

Monitoring report: DR-CAFTA in Year One

A report by the Stop CAFTA Coalition

www.stopcafta.org

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Monitoring report: DR-CAFTA in Year One

Introduction

CAFTA IN YEAR ONE

A report by the Stop CAFTA Coalition – www.stopcafta.org

Over the past four months members of the CAFTA Monitoring Working Group have coordinated the drafting of this report with friends and allies in Central America. While it is far too early to detail long-term trends in labor, textiles, agricultural practice and policy, investment patterns, services, and environmental consequences of CAFTA, in this report we have looked primarily at the process of implementing CAFTA since January 1, 2006 and some early trends and concerns that have emerged, many of which we will continue to monitor.

Background

The US- Central America Free Trade Agreement (CAFTA) was initiated by the Bush administration in January of 2002 as an effort to revitalize faltering talks for a Free Trade Area of the Americas. After a year of preliminary discussions, “negotiations” began in February of 2003 and were completed in December of that year between the United States, El Salvador, Guatemala, Nicaragua, and Honduras. Costa Rica joined the accord in January of 2004, and all six countries formerly signed in May of 2004. In August of 2004 the Dominican Republic was docked to the core agreement creating the U.S.- Dominican Republic-Central America Free Trade Agreement (DR-CAFTA).

CAFTA was adopted first by El Salvador in December of 2004; Honduras and Guatemala in March of 2005; the United States in July of 2005; and Nicaragua and the Dominican Republic in September of 2005.

CAFTA was initially intended for implementation on January 1, 2006. Shortly before, in mid-December 2005, the United States Trade Representative (USTR) announced that in its estimation, countries in Central America had failed to fully enact laws necessary to bring their legal systems into compliance with changes mandated by the CAFTA. At this point the USTR set in motion a process of rolling implementation, whereby, the USTR would certify countries as ready to implement CAFTA on a case-by-case basis. As a result of this policy CAFTA was implemented first by the United States and El Salvador on March 1, 2006; Nicaragua and Honduras on April 1, 2006; and Guatemala on June 1, 2006.

The Dominican Republic has yet to fully comply with demands by the USTR and has not yet implemented the agreement. Costa Rica remains the only country to have not ratified the agreement.

Findings of “CAFTA in Year One” Report

The process of rolling implementation has had negative consequences for the region and for the United States by creating confusion governing rules of origin for textiles. The result has been lost jobs in the United States and parts of Central America. Far from creating the promised regional textile complex to offset competition from China, the ham-handed approach to implementing CAFTA has contributed to a trend, already in place, of Central America losing market share to competitors from Asia.

The confusion surrounding implementation has been by and large the creation of the United States Trade Representative and Congressional leadership. The USTR has insisted on new concessions from Central American counterparts that go beyond items negotiated during CAFTA discussions. These concessions include:

- Demands to re-interpret intellectual property rules to grant extended periods of protection for U.S. based pharmaceutical companies.
- Requirements that governments in Central America adopt U.S. Department of Agriculture meat inspections protocols, thereby foregoing their rights to inspect meat packers prior to issuing export licenses in the United States and re-inspecting meat at the border.
- Forcing countries to accept USTR interpretations of a host of disagreements concerning tariff-rate quotas and distribution of import licenses.
- Demands that all of these disputes be settled by changes in the civil codes of all of the countries in order to cut off the potential for legal challenges later.

The USTR has been unwilling to compromise meaningfully with any of its partners, even when the new demands were part of negotiations between the Bush administration and Congressional Republicans that helped pass CAFTA by a slim 2-vote margin.

The delays in implementation have been especially long in Guatemala and the Dominican Republic, and as mentioned in the reports on Guatemala, outstanding issues concerning pocket linings and taxes on beer still have not been settled even after the implementing deadline has passed.

As chapter 9 on agriculture in El Salvador notes, there is already evidence of stress to the rural economy of Central America that is being exacerbated by CAFTA. Imports of items such as fresh beef and a variety of dairy products to Central America have increased dramatically. Guatemala has already submitted a case before the World Trade Organization for dumping of chicken quarters by U.S. poultry exporters. In El Salvador, inflation is increasing, including for food items, indicating that despite promises to the contrary increased food exports from the United States are not leading to lower food prices.

As chapters 1 on El Salvador and chapter 2 on Nicaragua note, another impact of CAFTA implementation we are seeing is the cost to the government of initiating programs to prepare the rural economy for the disruptions. The Nicaragua chapter documents a program that shows how support funds are being absorbed by larger producers, not small farmers who desperately need them. Further disruptions to the rural economy will lead to expanded migration, both within Central America and to countries outside the region.

There has been no improvement of the human rights situation in Central America under CAFTA. Indeed, there is evidence that CAFTA and other neo-liberal reforms are increasing social conflicts and in El Salvador, Guatemala and Honduras the state is responding with increased violence, or failing to protect social activists non-violently demanding their rights. This is another trend that we will continue to monitor closely.

Finally, there was a great deal of concern about the situation of worker rights in Central America expressed by members of Congress during the CAFTA fight. While too early to draw specific conclusions, we simply note that few collective bargaining agreements exist with non-company unions in the free trade zones of Central America, and the age old practice of firing union leadership in an

effort to squash organizing efforts continues unabated. There will be longer reports on worker rights enforcement in the months to come.

Also, we note that coalitions of legal scholars, lawyers, and civil society organizations in the countries of Central America have presented legal challenges to domestic and regional courts calling into question the constitutionality of the implementing laws. This is another area we hope to report on as the cases progress.

The Monitoring Working Group

The task of monitoring CAFTA impacts is an ongoing one. The goal of the Working Group is to continue to coordinate monitoring efforts and to do periodic reporting on the impact of policies enacted to implement CAFTA. This first preliminary report on implementation is issued on September 12, 2006 in the hopes that concerns raised in this report will resonate with members of Congress as they look to agreements with Peru and Colombia.

Section I, Country Reports

Chapter 1, El Salvador

El Salvador: First in the Race to Implement DR-CAFTA, First to See Negative Effects of “Free” Trade Agreement

By Burke Stansbury, Committee in Solidarity with the People of El Salvador (CISPES)

The country of El Salvador was the first to approve the US-Dominican Republic-Central America Free Trade Agreement (DR-CAFTA)—in December of 2004—and the first to begin implementing the agreement with the United States—in March of 2006. Publicly, the Salvadoran government has boasted of its first-place status, claiming that the supposed benefits of CAFTA will rain down on El Salvador like nowhere else in Central America.

Yet long before CAFTA officially went into effect, its flawed character was obvious to most Salvadorans. In fact, 76% of Salvadorans polled in late 2005 said that CAFTA would not improve the situation in El Salvador, or make matters worse¹. For years until it became law, CAFTA was widely promoted as the answer to all of El Salvador’s economic woes. Ironically, since the March 1 start date, hardly an article has appeared in El Salvador about the positive repercussions of CAFTA. However, statistics from the U.S. International Trade Commission show that between March 2005 (a few months after El Salvador ratified CAFTA) and March 2006 (the month CAFTA implementation began) exports from El Salvador to the U.S. dropped by more than half, from \$187 million to \$88 million². Meanwhile, El Salvador’s trade deficit with the US has also increased, creating an increasingly alarming situation for a country with an already huge national debt.

It was back in February of 2006 Salvadoran President Tony Saca met with President Bush and later announced that his country was the first to achieve the reforms necessary for CAFTA implementation. That El Salvador was first was no surprise given the country’s status as one of the Bush Administration’s closest allies. Yet even for El Salvador, the implementation process proved difficult, with the US Trade Representative (USTR) piling on additional demands and requirements before giving the green light. Officials from the Salvadoran government resisted some of these changes, and like other Central American countries, privately argued that many of the changes were not agreed to in the initial negotiations. In the end, however, El Salvador was the first to concede to the USTR’s demands, sacrificing the well-being of its people in order to become the “first” CAFTA country.

Controversial Legal Reforms

In order for CAFTA to go into effect in El Salvador, a series of legal reforms were insisted upon by the USTR. On December 14, 2005, the governing ARENA party and its ally the National Conciliation Party (PCN) rammed through a packet of changes to El Salvador’s secondary laws in the National Assembly, and did so without any substantial debate over the measures. The Salvadoran executive had

¹ “Many in El Salvador Wary of CAFTA,” Angus-Reid Global Scan, Dec. 8, 2005.

² U.S. International Trade Commission data, cited in “Central America Trade Pact Hits Snags”, Washington Times, July 4, 2006.

introduced the CAFTA reforms less than a week before the vote, prompting legislators from the largest opposition party (FMLN) to abstain from the vote and walk out of the Assembly session. Changes were made to the law of public acquisitions and contracts, the insurance law, customs law, branding laws, intellectual property law, telecommunications law, animal and vegetable sanitary laws, and the penal code, among others.³

Changes to the Intellectual Property law have been the most controversial, leading to the eruption of massive protests by informal sector market vendors. The reforms impose fines and even jail time for those who sell and purchase pirated goods, thereby destroying the livelihood of many poor Salvadorans who depend on the informal economy. As of the March 1 implementation date, the government and the Salvadoran police were claiming to have delayed mass arrests of vendors, though thousands of dollars in DVDs, clothes, shoes and other pirated products had already been seized. Following the March 12, 2006 municipal and legislative elections in El Salvador, it appears that the application of the changes to the Intellectual Property law are being applied more broadly, with drastic effects for those who depend on selling in the informal sector.⁴ In April, for example, police raided a public market in San Salvador, injuring many people and arresting twenty.⁵

The USTR also demanded protections for textiles produced by U.S. companies. During negotiations El Salvador had won certain concessions permitting the use of fabric and other inputs from third countries for apparel exported to the United States. The country was later forced to concede because of Bush administration promises during the CAFTA vote in the U.S. Congress. Currently, El Salvador is prevented from using materials—namely pocketing and non-visible lining in pants—produced in other parts of the world in its production of certain textiles. This is an arrangement that benefits US textile companies that produce these materials.⁶

Finally, the USTR succeeded in pushing the CAFTA countries to surrender their own food safety inspection requirements for meat imported from the United States. Instead they were forced to accept U.S. Department of Agriculture sanitary standards for both meat and agriculture products. Though El Salvador temporally resisted such changes, saying they were not originally agreed to, in the end the government succumbed. As a result they have ceded the right to devise standards for sanitation inspections on imports.⁷

In essence, the changes to El Salvador's secondary laws will give extensive new protections to U.S. companies, particularly media, technology, and pharmaceutical companies. Such patent protections have even been criticized by the World Bank⁸, and in a poor country like El Salvador represent a major attack on an entire sector of the economy—the informal sector—which is the only safety valve - along with emigration to the United States - for a huge percentage of poor Salvadorans.

Challenges in the Supreme Court: Ratification Procedure, Violation of Sovereignty called Unconstitutional

The 2004 ratification of CAFTA in El Salvador proved extremely turbulent, having occurred at 3:00 in the morning in a National Assembly surrounded by riot police. The governing ARENA party bypassed

³ "El Salvador reformó 12 leyes para iniciar a tiempo el TLC con Estados Unidos", El Faro, December 19, 2006

⁴ "Compás de espera a la piratería", Diario de Hoy, February 28, 2006.

⁵ "First FTA Victims in El Salvador", Prensa Latina, April 13, 2006.

⁶ "US Close to Implementing FTA with El Salvador after Textile Deal", Inside U.S. Trade, February 10, 2006.

⁷ "El Salvador Agrees to Accept U.S. Food-Safety Rules for Cafta", Bloomberg, February 8, 2006

⁸ "New Year Sees Delay in CAFTA Implementation," Todd Tucker, International Relations Center, January 5, 2006.

the 2/3 majority that is usually required to approve an international treaty. As a result CAFTA only needed to receive 49 votes, or a simple majority, rather than 63. With the FMLN in opposition, the CAFTA could only be approved by ignoring the Constitutional mandate for a super majority. But this is only one aspect of CAFTA that has been legally challenged by opposition parties and social movement organizations. In addition, the commission ordered to study the impacts of CAFTA was not given time to present its findings to the Assembly, and many legislative deputies admitted to having not read the text prior to the vote.

On March 1, 2006, the day CAFTA implementation began, the FMLN presented a case to the Supreme Court challenging the constitutionality of the trade agreement. The case cites multiple violations to eight articles of the Salvadoran constitution. These include the ratification procedure, infringement of territorial sovereignty, and the guarantee of “national treatment” for foreign companies. Social movement organizations also presented challenges to the constitutional legality of CAFTA⁹

Services: the Threat of Water Privatization

According to Salvadoran social movement organizations, the biggest potential impact of CAFTA in El Salvador may come via a new wave of privatization in public services. The *Ley de Aguas* or Water Law will likely be presented to the Salvadoran Assembly this fall and would start the process of privatizing the public water utility. The law was crafted shortly after CAFTA was approved in the U.S., and thus was written with an eye to the principle of “national treatment” embedded in the investment chapter of the agreement.

