on Latin America (WOLA)
2. International Labor Rights Fund
3. Development Group for Alternative Policies (Development GAP)
4. Oxfam America
5. AFL-CIO
6. Maryknoll Office for Global Concerns
7. The Chicago Religious Leadership Network on Latin America
8. Network in Solidarity with the People of Guatemala (NISGUA)
9. Centro Presente
10. Sister Parish, Inc.
11. World Vision U.S.
12. Latin America Task Force of the Mainline Unitarian Church
13. Center of Concern/U.S. Gender and Trade Network
14. American Friends Service Committee (AFSC)
15. Baltimore Action for Justice in the Americas (BAJA)
16. Columban Justice and Peace Office
17. Church World Service
18. Colombia Human Rights Committee
19. Share Foundation
20. Global Exchange
21. IRC Americas Program
22. Church Women United
23. Washington Office, Mennonite Central Committee (USA)
24. Washington Office, Presbyterian Church (USA)
25. Salvadoran American National Network
26. United for a Free Economy
27. World Vision, (USA)
28. Quixote Center
29. Voices on the Border
30. Sisters of the Holy Cross – Congregation Justice Committee
31. U.S./Labor Education in the Americas Project
32. Missionary Oblates, Justice/Peace & Integrity of Creation
33. Lutheran World Relief
34. Committee in Solidarity with the People of El Salvador(CISPES)
35. World Neighbors
36. Brethren Witness/Washington Office of the Church of the Brethren General Board
37. Justice and Witness Ministries, United Church of Christ
38. Alliance for Responsible Trade (ART)
39. National Catholic Rural Life Conference
40. United Methodist Church, General Board of Church and Society
41. Just Associates
42. The Committee for Inter-American Human Rights
43. Conference of Major Superiors of Men
44. National Council of Churches
45. Public Citizen
46. Centro de Intercambio y Solidaridad (CIS)
47. Citizen's Trade Campaign
48. Center for Economic and Policy Research