In the past, the privatization of social services has been vigorously resisted by Salvadorans. In 2003, doctors and health care workers successfully blocked efforts to privatize health care, and one tool they used was the introduction of the “State Guarantee of Health and Social Security” law. With CAFTA now in place, and given that free trade agreements supersede national law, such a law against privatization—which seeks to protect the people's right to affordable social services—could be challenged by CAFTA's chapter on “Freedom of Investment.”¹⁰ Indeed, the Salvadoran government must grant U.S. and multinational companies “non-discriminatory” or “national treatment” under CAFTA, thereby ensuring foreign access to service markets. This is the best indication that the change in policies brought on by CAFTA could ultimately enable such privatization to occur.

The investor rights provisions contained in CAFTA would also allow foreign corporations to sue national governments for laws or regulations that were shown to have caused a loss in profits. In the case of water privatization, laws that guarantee access to water for poor communities or create higher environmental and water quality standards than currently exist could be deemed “barriers to trade” by secret tribunals. Therefore, the recent push for a new Water Law in El Salvador has at its root the changes brought on by CAFTA that will pave the way for decentralization, and then privatization of water resources.

Resistance to CAFTA Continues in El Salvador

Changes to intellectual property laws that criminalize informal market vendors, and the government push for water privatization in El Salvador are perhaps the two most immediate results of CAFTA implementation that are being resisted by political forces and the popular movement in El Salvador.

⁹ “FMLN presenta recurso de inconstitucionalidad contra TLC”, *Diario Colatino*, March 1, 2006.

¹⁰ Por qué decimos NO al TLC: Análisis crítico del texto oficial, Bloque Popular Centroamericano, Alliance for Responsible Trade and the Hemispheric Social Alliance, March 2004

But as other facets of the deal play out, that resistance will continue. Indeed, everything from the rise in cost-of-living and transportation rates to increased street violence is often attributed, at least in part, to the failures of trade liberalization in El Salvador. Less than six months after implementation began in El Salvador, the battle over CAFTA has just begun.

Chapter 2, Nicaragua

CAFTA Negotiation: Wheelin' & Dealin'

By Witness for Peace- Nicaragua

The United States officially approved the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA) when President George W. Bush signed it on August 2, 2005. U.S. approval of CAFTA followed ratification in El Salvador, Guatemala, and Honduras. The Bush administration immediately increased pressure on Nicaragua to follow suit.

On October 4, 2005, United States Deputy Secretary of State, Robert Zoellick, arrived in Managua, Nicaragua. During his 2-day visit, Zoellick met with Nicaraguan President Enrique Bolaños after which the pair gave a press conference discussing the U.S. relationship with Nicaragua, and connecting Nicaraguan internal politics, Millennium Challenge Account funding and CAFTA. Economist Cirilo Otero says that this visit served as the “final blow” that led to CAFTA’s passage in Nicaragua. While pressure from the U.S. has become implicit in Nicaragua, Otero says, “Zoellick was the physical U.S. presence—it was the U.S.’s way of saying, ‘Either you’ll sign it, or you’ll sign it.’” Just six days after Zoellick’s visit, the Nicaraguan National Assembly ratified the DR-CAFTA.

Ratification of the DR-CAFTA in Nicaragua was no shock. While representatives from virtually every sector of society recognized and continue to recognize that the trade agreement could be harmful for Nicaragua, especially for the vulnerable small and medium producers and businesses, Nicaraguans accepted the passage of DR-CAFTA with quiet resignation. Some organizations continued to fight the agreement, others focused on making hasty arrangements for its implementation. On December 12 the National Workers Front (FNT) took legal action against CAFTA, citing in an appeal to the Nicaraguan Supreme Court 15 instances in which DR-CAFTA directly violates the Nicaraguan constitution.¹¹ The Supreme Court ruled against the appeal.

Initially, DR-CAFTA was scheduled to go into effect in all participatory countries on January 1, 2006; however, as that deadline approached, the U.S. began to worry that the Dominican Republic and Central American countries had not sufficiently prepared for implementation of some of the commitments made within the free trade agreement. As a result, on December 31, 2005 the office of the U.S. Trade Representative announced that DR-CAFTA would not go into effect until each of the signatory countries had amended their legal codes ensuring that each country was legally prepared to follow through with all of the terms of the deal. This meant a staggered DR-CAFTA implementation, with CAFTA going into effect in each of the countries once all the U.S. required legal amendments were approved.

Nicaragua’s constitutional changes pertained to commitments made within the Intellectual Property section of DR-CAFTA. On February 22, after considering the U.S. requirements for adapting Nicaraguan law to be more suitable for DR-CAFTA, Nicaraguan Minister of Development, Industry and Trade Alejandro Arguello introduced a package of 5 laws to be approved by the National Assembly. With virtually no opposition, after less than a month of discussion, the National Assembly quietly approved all 5 intellectual property laws—passing the amendment to the 1999 Law on Author’s Rights and the law to Protect Satellite Signals on March 9, followed by the approval of the Law on

¹¹ “National Workers Front Submits Legal Appeal Against DR-CAFTA.” Nicaragua Network Hotline, December 22, 2005.

Invention, Utility Model and Industrial Design Patents; the Law on Brand-name and Other Distinct Label Protection; and the Special Law on Crime Against International Trade or International Investment on March 21.¹² According to economist Carlos Pacheco, “It was a major violation of the sovereignty of poor countries when the U.S., in an international agreement, came in to dictate Nicaragua’s internal law.” He went on to say that those who stand to gain from these laws are the same big businesses who have always gained from such meddling. The Dominican Republic-Central American Free Trade Agreement entered into effect in Nicaragua on April 1, 2006.

DR-CAFTA Implementation

Much more attention has been given to passing CAFTA than to preparation and training for CAFTA’s implementation. On April 5, *La Prensa*—states “After the euphoria of DR-CAFTA’s entrance, now it is time to analyze in detail the weaknesses in the country’s ability to fully take advantage of the newly signed free trade agreement, which in theory claims it will benefit exporters, producers and consumers.”¹³ This is precisely the complaint of many civil society representatives: that troubleshooting CAFTA should have come before its implementation, rather than after the fact. Now, Nicaraguan civil society groups and government entities are playing catch-up.

The Director of Trade Agreement Implementation for the Nicaraguan Ministry of Development, Industry and Commerce (MIFIC), Jesus Bermudez, claims that the government is approaching implementation of DR-CAFTA with a three-point strategy. Bermudez said following through with new laws required by CAFTA is the government’s first priority. The second component of the government strategy is its own “Complementary Agenda”, which consists mainly of passing legislation that will “help improve the business climate of the country” and creating programs that will make Nicaragua more attractive to foreign investment. Third, the government is delegating the majority of DR-CAFTA implementation work in three sectors to: 1) Pro-MIPYME, devoted to aiding small and medium businesses, 2) Pro-Rural, focused on small and medium agricultural producers, and 3) Pro-Ambiental, dedicated to CAFTA-specific environmental issues. In addition, Bermudez said the government is broadening already existing government ministries to include offices specifically devoted to DR-CAFTA implementation.

DR-CAFTA Implementation in the Agricultural Sector

Nicaragua is an agricultural country. The production of basic grains, fruits and vegetables amounts to 21 % of the G.D.P. (which totaled \$5 billion in 2005), according to estimates from the Nicaraguan Central Bank (BCN). In addition, production of those crops employs 38% of the economically active population, which amounts to 2 million people—according to the most recent census by the Nicaraguan Statistics and Census Institute—and more than 40% of national exports.¹⁴ Despite the important role played by agriculture and agricultural producers, many civil society representatives in Nicaragua believe that it is in the agricultural sector that DR-CAFTA will do the most harm.

The Program for Rural Development (Pro-Rural) is the government entity that implements the agricultural section of the government’s National Plan for Operative Development (PND-O). It serves as an umbrella organization bringing together government and external sources of financing. Increasing production capacity for Nicaraguan agriculture and preparing producers for DR-CAFTA

¹² “Asamblea de “ok” a leyes para vignecia del CAFTA.” *El Nuevo Diario*. March 21, 2006. Managua, Nicaragua.

¹³ “Ya Hay CAFTA: Y Ahora?” by Amparo Aguilera and Luis Nunez S. *La Prensa*. April 5, 2006/

¹⁴ “Siembra con Buena Pinta.” By Mario Jose Moncada. *La Prensa*. May 10, 2006.

seem to be the main goal for Pro-Rural projects. For fiscal year 2006, Pro-Rural has a budget of over \$22 million, divided among 10 government projects.

According to Emilio Prado at the Center for Rural and Social Promotion, Research and Development (CIPRES), funding for any type of agricultural project is available through the various organizations within Pro-Rural's umbrella, but the funds are not easily accessed by small and medium producers. Pro-Rural focuses almost completely on Nicaraguan agricultural businesses already experienced in production of large quantities of goods for sale. "It's set up so that Pro-Rural provides 80% or so of the funding for a given project, and then the producer has to come up with the other 20%," Prado says. "That other 20% just is not something a small producer can afford."

One organization associated with Pro-Rural, the Inter-American Institute of Agricultural Cooperation (IICA), specializing in agriculture and rural well-being, has created the CAFTA Information and Training Center devoted specifically to informing producers and businesses about how to export to the United States. The organization, associated with the Organization of American States, produces statistical reports, documents and runs several projects all focusing on improving access to information for agricultural producers. Unfortunately, participation in any one of IICA's CAFTA trainings costs \$25 per person, far outside the reach of many small and medium producers.

Esoteric and confusing in its own right, with no one source of information, but rather bits of information scattered on various websites and in various documents, Pro-Rural's ability to provide the assistance and preparation needed by thousands of Nicaraguan agricultural producers during the complicated process of CAFTA implementation seems doubtful.

Water: public good or investment opportunity?

CAFTA has also sparked concern among Nicaraguan civil society organizations that Nicaragua will lose public control over its abundant natural resources, namely water. Various Nicaraguan groups have denounced CAFTA's manifold investors' rights protections for granting foreign corporations greater freedom to buy public water distribution systems and siphon off water supplies for destructive industrial purposes. Recent fears about increasing corporate control of water have provoked the Consumers' Defense Network and other civil society organizations to draft a General Water Law, a bill under National Assembly consideration that seeks to ensure public ownership of water resources, public control of water distribution, and tight governmental regulation of water-related investments.

One component of the proposed law mandates that investors wishing to build large-scale hydroelectric dams (30-megawatts and up) must gain permission from local community groups before any concessions are granted. CAFTA's investment chapter conflicts with such elements of the proposed law by mandating the minimization of governmental regulation of foreign investment. Given that CAFTA is now in effect, the Network fears that the general water law will not be passed, or that if it is passed, investors, such as those interested in dam construction, could force Nicaragua to overturn the law through a successful suit under CAFTA's investor-state dispute resolution mechanism. If CAFTA thwarts the general water law, the Network expects to see more of Nicaragua's powerful rivers dammed by foreign-owned hydroelectric megaprojects. Ricardo Osejo of the Network says that Nicaragua's existing large dams have already shown the impacts of such investment: a few jobs and company profits in exchange for flooded agricultural lands, displaced farming communities, and washed-out biosystems.

U.S. continues DR-CAFTA changes after implementation

One year and three months after the “final” text of the DR-CAFTA was signed by representatives of each country in Washington D.C., the U.S. continues to make changes to the DR-CAFTA and to demand that the other countries accept those changes. In August, the U.S. House of Representatives and Senate both approved legislation allowing President Bush to make changes to the DR-CAFTA regarding the origin of pocket lining material in textiles. Currently, textiles made with pocket material from a non-DR-CAFTA country (“third country”) still receive duty free treatment, but because the agreement was causing pocketing plants in the U.S. to suffer losses, the U.S. is taking steps to change the agreement. Under the new proposal, only textiles with pocketing from DR-CAFTA countries will receive duty-free benefits. The U.S. is offering DR-CAFTA countries concessions in exchange for acceptance of the change. In Nicaragua, this means that the Trade Preference Level (TPL) provision allowing duty-free export of textiles made from cloth imported from a non-DR-CAFTA country will be increased during the 6th-9th year of DR-CAFTA.

The U.S. is also seeking to address another DR-CAFTA problem for U.S. textile producers, related specifically to the original TPL provision Nicaragua obtained under the DR-CAFTA. Under this provision, Nicaragua can use up to 100 million square meters of third country material in the production of textiles that can then be exported duty-free. The TPL provision has been touted as CAFTA’s major benefit to Nicaragua since it makes the country more attractive to maquila investors seeking to source the cheaper fabric available from third countries. Now, however, the U.S. is proposing a “one-for-one” rule in which Nicaragua must buy one pair of trousers from U.S. fabric for every pair of trousers produced with the TPL third-country-fabric benefit. Thus, what was once a “win” for Nicaragua has led to another forced concession to the U.S. Once the legislation is passed and signed by President George W. Bush, DR-CAFTA countries will have to sanction the changes. CAFTA requires that formal consultations under Article 3.25 be held before any changes to the agreement’s rules of origin can take effect, but if Nicaragua wants to continue its trade pact with the U.S. it will have to accept the changes.

Who will be the winners and losers in Nicaragua under DR-CAFTA?

While it may take years to fully observe the long-term effects of DR-CAFTA in Nicaragua, MIFIC and other pro-CAFTA organizations are doing an excellent job of highlighting new investments and trade deals as “big wins” for Nicaragua, thanks to CAFTA. According to the Exportation Transit Center (CETREX), in the first 30 days of CAFTA’s implementation, Nicaragua earned an additional \$8 million in sales to the United States. In addition, CETREX cites \$27.8 million earned in sales to the United States during the month of April 2006, as compared to \$24.1 million in April 2005—an increase of \$3.7 million attributed to DR-CAFTA.¹⁵ Beef, beans, fish and watermelon are just a few of the products mentioned to have increased exports to the U.S. in recent months. In total, between April and June exports to the United States amounted to \$94 million, 33% more than during the same period last year.¹⁶ A large portion of this can be attributed to deals with four major U.S. supermarket chains, including Whole Foods Market and Liborio Market, which have signed with Nicaragua to import millions of dollars worth of produce beginning in the next few months.

Free trade seeks to increase exports, one of the components that make up the Gross Domestic Product (GDP) of a country. With increased exports attributed to DR-CAFTA, many analysts project

¹⁵ La Prensa. “Cultivos Seran Fichados” by Amparo Aguilera. (pgs. 1-2 C) June 28, 2006. Managua, Nicaragua.

¹⁶ “Empuje exportador.” La Prensa. July 4, 2006. P.4B

significant GDP gains for Nicaragua. Increased GDP means, in theory, that everyone benefits as the increased wealth trickles down through jobs and government distribution of wealth. While CAFTA may bring jobs in the maquila sector and some portion of the agro-export sectors, it will likely cause a simultaneous loss of jobs in small-scale agriculture. Meanwhile, there is no evidence to indicate that the jobs gained in Nicaragua's free-trade zones and export plantations will be any less exploitative than those currently found.

But won't increased wealth from exports mean increased government capacity to address the population's needs? To the contrary, the Nicaragua state's ability to finance such social investment will likely be reduced as tariff payments (taxes) on imports diminish under CAFTA. The government has announced no plans for increased investment in the health or education sectors. According to a report by the Ministry of Education, Culture and Sports (MECD) 824,000 school age children in Nicaragua are currently not attending school.¹⁷ The low attendance rate is often attributed to the unaffordable costs of both public and private schools in Nicaragua, where 79.9% of the population survives on less than \$2 per day, and 45% on less than \$1 per day.¹⁸ Healthcare in Nicaragua is equally dismal. In May 2006, a six-month strike by public medical workers ended with the signing of a contract consisting of 16 agreements, including a gradual increase in healthcare worker salaries. The Ministry of Health (Minsa) estimates that during the six months of the strike, 120,000 people went without medical visits, 20,000 surgeries had to be rescheduled and 30,000 pregnant women went without prenatal exams.¹⁹ Currently, Nicaragua devotes 8.8% of its G.D.P. to social spending.²⁰ Given the projected loss of import tariff income under CAFTA, this percentage is more likely to fall than rise. With even less governmental capacity to reverse Nicaragua's impoverishment, it's unlikely that increased exports will translate into benefits for the majority of Nicaraguans.

Admittedly, the real effects of DR-CAFTA remain to be seen. Government agencies and civil society groups provide conflicting predictions for how DR-CAFTA will affect Nicaragua. But given the general lack of information and opportunity under CAFTA for small and medium producers, the agreement's prioritization of the interests of large corporations and investors, and the pressure tactics the U.S. had to use in CAFTA's negotiation, ratification and implementation, the future looks less than promising. While more money will likely enter the country as a result of the free trade agreement, there's no indication that the country's new wealth will reach the hands of those who need it most.

¹⁷ "Guerra de cifras en tema de ninez excluida de aulas." La Prensa. July 3, 2006. By Arlen Perez.

¹⁸ "Nicaragua: Los 'Objetivos de Desarrollo del Milenio' y el Programa con el FMI." By Adolfo Acevedo. 2005.

¹⁹ "Termina Huelga Medica." La Prensa. May 13, 2006.

²⁰ "Inversion en la ninez una apuesta al futuro." By Roberto Perez Solis. La Prensa. July 9, 2006 P.7A

Chapter 3, Honduras

Honduras: Implementing Insecurity

Tom Ricker, Quixote Center/Alliance for Responsible Trade

Honduras was the second country to reach agreement to implement CAFTA with the United States. Pressure from the United States Trade Representative was applied to ensure compliance by the Honduran government with a series of demands for far reaching changes in the country's legal code. There was little resistance to U.S. pressure from the Honduran executive, under the leadership of new center-right President Manuel Zeleya. Though the legislative process related to the package of implementing laws in Honduras also appeared less contentious than in other countries, opposition from civil society and social movements was and remains quite strong.

Further, the broader context of insecurity in Honduras remains at crisis level. Human rights abuses continue with near impunity. The gang problem in Honduras, coupled with militaristic responses from the government, has created war zones in many urban areas. Worker rights abuses continue at an alarming rate. Despite promises, never well founded, that implementation of CAFTA would enhance security there is no real evidence of this yet.

Background

The implementation of neo-liberal policies in Honduras over the past ten years has highlighted contradictions in rural areas and heightened conflicts over resource extraction, land tenure, and agricultural policies. The subordination of the state in Honduras to the whims of global capital was accelerated under the administration President Maduro (2001-2005), who was responsible for “negotiating” CAFTA. Ismael Moreno wrote in *Envio* in March of 2004:

The country's best analysts agree that President Maduro's decisions—both those related to internal problems and those sketching out international economic and commercial policies—are contributing to the radical disarticulation of Honduran society. With a model of total opening up to the requirements of international capital currently being promoted, national agriculture and industry are losing any strategic importance they ever had. The emphasis placed a few years ago on agro-exports and the fostering of national small- and medium-scale manufacturing has disappeared in a “country that no longer exists.”

Ricardo Maduro will go down in history as the gravedigger of that model. In two years, his government has so deteriorated the agricultural sector that it has sunk into irreversible decline, while the national manufacturing sector has been fully subordinated to the interests of the international market.²¹

The social movement in Honduras was active during the year-long process of drafting the agreement, and through the fight against ratification. There were two major mobilizations in 2003. The first was the March for Life—headed by the priest Andrés Tamayo and people from the department of Olancho—in defense of the forests and against the shameless state policy to protect those pillaging them. The second was the March for Dignity and Resistance, called and led by the National Popular

²¹ Ismael Moreno, “Two More Years in a Country that no longer exists,” *Envio* March 2004.

Resistance Coordinator to oppose the privatization of water and laws that affected state workers or sought to regulate land ownership in favor of the country's tycoons.²²

Maduro's government largely ignored these concerns setting up the potential for a major fight over CAFTA ratification. Indeed, after promising to hold a special session with civil society, Maduro's government chose to ratify CAFTA in a special session five days early to avoid protests.

"The ratification of [CAFTA] was done in a traitorous fashion, given that the President of the National Congress Porfirio Lobo Sosa had promised the different social organizations that before sending the treaty to Congress for a vote, they would have a meeting next Tuesday, March 8th so that the people of Honduras could present their reservations to Congress," thundered a statement issued by COPINH (The Council of Civic, Popular and Indigenous Organizations of Honduras). The following week, all the major roads into Tegucigalpa were blocked in protest of the Congress's action.

Implementation and Insecurity

Like the rest of the region, the government of Honduras was notified by the USTR in late 2005 that it would need to make substantial changes to its legal codes in order to be certified as in compliance with U.S. demands for CAFTA implementation. In early January 2006 Honduras sent a delegation under the leadership of Minister of the Foreign Commerce, Melvin Redondo, to Washington, D.C. to discuss with the USTR its concerns.²³

The package of reforms that was demanded by the USTR was similar to demands being laid on other governments in the region: changes to laws governing protection of intellectual property rights, changes to laws concerning government procurement and contracts, changes to laws concerning sanitary and phytosanitary regulations, and even changes to penal codes to increase penalties for violations of property laws.

The new administration of Manuel Zelaya quickly proposed an implementing law and on March 15, 2006 the law was approved by the Honduran parliament. The implementing law contained 71 articles, 59 of which pertained to changes to Honduras' laws concerning intellectual property.²⁴ The government of Honduras also had to work out a deal with the USTR concerning changes to rules of origin on pockets in order to come into compliance with promise made by the Bush administration to reluctant Republicans from textile states during the CAFTA vote in U.S. House of Representatives.²⁵ With these changes in place, Honduras joined Nicaragua in implementing CAFTA on April 1, 2006. El Salvador had implemented the accord a month prior.

Given that the Honduran government had already opened the economy dramatically even prior to CAFTA implementation, it is difficult to judge what impact CAFTA has had at this early date. In the area of agriculture, perhaps the sector of most concern, there has been notable increase in U.S. exports to Honduras of pork and beef when compared to the first six-months of last year. A dramatic increase in dairy exports over last year's figures has also been seen. Corn, rice and poultry exports to Honduras are down from last year (comparing the first 6-months), but these figures are somewhat misleading.

²² Ismael Moreno, "Two More Years in a Country that no longer exists," *Envio* March 2004

²³ "Delegación hondureña hacia Washington," in *La Prensa*, January 2, 2006

²⁴ Aprobadas leyes del Cafta, in *La Prensa*, March 16, 2006

²⁵ "Honduras, Nicaragua may implement CAFTA next month as Guatemala lags" in *Inside US Trade*, March 31, 2006.

For example, corn exports from the U.S. to Honduras had almost doubled between 2001 and 2005. So the decline of 6% during the first half of this year compared to last year is marginal.²⁶

Overall Honduras' trade balance with the U.S. remained positive but narrowed through the first quarter of 2006. Though Honduras' exports to the U.S. had grown nearly 1% over last year, imports from the United States increased 13%. Textiles dominate U.S. trade with Honduras accounting for 41% of U.S. exports to Honduras (materials) and nearly 71% of U.S. imports from Honduras (finished garments) through the first quarter of this year.²⁷

The central role of the maquila industry (garment assembly) to Honduras/US trade has contributed to lax enforcement of worker rights in this sector. In 2005 there were 44 free trade zones established in the country and 18 industrial parks operating as free trade zones. An additional 26 companies had their own free zones. There is not a single collective bargaining agreement operative in any of these trade zones. Abuse of worker rights, particularly the right of association remains commonplace. In June of 2006, for example, the management of Tiara, a company that makes protective clothing for Dupont, fired the leaders of a union after the union had filed paperwork and its leadership recognized was by the Minister of Labor. The workers have not been reinstated and no effective action has been taken against the company despite the clear violation of Honduras' labor code.²⁸

Outside the free trade zones, CAFTA implementation is also making life difficult for indigenous peoples and Garifuna communities along the Caribbean coast. A core element concerns violations of community land rights embedded in the World Bank-financed Honduran Lands Administration Program (PATH). Rights Action reports:

Using the highly contested Property Law of 2004 as its legal framework, the land 'regularization' Program respects land titles granted to outsiders within communal lands, proposes unconstitutional 'settlement roundtables' to resolve land conflicts, and permits the individualization of community land titles.

The World Bank funded PATH is being implemented in the regional context of CAFTA and Plan Puebla Panama, creating the kind of 'security' of land tenure needed by foreign investors, at the expense of indigenous and Garifuna communities' ancestral land rights.

Due to the ongoing violations of collective land rights, on May 1, 2006, the Inter-American Commission on Human Rights ordered Protective Measures for the Triunfo de la Cruz community. These protective measures include orders that the "government adopt the necessary measures to protect and respect property rights to the ancestral lands pertaining to the community of Triunfo de la Cruz."

The government has refused to take steps to implement these protective measures and the list of human rights violations in Garifuna communities continues to grow. Just this year two young people were found dead after being detained by soldiers in the community of La Ensenada; community president in San Juan Tela, Jessica Garcia was threatened and forced at gunpoint to sign a document ceding certain community lands to PROMOTUR, a real estate and tourism company owned by powerful politician, landowner, banker and businessman Jaime Rosenthal Oliva; and on August 7 the body of 19 year old

²⁶ United States Department of Agriculture, Foreign Agriculture Service database: <http://www.fas.usda.gov/ustrade/>

²⁷ Trade Stats Express: <http://tse.export.gov/NTDMap.aspx?UniqueURL=inp2efamri5k2pm1zbhlpwev-2006-9-8-15-3-19>, Department of Commerce.

²⁸ Information from STITCH – details at www.stitchonline.org

Mirna Isabel Santos Thomas was found along a roadside after she was seized by a group of heavily armed men the previous evening.²⁹

Despite government complicity in the construction of a violent atmosphere meant to de-mobilize social movements, people continue to organize and make demands upon the state. On August 17 and 18 a meeting of peasant farmers produced a lengthy declaration demanding reform from the state. Citing the government's restructuring of land and agricultural policies in order to comply with an economic model that "has resulted in negative impacts for *campesinos* while benefiting transnational corporations," the National Forum for Integral Agrarian Reform and Rural Development issued a platform calling for alternative trade and economic relations, expanded rural credit, guarantees of land security and many other points.

One of CAFTA's unintended consequences in Honduras and elsewhere in the region may be to further consolidate the social movement for economic justice. Despite the waves of repression in Honduras in recent years, the movement refuses to give in. There is still hope, and the necessity for action guarantees that the conflicts over land resources will continue. The danger is that the current government in Honduras, backed by the United States, will not give in either and increasingly employ violence to silence opposition. In other words, far from creating the promised foundation for stability, CAFTA implementation may be increasing insecurity, with deadly consequences for many.

²⁹ Communication from Grahame Russell of Rights Action, August 11, 2006, "Another Murder of Another Youth from San Juan Tela."

Chapter 4, Guatemala

DR-CAFTA Imposition and Poverty in Guatemala

By Carlos Barreda (translation by NISGUA)*

The negotiation of DR-CAFTA with the United States was a failure for the interests of our nation of Guatemala and the Central American region as a whole. The negotiations were biased by the inexperience, improvisation and the constant changes of leadership in Guatemala's negotiating team and strategy. It took place in an atmosphere of contention between the private sector and the government, who limited debate and transparency. The negotiation of DR-CAFTA was done without impact studies or a prioritized agenda; and with negligible participation by civil society, thus diminishing its legitimacy.

It quickly became clear that the Guatemalan public was largely opposed to the agreement, and massive demonstrations were organized. In the face of this rejection, force was used to ensure the ratification of DR-CAFTA in the Guatemalan Congress. This included the repression, disqualification and confrontation of social and popular organizations. State violence resulted in the death of two demonstrators and several wounded in multiple protests. On March 13, 2005, 126 of 158 Legislative deputies voted in favor of DR-CAFTA.

The government refused calls to hold a referendum to judge support for the treaty. The rejection of a Referendum clearly violates the Guatemalan Constitution, which establishes in Article 173 that political decisions of special importance will have to be put under consultative procedure of all the citizens. Diverse surveys indicated that more of 85% of Guatemalans were in favor of having a referendum on DR-CAFTA; while near 40% rejected the trade agreement; and 60% indicated that they did not know its contents.

Pressure from the business sector and the United States Embassy was exacerbated by the Guatemalan public's ignorance of the terms of DR-CAFTA. This pressure continued throughout negotiations and even after ratification, gaining more and more concessions that damaged national interests. In secret negotiations, the political will of Congress was purchased, to benefit private enterprise and U.S. interests.

An agreement was reached between the President and legislators to obtain the votes for ratification of the treaty; they had committed to approve 16 complementary laws to mitigate the most harmful effects of DR-CAFTA against the nation's poor before the treaty would go into effect. This agreement was not honored, and the majority of the 16 laws remain outside the parliamentary agenda. One law regarding adults without social security coverage, which had already been approved, was suspended by a provisional decision of the Constitutional Court. The remaining laws do not have the necessary financial resources to be effectively implemented.

In the end, the parliamentary initiatives to mitigate the negative effects of the treaty were nothing but a shameful decoy, used to legitimize approval of the treaty.

Not satisfied with the ratification with DR-CAFTA, the US Trade Representative (USTR) demanded a series of changes to Guatemala's internal legislation before certifying the use of the treaty. In the case of Guatemala, the additional changes were oriented fundamentally toward Intellectual Property, with

the purpose of extending patent rights to pharmaceutical companies and severely limiting competition from generic medicines.

In 2005, the U.S. government had pressured the Guatemalan Congress into passing a new intellectual property law which ensured that DR-CAFTA protections would not be hindered from any domestic legislation, stating that "in case of a discrepancy between provisions contained in this Law and those contained in trade agreements in force in Guatemala, the application of the latter will prevail with regard to the parties to the agreement" (Law 30-2005, article 7). Despite this concession, the USTR continued to push for extra conditions to protect wealthy U.S. pharmaceutical companies from competition with Guatemalan-produced generic medicines. This included decreasing market access for generics through an increase in regulatory requirements, broadening the definition of what qualifies for data exclusivity as a 'new' product, and allowing existing medicines to be given new patent or data protection for any new clinical applications.

These demands were met with the "Law of Implementation," which included the alteration of more than 16 laws related to telecommunications, state employment law, intellectual property, commerce, services, the penal system and the environment, among others.

In late May 2006, Congress approved the Law of Implementation. The USTR responded by demanding that Guatemala also ratify three international treaties dealing with intellectual property: the International Union for the Protection of New Varieties of Plants, the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and the Washington Patent Cooperation Treaty. They were ratified by Congress within weeks. In the end of June, the USTR certified Guatemala to participate in DR-CAFTA and on July 1, Guatemala became the fourth Central American country to join DR-CAFTA.

The DR-CAFTA violates our Constitution

Although the legislative process has completed, social organizations continue to fight. A formal legal complaint against the unconstitutionality of DR-CAFTA was lodged by more than 30 social organizations on February 23, 2006. In May a public hearing was held in the Constitutional Court of Guatemala, which was attended by social organizations but the government declined to even send a representative. To this date, five months after the complaint was lodged, the Constitutional Court has still not made a decision.

The arguments lodged before the Constitutional Court claim that DR-CAFTA specifically contradicts the Constitutional model of the state, because the agreement will not allow the State to take part in the national economy in benefit of the common good (as required by Articles 118 and 119 of the Constitution). The Treaty contradicts international human rights treaties ratified by Guatemala. These treaties take precedence over commercial treaties, according to Article 46 of the Constitution. The approval and ratification of the DR-CAFTA did not fulfill the constitutional necessity to hold a consultative national referendum as prescribed by Article 173 of the Constitution, nor did it fulfill International Labor Organization Convention 169 on indigenous rights, failing to consult with Indigenous communities as contained in Article 6 of the convention.

The DR-CAFTA is detrimental to the structure of the Central American Community, affecting the legal framework of Central American integration established in Article 150 of the Constitution. In addition, it establishes a regime for international relations of the State based on economic relations of free trade and not in human rights and equality as established in Articles 149 and 150 of the our

Constitution. Chapter 16 of DR-CAFTA (regarding labor) is null according to Article 106 of the Constitution, because it restricts or diminishes the rights of Guatemalan workers. DR-CAFTA also violates articles of the Constitution that guarantee the right to health care, limiting access to beneficial cheap medicines and pharmaceutical products.

DR-CAFTA increases poverty and inequality

The inclusion of Guatemala into DR-CAFTA is taking place in a context of high levels of poverty (56%) and extreme poverty (21.5%), rates of unemployment, low wages and a concentration of income, wealth and land ownership in the hands of a small minority, a GINI index reaching 0.57 (63% of the national product is concentrated in 20% of the population). This is reinforced by a weak State that increased inequality through its lack of redistributive mechanisms; insufficient spending and social investment; lack of access to land and rural development and limited reach of education and social security (80% of the economically active population is not covered by social security).

An asymmetry between economies and agriculture subsidies exists in favor of the most powerful country (the U.S.A.). Guatemala, with a small and open economy, is participating in a world-wide economy dominated by financial capital and transnational companies that count on the support of the U.S. and have abundant resources. In that "free market," Guatemala only counts as a slow productive apparatus, inefficient and with an enormous "comparative advantage" that offers competitive manual labor. This is only achieved through unemployment, poverty and resultantly low wages.

Guatemala has developed a position of total openness to products coming from the U.S.A. This has been translated into 80% of agricultural and industrial goods free of tariffs. Combined with U.S. agriculture production subsidies (\$180 billion for the period of 2002-2007) and the increase of direct aid to agriculture from the U.S. "Farm Bill" approved in May 2002, these factors will cause the disappearance of Guatemalan national production and a shift in the fundamental element of the social structure, mainly the farmer, that sustain agricultural production for national consumption.

The most basic grains, maize (corn) and rice, are the most heavily affected, to be sold with zero tariffs from the first year. The estimated losses are between 10% and 30% of the agricultural wages, around 41,000 to 120,000 jobs that reach a loss of between 366,000 to more than 1 billion quetzals (\$48,000-132,000,000). The most affected areas will be those of higher poverty and the indigenous population. Under this scheme and in a context devoid of mitigating policies, financial institutions, resources and redistributive mechanisms, the negative impacts of DR-CAFTA will increase over time. DR-CAFTA especially affects the small and medium agricultural producers, micro-industrialists and subsistence farmers, specifically the basic grain producers that sustain production for the internal market. DR-CAFTA reduces the capacity of the State to implement development policies, by demanding requirements of performance for foreign investment and allowing companies to place demands on the State; by limiting access to generic medicines; and allowing the appropriation of biodiversity by transnational companies through patented seeds.

In this scenario the benefits of DR-CAFTA will concentrate in the hands of an oligarchic minority that count on the resources (material, administrative, technological and financial) and privileges that the State grants to them. Coupled with this is putting the mechanisms for further accumulation and unequal distribution of economic wealth at their disposal: the indiscriminate exploitation of natural resources; operation, maintenance and construction of infrastructure; and, providing public services through concessions (privatization). The only winners are the great national monopolies that bend the interests of the country to guarantee their financial profit.

Chapter 5, Dominican Republic

CAFTA Implementation in the Dominican Republic

By Tom Ricker, Quixote Center/Alliance for Responsible Trade

Of the countries that have ratified the Central America Free Trade Agreement, the Dominican Republic is the only one that has yet to reach an agreement with the United States for full implementation. As has been the case with the other signers of the accord, the United States Trade Representative has pressured the Dominican Republic to initiate legal reforms arguably beyond what was originally negotiated before the United States will “certify” the country for implementation. The United States has also pressured the government in the Dominican Republic to rescind revenue-generating measures, such as a tax on food products using imported high fructose corn syrup and other taxes initially approved by the government under pressure from the International Monetary Fund in 2004. As a result, the anticipated implementation date of July 1, 2006 with the Dominican Republic passed along with the second date of September 1, 2006

Background

The Dominican Republic was not an original member of the Central America Free Trade Agreement. Indeed, negotiations between the United States government and the Dominican Republic were formally initiated after original CAFTA negotiations were closed in January of 2004.

Formal negotiations lasted for only three months. The Dominican Republic essentially agreed to accept the core CAFTA text, and only negotiated specific tariff items and quotas on items such as sugar.

Opposition to the agreement was very strong among farm groups concerned about the lack of adequate safeguards for the rice, chicken, milk, sugar, pork and “other staples of domestic production.”³⁰ These concerns and others were dismissed by president Hipolito Mejia, as “a lot of demagoguery,” by people who “want to cling to the past.”³¹

Negotiations were completed in April of 2004, and in August of that year the Dominican Republic was “docked” to the original CAFTA creating the U.S./Dominican Republic-Central America Free Trade Agreement.

On August 16, 2004 a new government took office in the Dominican Republic under the leadership of President Leonel Fernandez. Fernandez quickly signed into law new legislation required by the International Monetary Fund. The law included a provision for taxing beverages produced using high fructose corn syrup. At the time this would have only affected about \$25,000 worth of imported products from the United States.³² However, Senate Finance Chairman Grassley demanded that the tax be revoked and the U.S. Trade Representative also weighed in by threatening to remove the Dominican Republic from the agreement. In October of 2004 Zoellick announced that he “would not recommend

³⁰ “Farmers Object to Trade Pact with U.S.,” *Miami Herald*, August 4, 2004.

³¹ *Ibid.*

³² See “Dominican President Won’t Veto Tax,” *Associated Press*, September 24, 2004. According to this article the U.S. exported just under 30 metric tons of corn syrup to the Dominican Republic in 2003, according to U.S. Census Bureau statistics.

including the Dominican Republic in the legislation to implement [CAFTA] if the [HFCS] tax remains in place.”³³

Charlie Rangel (D-NY), ranking member of the House Ways and Means Committee, called Zoellick’s approach, “inappropriate and unfortunate,”³⁴ and sought a compromise. President Fernandez then offered a compromise – offering to drop the small amount of sugar access the Dominican Republic gained in exchange for the Bush administration letting the HFCS tax stand. The response was another statement from Zoellick saying that the USTR had made, “an internal decision” on the best way to remove the Dominican Republic from DR-CAFTA.³⁵ At this point Fernandez gave in, submitting an amendment to the previous tax law stripping out the HFCS tax, and the Dominican Congress accepted the change in the Spring of 2005.

This episode, though minor in terms of the monetary stakes at issue, would set the stage? for the implementation process with the Dominican Republic and the rest of the CAFTA countries as well. The USTR would broker no compromise, even when demands were extended beyond the scope of the negotiated texts.

Implementation

The congress of the Dominican Republic voted to ratify CAFTA on September 6, 2005 with a 118 to 4 vote in the House of Deputies.³⁶ However, to this day disagreements with the United States over what is necessary to implement the agreement remain. As with the rest of the signatories, the original target for implementation was January 1, 2006, although in December of 2005 the National Merchants and Business Federation from the Dominican Republic was asking that the implementation date be moved back to May 2006 so that the country could better prepare. A major concern was reforms to the tax code that would not be made until the later date.³⁷

January 1 (if we do it here, we need to do throughout doc, or at least this article) would come and go without CAFTA. July 1 was set as the next deadline – that would be missed as well. September 1 was then suggested and recently that date passed. There have been a number of difficulties. On the Dominican side, concerns about tax reform and revenue generation have been paramount. The International Monetary Fund issued a statement in May, congratulating the Dominican government for “remarkable improvement” in fiscal performance, but indicating the need to give “early consideration to additional revenue generating measures” to address expected shortfalls stemming from changes in the tax code and CAFTA implementation.³⁸ For example, a study released in May this year by the Paleto consulting group, estimated that the trade balance with the United States would shift dramatically in the U.S. favor – with U.S. industrial exports to the Dominican Republic growing at 12% - to \$349 million.³⁹ With the trade balance reaching a negative \$100 million, the government was anticipating additional pressures to use reserves, while at the same time forgoing tariff revenue on the industrial products once CAFTA is implemented.

³³ On Grassley and Zoellick statements, see “USTR Increasing Pressure on Dominican Republic to Drop HFCS Tax,” *Inside US Trade*, October 22, 2004

³⁴ “USTR Increasing Pressure on Dominican Republic to Drop HFCS Tax,” *Inside US Trade*, October 22, 2004

³⁵ See “USTR Rejects Dominican Republic HFCS Offer, AS CAFTA Fight Looms,” in *Inside US Trade*, November 12, 2004, and “Zoellick Outlines Plans to Drop Dominican Republic from CAFTA,” *Inside US Trade*, November 19, 2004.

³⁶ “Dominican House Oks CAFTA,” *Associated Press*, September 7, 2006

³⁷ “Suggest requesting leniency for Free Trade” in *Dominican Today* December 8, 2005.

³⁸ “Dominican Republic’s Economy said to show ‘remarkable improvement’” in *Dominican Today*, May 15, 2006.

³⁹ “U.S. gains more than Dominicans with DR-CAFTA” in *Dominican Today*, May 2, 2006.

Discussion between the governments of the Dominican Republic and the U.S. over new revenue generating measures have been complicated, with the U.S. (as with the HFSC tax discussed above) not willing to agree to any taxes that may impact U.S. companies doing business in the Dominican Republic.⁴⁰

The biggest controversy and delay has been largely the making of the USTR, and this related to intellectual property rights. As with Guatemala, the USTR demanded additional protections for U.S. based pharmaceutical company research data before agreeing to implement DR-CAFTA. The USTR also demanded changes to Dominican Republic laws on product brands, as well as a new law to penalize piracy and regulate government purchases.⁴¹ All of these issues stand outside the original negotiations. While the government remained upbeat in May, with Technical Minister, Temistocles Montas, for example, saying that whatever Congress failed to ratify, the executive would put in place by decree,⁴² the reality has been a stalemate with U.S. demands generating a new wave of opposition to moving forward.

The pharmaceutical industry has been leading the charge of opposition since May. The Association of Dominican Pharmaceutical Industries (INFADOMI) denounced the new U.S. demands as a ploy to gain a monopoly for U.S. companies over a five-year period.⁴³ In an interview with a local television network INFADOMI, president Paulo Etchevery said, “Evidently what the North American companies look for is not the protection of information but the absolute control over the Dominican pharmaceutical market.”⁴⁴

The demands of the pharmaceutical industry are resonating with a frustrated leadership in the government. For example, Marcelo Puello, Industry and Commerce Foreign Trade Undersecretary, said on July 1, 2006, as the deadline passed, “we are not going to yield, the negotiation team has made it clear that it will not accept to do anything that will adversely affect national production.”⁴⁵ It is not clear how this will be resolved at this point. The US Ambassador, Hans Hertell has dismissed the concerns of the government and INFADOMI as merely differences of interpretation, indicating that the U.S. would not give in on the extension of five years protection to research data.⁴⁶

With the September 1 deadline looming, and soon to pass, a new wrinkle has entered the implementation drama – pocket-lining material. In order to gain enough votes from Republicans in textile districts, the Bush administration promised to seek agreement with CAFTA signatories requiring the pocket lining and other non-visible materials be required to come from the United States in order to qualify for tariff-access (see chapter by Todd Tucker in this report). This change in the rules of origin is a clear departure from the negotiated text.

In August, the House and Senate passed a CAFTA-fix meant to close this loophole but the legislation requires that the other signatories agree. The Dominican Republic has yet to agree to this further demand from the U.S. In *Textile and Clothing Trade Information* it was reported on August 29, 2006

⁴⁰ Most recently, for example, the Dominican government proposed a 0.4% tax on all containers entering the country. But the U.S. has complained. Discussions on this issue continue. See “USTR Moves to Finish Pocket Lining Talks with CAFTA Countries” *Inside US Trade*, August 11, 2006..

⁴¹ “New Exigencies for integration onto Free Trade,” in *Dominican Today*, May 11, 2006.

⁴² “Will apply by decree measures relative to DR-CAFTA” in *Dominican Today*, May 4, 2006.

⁴³ “Denounce U.S. changing rules on medication registries,” in *Dominican Today*, June 5, 2006.

⁴⁴ “Pharmaceutical sector requests DR-CAFTA respected,” *Dominican Today*, June 10, 2006.

⁴⁵ “DR-CAFTA will not initiate today as it was predicted,” in *Dominican Today*, July 1, 2006.

⁴⁶ “The U.S. only seeks adherence to original pact,” in *Dominican Today*, June 28, 2006.

that the Dominican Republic's insistence on using outside pocketing material would likely slow implementation even further.⁴⁷

According to *Inside US Trade*, the Dominican Republic is the largest trousers exporter to the U.S. of the six CAFTA countries. During negotiations with U.S. counterparts over the change in rule of origin the Dominican government proposed a 'two-for-one' or 'three-for-one' alternative.

This would allow the Dominican Republic to export one dozen trousers with pocketing from third countries for every two or three dozen trousers it exports to the United States with pocketing produced in the U.S. or region. Under the two-for-one proposal, the Dominican Republic would pay 50 percent the most favored nation rate, while it would get duty-free treatment under the three-for-one proposal.⁴⁸

But as has been the case throughout, the U.S. does not want to negotiate, and has thus far turned down this and every other proposal for compromise on a conflict that the Bush administration created in the first place.

The United States Trade Representative's process of consistently moving the finish line for CAFTA implementation has created the stalemate we now see. The governments of the region, by and large over majority opposition from its citizens, expended enormous political capital to get CAFTA approved. The Dominican Republic is no exception, and has acceded to almost all of the USTR's demands. The pharmaceutical issue will no doubt be resolved eventually, and likely in the U.S. favor. But the delay has guaranteed that whatever marginal benefits CAFTA may have provided to the Dominican Republic are disappearing quickly, and the country will still be stuck with an accord heavily biased in the U.S. favor.

⁴⁷ "Dominican Republic Loosing Ground with Slow CAFTA Implementation," reported by *Textile and Clothing Trade Information*, August 29, 2006. <http://www.emergingtextiles.com/?q=art&s=060829-mark&r=headlines&n=1>

⁴⁸ "USTR Moves to Finish Pocket Lining Talks with CAFTA Countries" *Inside US Trade*, August 11, 2006.

Chapter 6, Costa Rica

Costa Rica and CAFTA

By David Kane, Maryknoll Office of Global Concerns

As of this writing, Costa Rica is the only country not to have ratified CAFTA. Opposition to the trade agreement in Costa Rica has perhaps been the most effective among the six countries involved, making it unlikely that it will be ratified until some time in 2007, if at all. Some say that Costa Rica has the most to lose by joining CAFTA as it has not implemented neoliberal reforms to the extent of the other countries involved, so the changes inflicted by the accord will be more drastic. At the same time, some argue that it has the most to gain with its more highly educated workforce and the fact that it is less dependent on agricultural production than the others. The majority of Costa Rican civil society, though, is clear that CAFTA will be more harmful than beneficial, and has been very vocal in opposition to the accord through historically large marches and strikes.

The presidential elections of February 2006 perhaps most clearly show the national level of concern with CAFTA. Former President Oscar Arias was favored to win by up to 20 percent of the vote leading up to the election, but ended up almost losing to Ottón Solís who ran on a campaign heavily focused on the dangers of CAFTA and the need for its renegotiation. Only after two weeks of recounting votes were Costa Rican officials able to determine that Arias had won with 40.9 percent of the vote compared to Solís' 38.9 percent.

The main concern with CAFTA for many Costa Ricans is that it will dismantle their unique state-led model of development based on social security and solidarity. Despite recent increases in income inequality, Costa Rica remains very egalitarian compared to the rest of Latin America, and is the longest-running democracy in the region, with a democratic regime dating from 1949. After a five-week revolution in 1948, the revolutionary leader, José María Figueres, established a temporary government that granted the right to vote to women and full citizenship to blacks. He abolished the army, transferring the military funds to education and health. Figueres also nationalized the banking system, created several governmental institutions designed to combat fraud and corruption and endowed the new State with the authority to guide the economy through policies aimed at benefiting the majority Costa Rican society. He was later elected to Presidency twice in 1953 and 1970. The result of these changes, many of which continue to be in effect today, is a country with a life expectancy of 77 years and GDP per capita of \$11,100 – compare this to 69 years and \$4,700 in Guatemala, 71 years and \$4,700 in El Salvador, and 70 years and \$2,900 in Nicaragua.

The current fear is that many of the policies that have been so successful would be dismantled were Costa Rica to become a member of CAFTA. For example, the social security system (CCSS) currently provides universal health care, but would be forced to change due to intellectual property provisions that prohibit the purchase of lower price generic medicines, along with services requirements that would limit government's ability to guarantee access to all.

As in most countries, another major concern is the effect of CAFTA on rural communities. Rice production is an especially worrisome area for many as it is the basic food staple for Costa Ricans, especially the poor. While there is little consensus on what will happen after joining CAFTA, all agree that the rice industry would probably not survive competition from subsidized rice from the U.S. Costa Ricans fear results similar to what occurred in Mexico following the implementation of NAFTA

in 1994. Prices for Mexico's raw corn plummeted, driving millions of corn farmers from their land. At the same time, the price of corn tortillas skyrocketed due to the end of government subsidies that had been in place to guarantee a cheap food staple for the poorest Mexicans. Costa Rica already imports at least 100,000 metric tons of rice per year while producing over 250,000 tons. In CAFTA, those numbers are sure to reverse, resulting in the loss of livelihoods for thousands of small farmers.

Insurance, telecommunications, electricity distribution, petroleum distribution, potable water, sewage, and railroad transportation industries are all state-run in Costa Rica. It was because of demands made by the U.S. for their liberalization, especially telecommunications and insurance, that Costa Rica briefly withdrew from the CAFTA negotiations in December of 2003. The Costa Rican Electricity Institute (ICE), which controls most of the communications and electricity sectors, including everything from power lines to Internet connections, and which employs hundreds of thousands of well-organized workers, will most assuredly be split up and privatized under CAFTA rules. If ICE and other state-run industries are privatized, there will be large scale layoffs and access to electricity for the poorest Costa Ricans will be put in jeopardy. "ICE is clearly one of the best institutions in the country, because it delivers electricity cheaply to every region. If [ICE] were to be bought, electricity would not be delivered to remote places in the country where the poorest people generally live," says Marjorie Gamboa, a National University professor, "The problem [with these concessions] is that the owners are mostly politicians, former presidents and influential families who have attempted to privatize secretly, internally, in silence."

The Costa Rican Congress will not be able to ratify CAFTA until December 2006 at the earliest. Its passage depends first on the passage of two bills that will privatize the telecommunications and insurance industries. While the CAFTA ratification requires only a simple majority vote, both these bills need a two-thirds vote that is required for any bill related to the privatization of state industries. Three other CAFTA bills on intellectual property that cover provisions on patent reform and the observance of intellectual property rights also need to pass in order to be fully compliant with CAFTA. Costa Rican patent law has already been quite loose. According to NotiCen, "In 1991, the pharmaceutical company Merck paid approximately \$1.135 million for the rights to some 500,000 species and microorganisms in the country's national parks. The contract, which has been renewed three times, gives Merck patent rights to any medicines or product developed from any substance discovered."

Ottón Solís said in an interview with "Inside U.S. Trade" that the anti-CAFTA coalition in the Costa Rican Congress is one vote shy of preventing the two-thirds vote for the telecommunications bill. When the bills come before Congress, most likely in December, the National Commission of Networks (CNE – Comisión Nacional de Enlaces - is that translation ok?), which coordinates the various civil society organizations opposing CAFTA, will promote massive protests aiming to influence the vote in Congress.

These votes will be historic ones for Costa Rica. Will the country be able to continue with its relatively successful alternative model of development that has brought about the longest-lasting democracy in the region and a more vibrant middle class? Or will it adopt radical changes in its economy to become more like the rest of the region with more severe income inequalities and fragile democracies?

Section II, Economic and Political Trends that Are Emerging

Chapter 7, Textiles

CAFTA's Textile Promises Begin to Unravel

By Todd Tucker and Andrew Wolf,⁴⁹ Public Citizen's Global Trade Watch

In the lead-up to the July 2005 vote in the U.S. House of Representatives, CAFTA's boosters had attempted to make the case that the pact would somehow help put an end to job losses in the U.S. and Central American textile and apparel industries in the wake of the expiration of the Multi-Fiber Arrangement, the global system of textile and apparel quotas. Among their claims:

- The U.S. Trade Representative's office: "To survive, [the U.S.] textile industry must strengthen its ties to customers in Central America." USTR termed such ties as uniting "to compete with China."⁵⁰
- Rep. Jim Moran (D-Va.), one of only 15 Democrats that supported CAFTA: "If CAFTA doesn't pass poverty will get worse in Central America. Jobs will continue to be lost at an even faster pace to China and other countries who are more competitive, and capital will go elsewhere if we do not pass this trade agreement."⁵¹
- Rep. Bob Inglis (R-S.C.), who voted against NAFTA in 1993 and flip-flopped from CAFTA opposition to support shortly before the July 2005 vote: "I stand here convinced that it is the best strategy available to combine with our neighbors to the south to compete with the Chinese. If I am concerned, and I am concerned, about the future of the textile industry in competition with China, the best way that I see to fix that is to combine with our neighbors to the south."⁵²

Such claims convinced few, since Central American textile and apparel exports *already* entered the United States duty free under the Caribbean Basin Initiative (CBI). Moreover, even with CBI access and high tariff charges, China could still sell textile and apparel products at a lower price in the U.S. market than its Central American competitors. So it was clear that nothing in CAFTA provided a "save" for the regional textile and apparel industry.⁵³

But in addition to the obvious flaws in the initial arguments made by CAFTA's proponents, careless drafting of the CAFTA text has made delays in CAFTA implementation even more of a disaster for textile workers across the region. The January 1, 2006 projected start-date for CAFTA came and went and the pact was not implemented because the Bush administration chose to stagger CAFTA's

⁴⁹ Tucker is research director and Wolf is an intern with Public Citizen's Global Trade Watch. The authors wish to thank Lori Wallach and Eliza Brinkmeyer for helpful comments.

⁵⁰ Office of the U.S. Trade Representative, "Textiles: United to Compete with China," USTR, April 2005.

⁵¹ House Debate on CAFTA (H.R. 3045), July 27, 2005, Congressional Record, at 8:45 pm, at H6897.

⁵² House Debate on CAFTA (H.R. 3045), July 27, 2005, Congressional Record, at 9:45 pm, at H6907. In its cruder variation, some, such as Nicaragua's chief CAFTA negotiator Carlos Sequiera, have been more candid: "The critical question [to the United States] is, 'Do you want to lose jobs to your neighbors or to China?'" Quoted in Paul Magnusson, "This Trade Pact Won't Sail Through: Expect a bruising CAFTA debate as both parties try to score points with Latinos," *Business Week*, March 28, 2005.

⁵³ Todd Tucker, "CAFTA Cannot 'Save' Central American Textile/Apparel Industry or Safeguard the U.S. Industry After WTO/MFA Quotas End," Public Citizen, February 2005.

implementation on a country-by-country basis so as to extract greater concessions than had been obtained in the original pact's negotiated text.⁵⁴

But the failure to simultaneously implement CAFTA for all countries made it impossible for almost any textile and apparel from the region – where the supply chain for a single item is stretched across multiple countries – to gain duty-free U.S. treatment under the pact. The problem of CBI graduates moving into CAFTA ahead of the rest of their class was summarized by the *Dallas Morning News*:

Apparel with thread or other materials from countries not yet certified to participate in CAFTA, such as Guatemala, faces hefty duties upon entering the United States – even if they contain U.S.-made fabric and were sewn in a CAFTA country. In one example, the average duty on apparel from El Salvador suddenly jumped to 14 percent in March from 5 percent in February, according to the American Apparel & Footwear Association. The reason: In March, more of the garments contained materials from countries not yet operating under CAFTA rules, subjecting them to significant tariffs. 'It's been hugely disruptive,' said Stephen Lamar, the trade group's senior vice president. 'It's very difficult to plan business.' The situation has saddled importers with higher costs, and some companies have shifted production out of the region, he said.⁵⁵

In the months since CAFTA's missed implementation date, there have been widespread reports of factory shut-downs and cancellations of orders from across the region. In Guatemala, the *Associated Press* reported that a local industrialist "had to fire 2,000 workers and close three clothing factories" as a result of CAFTA's staggered implementation,⁵⁶ which the country's central bank projects will lower the country's growth rate.⁵⁷ El Salvador – the country that was "rewarded" as the first CAFTA co-implementer by the Bush administration – was severely punished for their fealty with the cancellation of contracts valued at \$8 million.⁵⁸

Indeed, according to U.S. International Trade Commission numbers, sales of textile and apparel goods from the CAFTA countries to the U.S. market declined by nearly half a billion dollars in the first few months of 2006, relative to a comparable period in 2005, or about a sixth of their total sales. To put this figure in perspective, this is a greater loss in dollar terms for just the first few months of 2006 than the CAFTA countries lost between the entire calendar years of 2004 and 2005, when the countries lost their guaranteed market share under the MFA country-specific quotas. And the loss of market share has been the worst for production coming out of the countries like El Salvador and Honduras that were the first to implement CAFTA.

⁵⁴ These "changes" to CAFTA were related to issues such as meat inspection and pharmaceutical patents. See "U.S., Guatemala Fight on TRQ Allocations for Rice, Pork Exports," *Inside U.S. Trade*, Feb. 3, 2006.

⁵⁵ Katherine Yung, "CAFTA pact not bearing fruit," *Dallas Morning News*, June 29, 2006.

⁵⁶ Juan Carlos Llorca, "Delays in CAFTA stall plans for investment, job growth," *Associated Press*, Feb. 21, 2006.

⁵⁷ Vinicio Sic, "Retraso con EEUU provoca menor crecimiento, según Banco de Guatemala," *Siglo Veintiuno*, April 18, 2006.

⁵⁸ Beatriz Lix, "Cancelan contratos de dos maquiladoras textiles en El Salvador," *Siglo Veintiuno*, March 2, 2006.

Table 1
Declining CAFTA Country Textile and Apparel
Exports to the United States Post-CAFTA, Top 5 Product Categories

Product Category	Textile and Apparel Exports to the U.S. 2005 Year-to-date	Textile and Apparel Exports to the U.S. 2006 Year-to-date	Change 2005-2006
Knitted Apparel	\$1,957,289,948	\$1,719,137,521	-12.2%
Unknitted Apparel	\$1,016,436,450	\$786,897,675	-22.6%
Textile Articles	\$42,776,605	\$35,691,843	-16.6%
Footwear	\$43,456,642	\$39,506,966	-9.1%
Headgear	\$8,368,405	\$5,968,486	-28.7%
Total (17 categories in all)	\$3,059,959,645	\$2,581,234,005	-15.6%

Source: U.S. International Trade Commission; authors' calculations

Even as China displaces Central America as a textile and apparel supplier to the United States, taking control of half the U.S. market,⁵⁹ the Bush administration has dismissed the concerns about lost jobs as a mere “startup cost” to CAFTA,⁶⁰ which U.S. Commerce Secretary Carlos Gutierrez has flippantly characterized as not “fine-tuned.”⁶¹ And, despite the rhetoric of CAFTA boosters such as Inglis (cited above), the only thing that the United States and Central America seem to be combining to do is to jointly lose jobs. Table 2 shows a sampling of the jobs lost in the United States due to CAFTA in the last few months alone.

Table 2
U.S. CAFTA-Related Job Loss Hits
Districts of Congressional CAFTA Supporters

Location	Company	Number of Workers Displaced	Going to	Comments
Edenton, N.C.	George C. Moore Co.	203	El Salvador ⁶²	First major CAFTA-related closure
Brundidge, Ala.	Russell Corp.	165-175 workers ⁶³	Honduras, Mexico	District: Terry Everett (R-Ala.), ⁶⁴ CAFTA supporter

⁵⁹ “Textile Group Says China Now Controls Half of U.S. Market,” *Inside U.S.-China Trade*, June 28, 2006.

⁶⁰ U.S. trade official quoted in Jeffrey Sparshott, “Central American trade pact hits snags,” *Washington Times*, July 4, 2006.

⁶¹ Martin Vaughan, “Gutierrez Untroubled by Pace of CAFTA Implementation,” *Congress Daily PM*, June 28, 2006.

⁶² “CAFTA blamed for layoffs at Edenton textile plant,” *Associated Press*, Dec. 3, 2005.

⁶³ News reports indicate that 165 jobs were lost at the Brundidge plant, while 1,200 of the 2,000 lost jobs at Russell from across the United States will go to Honduras and Mexico. Overall, the Russell Corporation restructuring will cost 1,250 Alabama jobs, 1,700 U.S. jobs, and 2,300 jobs globally.

⁶⁴ Matt Clower, “Russell may close Brundidge plant,” *The Troy Messenger*, Jan. 22, 2006; Mark Harrison, “Russell backs off CAFTA claim,” *Fort Payne Times-Journal*, Jan. 21, 2006; Matt Clower, “Russell moves up closing,” *The Troy Messenger*, July 13, 2006; “Russell Corporation to Slash Jobs, Stock Jumps on Announcement,” *Associated Press*, Jan. 21, 2006.

Fort Payne, Ala.	DeSoto Mills, part of Russell Corp.	220	Honduras, Mexico	District: Robert Aderholt (R-Ala.), ⁶⁵ CAFTA supporter
Alexander City, Ala.	Russell Corp.	5,000 workers from Alexander City by 2008 ⁶⁶	Honduras, Mexico	District: Mike Rogers (R-Ala.), ⁶⁷ CAFTA supporter
Swannanoa, N.C.	Anvil Knitwear Inc.	350-400	Honduras	District: Charles Taylor (R-N.C.), ⁶⁸ who broke his pledge to vote against CAFTA
Hickory, N.C.	Kentucky Derby Hosiery Co. Inc.,	99	Honduras	The company was bought by Canadian firm Gildan Inc. ⁶⁹
Sebree, Ky.	Carhartt Inc.	90	CAFTA blamed	District: Ed Whitfield (R-Ky.), CAFTA supporter ⁷⁰
Glasgow, Ky.	Carhartt Inc.	100 ⁷¹	See above	District: Ron Lewis (R-Ky.), ⁷² CAFTA supporter
Dover, Tenn.	Carhartt Inc.	95	See above	District: John Tanner (D-Tenn.), ⁷³ one of only 15 Democrats to support CAFTA
Morehead, Ky.	Carhartt Inc.	71	See above.	District: Harold Rogers(R-Ky.), ⁷⁴ CAFTA supporter
Millen, Ga.	Jockey International	203	Honduras, Costa Rica and El Salvador	Company had lobbied hard for CAFTA on basis that it would allow

⁶⁵ Mark Harrison, "Russell backs off CAFTA claim," *Fort Payne Times-Journal*, Jan. 21, 2006.

⁶⁶ 5,000 figure comes from Alvin Benn, "Russell job cuts sadden town," *Montgomery Advertiser*, July 13, 2006. The Alexander City plant has already shed 700 jobs. See David Irvin, "Russell waits on Buffett," *Montgomery Advertiser*, July 13, 2006.

⁶⁷ "Russell Corporation to Slash Jobs, Stock Jumps on Announcement," *Associated Press*, Jan. 21, 2006; David Irvin, "Russell waits on Buffett," *Montgomery Advertiser*, July 13, 2006.

⁶⁸ Jordan Schrader, "Textile plant to move to Honduras," *Fort Payne Times-Journal*, Feb. 16, 2006; Mark Barrett and John Boyle, "Plant closing leaves community reeling," *Asheville Citizen-Times*, Feb. 17, 2006.

⁶⁹ Gildan plans on moving much of its production to Honduras over the next several years. In preparation for the move, Gildan closed down its Hickory production. See Brian Dunn, "Gildan to Acquire Socks Maker in \$45M Deal," *Women's Wear Daily*, June 22, 2006; Bertrand Marotte, "Gildan adds U.S. sock maker to T-shirt line," *The Globe and Mail*, June 21, 2006; John Dayberry, "Hosiery company to close sock plant," *Hickory Daily Record*, June 7, 2006.

⁷⁰ Chuck Stinnett, "Carhartt preparing to close, cuts staff," *The Gleaner*, March 23, 2006.

⁷¹ Carhartt communications manager Susan Brock was quoted as saying that 28 people will remain at the Glasgow plant where "garments that come in from outside the country will be sorted."

⁷² "Carhartt to shut two Kentucky plants," *The Messenger-Inquirer*, Nov. 24, 2005; Chuck Stinnett, "Carhartt preparing to close, cuts staff," *The Gleaner*, March 23, 2006.

⁷³ Jimmy Settle, "Carhartt to close plant in 'crippled' Stewart County, TN," *The Leaf-Chronicle*, Nov. 18, 2005; Chuck Stinnett, "Carhartt preparing to close, cuts staff," *The Gleaner*, March 23, 2006.

⁷⁴ "Carhartt to shut two Kentucky plants," *The Messenger-Inquirer*, Nov. 24, 2005; "Michigan-based Carhartt begins closing Kentucky plant," *The Detroit News*, March 23, 2006; Chuck Stinnett, "Carhartt preparing to close, cuts staff," *The Gleaner*, March 23, 2006; Chuck Stinnett, "Carhartt to Close Sebree facility," *The Gleaner*, Nov. 22, 2005.

				them to preserve Ga. jobs ⁷⁵
Total jobs lost related to CAFTA implementation		6,596-6,656 (1,656 excluding Alexander City)		

Moreover, the Bush administration seems unwilling to act quickly to resolve many of the problems brought on by the staggered CAFTA implementation, despite the passage of legislation in late July 2006 aimed at fixing certain limited aspects of the implementation problems.⁷⁶

In response to the damage that CAFTA has wrought, Inglis had only this message for his constituents: “It does show the wheels of justice turn slowly and the wheels of legislation even slower.”⁷⁷ An interesting metaphor, but for the thousands of workers in the United States and Central America who have lost their jobs to CAFTA in the first few months of the pact alone, it’s the wheels of CAFTA that are rolling over them.

⁷⁵ Deborah Bennett, “CAFTA is suspect in Jockey jobs losses,” *Millen News* (Ga.), July 26, 2006; Rep. John Barrow (D-Ga.), “Statement from Rep. John Barrow on Jockey International’s Decision to Cut 203 Jobs in Millen,” Congressional Press Release, July 20, 2006; Richard Craver, “Textile workers latest focus of CAFTA battle; Jockey head urges employees to support the trade agreement,” *Winston-Salem Journal*, June 2, 2005; American Apparel and Footwear Association, “CAFTA-DR Lobby,” Website, <http://www.apparelandfootwear.org/AboutAAFA/gallery4.asp> accessed Aug. 3, 2006.

⁷⁶ “USTR Prefers One-Time CAFTA Rule Of Origin Proclamation,” *Inside U.S. Trade*, Aug. 25, 2006.

⁷⁷ “CAFTA causing ‘sticker shock,’ U.S. textile importers say,” *Gannett News Service*, May 31, 2006.

Chapter 8 Agriculture in El Salvador

Impacts of CAFTA on the Salvadoran Agricultural Sector

By César Senci3n Villalona

Translation by SHARE Foundation: Building a New El Salvador Today

The Impacts and Trends

On March 1st, 2006, CAFTA was implemented in El Salvador. The short time since the implementation date does not allow us to evaluate with great accuracy all of the impacts of the treaty. Nevertheless, certain key tendencies in the Salvadoran agricultural sector are critical both to note and monitor.

Over the past four years, the total agricultural imports of El Salvador grew to an average rate of 9%, as seen in chart 1. Yet chart 2 shows that the growth of imports originating from the United States was only -0.4%. These figures indicate that the increase in agricultural imports of the last several years was not determined by trade with the United States.

With the entrance into force of CAFTA, however, this tendency seems to be changing. Chart 2 demonstrates that in the first five months of 2006, agricultural imports from the United States grew 18%. If this rate continues through the year, 2006 will close with imports from the United States totaling \$272 million, or 13% more than in 2005. The products registering the greatest increases are red meats, dairy products, white corn, and rice (chart 3). Across the board, CAFTA has not stimulated Salvadoran agricultural exports, with the exception of sugar.

Chart 1. El Salvador: Total Agricultural Imports

Year	% Growth
2002	5.7
2003	8.0
2004	11.0
2005	11.0
Annual Average	9.0

Source: <http://www.bcr.gob.sv/>. Trimester reports

**Chart 2. El Salvador: Agricultural Imports
From the United States**

Year	% Growth
2002	-12.5
2003	12.0
2004	2.1
2005	-3.4
Annual Average	-0.4
Difference between January-May 2005 and January-May 2006*	18%

*Source: US Department of Agriculture
www.fas.usda.gov/ustrdscripits/USReport.exe
 Note: *growth from \$95 million to \$113 million*

**Chart 3. El Salvador: Selected Imports from the United States
 (Difference between January-May of 2005 and January-May 2006)**

Products	% Growth
Red meat	700%
Dairy	73%
White corn	15%
Rice	12%

*Sources: BCR. <http://www.bcr.gob.sv/estadísticas>.
 US Department of Agriculture.
www.fas.usda.gov/ustrdscripits/USReport.exe*

Meanwhile, consumer prices have shown a tendency to rise—in spite of assurances pre-CAFTA that the opposite would occur thanks to the liberalization of import tariffs. January’s inflation of 0.5% was followed by 0.5% in February, 0.4% in March, 0.7% in April, and 0.8% in June. The accumulated inflation for the first half of 2006 was 3.0%, which surpassed the 2.0% inflation rate for the same period the previous year. These numbers suggest that CAFTA is not damping down inflation. In the case of industrial goods, the 5.3% accumulated inflation rate for 2006 up to May approached the 6.9% rate for all of 2005.

Furthermore, CAFTA has had negative repercussions on fiscal income, which decreased from \$17 million to \$14 million between March and April 2006, even in spite of an increase in imports.

The Response of the Salvadoran Government

In "Work Plan 2006: Growth Perspectives," the Salvadoran Ministry of Agriculture and Cattle (MAG) projects that it will give free seeds to 120,000 Salvadoran basic grain producers, distribute 2,000 metallic silos, and maintain commercialization agreements this year. In order to support cattle-raising activity, the MAG plans to provide milk storage tanks, corn grinding mills, cattle grain seeds, and technical assistance to an undetermined number of cattle ranchers.

Unfortunately, the MAG actions are very limited and hardly sustainable. The proposed aid will benefit only 29% of the approximately 406,000 basic grain producers in El Salvador. In addition, it will not create a significant reduction in the production costs of basic grains: the cost of seed is a mere 4% of the total cost associated with producing a hectare of corn or beans and 6% of the cost of rice. Such aid will not allow farmers to face competition with the United States, where production costs are much lower due to the sizeable subsidies farmers receive (see the following charts).

Chart 4. El Salvador and the United States: Rice Production Costs

Costs per hectare in El Salvador		Costs in United States	
		Average per hectare	Not covered by subsidy
Traditional production	US \$1,013	US \$1,472	US \$515
Semi-technical production	US \$1,302		
Technical production	US \$1,822		

Source: MAG. "Costos de Producción 2004-2005" and Oxfam: "El Arroz se Quemó en el DR-CAFTA." Noviembre de 2004.

Chart 5. El Salvador and the United States: Corn Production Costs

Costs per hectare in El Salvador (1)		Costs in the United States	
		Average per hectare (2)	Not covered by subsidy (3)
Traditional production	US \$303	US \$889	US \$141
Semi-technical production	US \$344		
Technical production	US \$394		

Sources: MAG: (1) "Costos de Producción 2004-2005."

(2) MAG: "Situación y Perspectivas del Sector Agropecuario en el Marco del Tratado de Libre Comercio Centroamérica-Estados Unidos." Septiembre de 2003.

(3) http://www.nass.usda.gov:8080/QuickStats/Create_Federal_All.jsp

It is important to note that the aid from MAG will not support the production of vegetables, which will also confront competition from United States imports. In addition, the MAG plan has a limited reach in the case of pork, whose annual import quotas of 1,650 tons represent 18% of annual production and will increase by 10% each year until quotas are completely liberalized in 2015. The MAG does not project support for the poultry sector, which is concerning given that chicken production will face competition from U.S. imports equivalent to the total of national production in the next eight years.

The Response of Salvadoran Small Farmers

Small farmers throughout Central America are developing strategies to promote their livelihoods given the reality of CAFTA. In El Salvador, peasant farmers associated with the Confederation of Federations of Salvadoran Agricultural Reform (CONFRAS), a grouping of Salvadoran cooperatives, have defined an action and advocacy approach in five important areas to promote farmer survival in the face of CAFTA.

At an institutional level, CONFRAS is constructing organizational structures based on productive categories, especially in the sectors most threatened by CAFTA, such as rice, corn, sorghum and bean. The strategy for consolidation and unification of farmers includes both agricultural production as well as organization-building, and aims to build bargaining power, particularly in the commercialization process. Via productive projects, the work promotes the diversification of crops and organic agriculture to create sustainable agricultural options for farmers.

Through research, CONFRAS is building organizational understanding of the probable impacts of CAFTA in order to contribute to and impact the national debate over agriculture and government development proposals.

Via the consolidation of peasant farmer alliances, CONFRAS is collaborating with rural Salvadoran organizations and other productive and social sectors affected by CAFTA to unify the movement and build lobbying strength in numbers and by consensus.

Through its lobbying activities, CONFRAS is influencing Salvadoran government institutions, such as the Ministry of Agriculture and Cattle and the National Legislative Assembly, to build awareness of and support for its agricultural policy proposals in national and international institutions involved in the debate over agriculture.

Lastly, via widespread popular mobilization, CONFRAS is exerting pressure on the economic arteries of El Salvador and including the mass participation of peasant farmers and the rural population affected by CAFTA in efforts to articulate the effects of the agreement and push for alternative policies.

Section III, What to Expect

Chapter 9, Agriculture in Nicaragua

The Impact of CAFTA on Nicaraguan Agriculture

By Katherine Hoyt (National Co-Coordinator, Nicaragua Network)

[Information in this article is drawn principally from “CAFTA Will Be Like a Brand-Name Hurricane Mitch” by Sinfioriano Cáceres in *envío*, September 2005, and two publications of the Coordinadora Civil in Managua, Nicaragua: *Análisis y posicionamiento de la Coordinadora Civil acerca del Tratado de Libre Comercio de Centroamérica con los Estados Unidos de Norteamérica (CAFTA)* and *Impactos potenciales del Tratado de Libre Comercio Centroamérica - Estados Unidos en el sector agrícola y la pobreza rural de Nicaragua* by Adolfo Acevedo.]

The Dominant Role of Agriculture in Nicaragua

Because agriculture plays such a dominant role in Nicaragua’s economy, the Dominican Republic-Central American Free Trade Agreement with the United States will have a particularly devastating impact on the country, possibly greater than on any of the other signatories to the agreement. And that impact will be most devastating on the small and medium scale farmers both because of their numbers and because of their extremely fragile economic position.

Nicaragua’s agricultural sector employs 60% of the poor and 75% of the extremely poor. (Only 21% of the non-poor work in agriculture.) In 2000, Nicaragua’s rural population stood at 2.42 million while the urban population was 2.85 million.

About 72% of the jobs in the agriculture sector are on small farms which employ five or fewer workers, frequently family members. Most of the farmers have no access to any kind of support, whether credit, technical assistance, or infrastructure and, on average, have attended school for only 1.6 years. More than 80% of the roads in the country are in the Pacific region, leaving the interior where most of the coffee, cattle and basic grains are produced, seriously underserved by farm-to-market roads.

According to the Nicaraguan Civil Coordinator, a network of non-governmental organizations, in the last decade there has been a significant regression in the use of technology and in the investment of financial capital in Nicaragua’s agriculture. The number of tractors per hectare has dropped as has the use of fertilizer and the number of hectares under irrigation. This has resulted in a drop in the productivity of corn production to levels similar to that of the 1950s.

Nicaragua’s percentage of population working in agriculture had declined to 22.6% in 1977 based on the success of the Central American Common Market in creating industrial opportunities. In the 1980s, agricultural production, especially in food crops, increased somewhat as a result of the credit and price incentives of the revolutionary government.

But the real increase in the percentage of the population working in agriculture came in the 1990s along with an increase in food production. According to the World Bank, the increase was due to the

pacification of the countryside and the resettlement of combatants from both sides of the contra war and of refugees back on the land. While total production of food crops has increased dramatically during this period, based on the bringing of more land under cultivation, productivity has declined markedly. According to Nicaraguan economist Adolfo Acevedo, agricultural labor is generating a very low return. Low productivity is a product of the extension of the agricultural frontier from the country's central highlands into the eastern rainforest with its less promising soils, overuse and resulting degeneration of soils, and climate changes that have resulted from the ever-increasing destruction of the nation's forests.

Acevedo calls the situation of Nicaragua's peasant agriculture "extremely precarious, extremely fragile" and says that this situation constitutes a barrier for the country's development as a single nation because it excludes almost 2.5 million human beings over a wide geographical area. Peasant farmers are left with no options beyond extreme poverty, he says. The changes in government policies in the 1990s, which made sure that the market, and not government planners, determined how land, labor, capital and credit would be allotted, increased this sector's disadvantages and have made it more vulnerable to the expanded trade opening that is CAFTA.

What CAFTA Will Mean

While Nicaragua's farmers receive no government assistance, U.S. farmers are highly subsidized to grow crops that directly compete with crops produced in Central America, including corn, rice, sugar, cotton, meat and milk. Beyond the direct subsidies that US farmers receive are the services in the area of infrastructure, research, and technical assistance through extension services. U.S. farmers are thus able to export food crops around the world at a price below their cost of production, a practice known as "dumping." Nicaragua is simply not in a position to compete with the world's principal agro-exporter.

Where the United States is ranked as number two in competitiveness in agriculture, Nicaragua is ranked as number 73 in a sample of 75 countries and the gap is growing, not lessening. For Nicaragua to be able to compete, a massive investment in agricultural infrastructure would be necessary. For example, the Civil Coordinator estimates an annual expenditure of US\$50 million would be necessary to maintain and repair farm-to-market roads, monies which the government does not have. The neo-liberal economic model that has been imposed on Nicaragua since 1990, when the Sandinista government was voted out of office, has resulted not only in social decomposition but also in the dismantling of the capacity of the state to serve the small farm sector. The National Development Bank was closed and the policy of making loans to small farmers ended. In order to prevent the coming disaster for that sector, that capacity would have to be rebuilt.

Small and medium scale farmers in Nicaragua were alarmed by the way CAFTA was negotiated with no recognition of the enormous asymmetries between the United States and the countries of Central America or of the large percentage of the population that makes its living from agriculture in the region as opposed to the United States where that percentage stands at 2%. The United States negotiators did not allow the subject of its internal subsidies to even be discussed. Within CAFTA, a provision exists for safeguards that can be applied to protect certain agricultural crops when imports from the U.S. reach a certain level, but this provision will expire when tariff protection has been phased-out (at a maximum 12 to 15 years). The United States, for its part, has an anti-dumping law that gives it permanent protection similar to the temporary CAFTA safeguards. Meanwhile, Nicaragua's tariffs on food crops, which, according to the U.S. Department of Agriculture, average 60%, and which have protected the country's food security, will be steadily lowered to zero. Tariffs

will be eliminated for all products, except sugar for the United States, fresh potatoes and fresh onions for Costa Rica, and white corn for the other Central American countries. If the experience of Mexico is an indicator, however, Central Americans will, after some reluctance, make the switch from their traditional white corn to the imported US yellow corn because of its considerably lower price.

According to Acevedo, the agricultural production of basic food crops performs key functions in Nicaragua's economy, among them:

- 1) assuring national food security by growing food for the national market;
- 2) providing food for the farm families themselves; and
- 3) providing agriculture-related employment in the country's rural areas.

Therefore, before insertion into the world economy the government should have taken measures to avoid leaving the nation's poor rural areas behind. The Civil Coordinator notes that funds to assist small and medium scale farmers to mechanize are lacking in Nicaragua and adds that in order to create proper conditions for the implementation of CAFTA, an investment of US\$840 million should be made in the agriculture sector. There is no plan to make this investment.

There are still other problems. The Central American countries, although all are members of the Central American Common Market and trade products freely within the borders of the region, do not have common external trade tariffs and could not agree on a common negotiating strategy for trade talks with the United States. Sinforniano Cáceres, who is president of the National Federation of Agricultural and Agroindustrial Cooperatives (FENACOO), says that "what will happen when CAFTA comes into effect... is known as "triangulation." Since the tariffs on the same product vary within the region, (e.g. the import duty on milk is 20% in Honduras, 45% in El Salvador, -- two countries where less milk is produced-- and 65% in Nicaragua and Costa Rica--which are larger producers of milk), the United States "created the conditions to introduce the products of most interest to it through the countries that charge the lowest tariff." Then, because the region is a common market, those products can circulate freely to the other countries in the region. US milk will enter through Honduras and El Salvador and then travel to Nicaragua and Costa Rica where it will devastate local dairy farmers. Cáceres labels this "triangulation" a form of unfair competition.

The situation with regard to rice is especially alarming in several ways. The United States is the world's fifth largest producer of rice. A US farmer can produce 100 lbs. of rice for \$9.04 and a rice farmer in Nicaragua's Sébaco Valley can produce 100 lbs. of rice for just \$8.45. However, Nicaragua is not competitive with the United States in rice because, Cáceres says, the US farmer will receive in subsidies from his government the amount of \$10.45 for each 100 lbs. he produces. He can sell his rice in Nicaragua for \$7.65 per 100 lbs., under pricing the Nicaraguan farmer, because he has already made his profit. Under the CAFTA quota system, imported US rice can account for 43% of the rice sold in Nicaragua the first year of the agreement, and by 2015 that figure can rise to 73%. After 2019, the fixed quotas end and any amount of rice will be able to enter. Also, after 10 years, the tariff on US rice will be gradually reduced until it reaches zero. Big rice farmers in Nicaragua figure that they can survive for those ten years but not beyond.

Within sectors under CAFTA, some farmers are favored and some are abandoned to their fates. The rice quotas set up by CAFTA favor the big growers and negatively affect the small rice farmers. During the first ten years of CAFTA, imported unhusked rice will be subject to a 45% tariff and husked rice to a 65% tariff. As a result, much more unhusked rice is entering Nicaragua during CAFTA's first year. Why the difference and whom does it favor? Nicaragua's small rice farmers sell their rice unhusked while the big growers own threshers and place their rice on the market already husked. The big growers therefore will be the ones to benefit from the higher tariff on imported

husked rice while the small farmers will suffer from much greater competition because of the lower tariff on unhusked rice. On top of that, the big growers will get the business of threshing the unhusked rice that has come in from the United States. Cáceres estimates that very soon only 2,000 to 2,500 of Nicaragua's 17,000 rice growers will remain. He continues:

What will happen to the rest? They'll continue producing on a small scale for subsistence, but will lose any presence in the market, which means they will suffer poverty and shortages because they currently use the profits made by selling surplus rice to buy everything they don't produce on their farms, including clothes and medicine.

Nicaragua's threshers will soon be used to thresh imported US rice which will then be shipped to the rest of Central America.

So, Nicaragua was assigned the role of the triangulation of rice; Honduras and El Salvador will do the same with milk (destroying dairy producers in Nicaragua and Costa Rica) and Guatemala with chicken. "These triangulations will displace regional products from the Central American market because they won't be able to deal with the unfair competition and the legalized dumping," according to Cáceres. Nicaragua, which should have supported Costa Rica's position against allowing the importation of powdered milk which has the capacity to destroy Nicaragua's dairies, backed down because the giant Italian transnational milk processor Parmalat threatened to leave the country if Nicaragua didn't allow powdered milk imports. So, Costa Rican officials, in reaction, informed Nicaragua that they would allow the importation of white corn, which was not a sensitive crop for their country, but which is an extremely sensitive crop for Nicaragua.

Nicaragua negotiated a pretty good deal on white corn. Imported US white corn will be subject to a 10% tariff and only a small quota, less than one percent of Nicaragua's production (about 6,500 metric tons), will be allowed to enter the country. However, Cáceres estimates that over 84,000 tons of white corn and 190,000 tons of yellow corn will enter Nicaragua from Costa Rica and Honduras. "We'll be inundated," Cáceres says. He predicts that Nicaraguan sorghum farmers, whose crop will be replaced by yellow corn, "won't last two years."

Cáceres predicts that the impact of CAFTA "on our fragile economy will be the equivalent of a raging current hitting a small house with weak foundations." He offers suggestions for facing the CAFTA hurricane including alliances of municipal governments "to counter the actions of transnational companies with unbridled ambitions," the upgrading of leadership and methods of struggle for cooperatives and federations of cooperatives like his own, and alliances between non-governmental organizations and agricultural trade associations to search for alternatives. "In the fact of the Hurricane CAFTA," he says, "the fight is essentially to avoid having our country, our resources and our own lives turned into merchandise."

Chapter 10, Labor

Workers Expecting Little Benefit from DR-CAFTA

*By Ben Beachy Witness for Peace (WPF) and
Jon Hunt, Campaign for Labor Rights*

[The information in this chapter comes primarily from interviews with members of La Mesa Laboral de Sindicatos de la Maquila (MESA), an organizing and legal center for garment workers in Nicaragua's free trade zones. The interviews were conducted by Ben Beachy.]

Labor conditions in Central America have historically been poor to terrible, and workers rights have either been ignored or non-existent. While many countries have laws on the books, or in their Constitution protecting workers, attempts to organize factories traditionally face discrimination, harassment, termination and violence. While workers in all the countries party to DR-CAFTA are concerned about its effects, workers in Nicaragua are particularly worried, as their country already has the lowest wages in the region. This will make it highly attractive to investors seeking cheap labor to produce products for export to the U.S. market. Much of the production in Nicaragua takes place in Free-Trade Zones, where companies receive special tax benefits and other incentives. With some 75,000 workers employed in these zones, there is great potential for an organized workforce, though currently less than 10% of the workers are in unions.

DR-CAFTA became law on April 1, 2006 in Nicaragua and was met with anxiety and uncertainty by workers who know all too well that their interests are rarely respected. Concern was expressed over the trade agreement's potential to harm workers and the possibility of having rights gained through struggle rolled back. Throughout implementation the U.S. has consistently pressured countries to meet additional requirements (primarily benefiting corporate interests) beyond the scope of the treaty, including rescinding existing laws or creating new ones. Regarding one such law, an acquired rights law put in place with pressure from the workers and now being superseded by DR-CAFTA, Cesar Augusto Perez of MESA states, "It's so that the labor code laws that protect us will be completely annulled." Workers are in agreement that the pact will primarily benefit corporations, at the expense of the workers.

Of major concern is the lack of labor standards in the agreement. As implemented, CAFTA calls on participating countries to "strive to ensure" compliance with national and international labor laws. The consequence for non-compliance is a fine on the country, not the company. Roger Antonio Hernandez of MESA asks rhetorically, "And who is it that funds the Nicaraguan government? It's us, the workers...through our taxes. So in the end, they are going to violate our rights, there'll be a ruling against the company, and we ourselves are the ones who will end up paying."

Instead of enforcement mechanisms to deal with violations and to "ensure compliance," CAFTA includes what Rep. William Jefferson (D-LA) calls "state-of-the-art labor provisions and innovative trade and labor capacity building provisions." In fact, those "state-of-the-art" provisions are nothing more than a "15-year bi-annual reporting requirement...enabling [the U.S.] Congress to monitor" labor standards. As Harling Carmelo Bobadilla of MESA says, "CAFTA doesn't establish anything new, any new way to enforce Nica's existing labor code. So that labor code will continue to be ignored." This will leave workers at the mercy of their employers, without any significant means of recourse or effective channels of complaint.

With the lowest wages of any of the participating countries, Nicaragua is expected to see a substantial increase in factory investment. According to Witness for Peace-Nicaragua “at least 6 new maquilas have come to Nicaragua, offering around 8000 new jobs” since April 1. Included in this number is a fabric-producing factory investment valued at \$100 million (US), which is projected to create 750 new jobs, as well as to bring more assembly maquilas into the country. While overall workers are not opposed to investment, they insist it must be done in ways favorable to labor. “We are open to investment, but it should be fair investment, it should fill a real need...it should be for the good of the people who need it so badly to live in better conditions,” says Perez. Echoes Bobadilla, “...we agree that foreign investment should come...from Korea, Japan, the U.S., from any part of the world. But we say further that they must respect our labor rights and human rights.”

Key to this respect would be the establishment of unions in the free trade zones. Workers would like to see unions in at least 60% of the free trade zone factories. In addition, they have called on the Nicaraguan government to develop a universal accord setting a minimum level of conduct for a factory to not be considered in violation of workers’ rights. This would include the need to invite union activity in the factory.

Whether new investment will result in better wages or conditions for workers remains to be seen. CAFTA is projected to cause a significant job loss in the agricultural sector, particularly amongst small farmers unable to compete with the influx of subsidized U.S. agricultural products. Without a way to provide for their families, these farm workers will come to the free trade zones seeking employment. With a substantial number of workers willing to work for potentially lower wages than currently paid, factory owners will be able to continue offering wages far below those in other countries in the region. Says Hernandez, “We know that the company owners use the unemployed masses against the working masses. That’s how they get away with paying the lowest salaries, having the worst labor conditions, and committing great human rights violations.” Recognizing the clear intent of the capitalist system, Bobadilla adds, “They don’t come here thinking, ‘Poor things, we have to help the Nicaraguans because they’re dying of hunger.’ That’s not their intention. The intention is...to acquire greater profits.”

We asked the workers about possible alternatives to free trade. They spoke of increasing investment in development within Nicaragua, especially in housing, health care, education and other social needs. In addition, they highlighted the fact that Nicaragua’s vast natural resources are taken out of the country, rather than used to build up the nation. Speaking at length, Hernandez says,

Nicaragua is rich in natural resources, and in the spirit of its people. So, instead of CAFTA there should have been a program to develop each [Central American] country so that its state could reach a point of self-sufficiency, a point where it could actually export its products to other countries. It should be development of each country from the inside-out, using its own resources, not from the outside-in. Because that’s what CAFTA offers, that multinational companies will come in to the country, supposedly to save the Nicaraguan people. It would have been better for us if it would have offered economic and technological support to develop the country, to create sources of work, to use the natural wealth that exists in the country...and through this, to halt migration. Because today, our poor countries have become producers of migrants. That’s the thing we produce most in Nicaragua. We have half a million Nicaraguan migrants living in Costa Rica. We have 300,000 migrants in the United States, and more in other Central

American countries. [With CAFTA,] what development will we see? What will be the destiny of our future population? To become a migrant workforce?

Rather than promoting equality or raising living standards, DR-CAFTA enters a Nicaragua that is full of uncertainty and poverty, apparently offering only more of the same. From the absence of labor standards to calls for changing laws, to exploitation of natural and human resources, workers in Nicaragua do not expect much good to come of this agreement. Roger Antonio Hernandez sums it up well when he says, “In the end, we believe that... CAFTA will turn out to be a disadvantage for workers.”

Chapter 11, CAFTA and Immigration

CAFTA and Immigration

By Noah Foster, Network in Solidarity with the People of Guatemala

Illegal immigration to the United States has become a lightning rod of controversy in this modern era of terrorism and poorly-funded social programs. “Illegals” are a scapegoat for many of the social woe the U.S. faces from crime and violence to low wages and unemployment. However, with the Central America Free Trade Agreement (CAFTA) just warming up, perhaps we need to take at our own policies to find out why the population of undocumented workers has greatly increased over the last ten years.

CAFTA, much like its predecessor the North American Free Trade Agreement (NAFTA), threatens to displace large numbers of agricultural workers, destroy rural communities, and rapidly overpopulate cities in Central America. CAFTA will open up Central American markets to U.S. subsidized agricultural goods, and in doing so, seriously disadvantage Central American small- and medium-sized producers.

As Bishop Alvaro Ramazzini, a famous Guatemalan human rights activist, stated in his testimony in front of the House International Relations Committee Sub-committee on the Western Hemisphere in 2005, “Our farmers are hardworking and will continue to find ways to compete with their northern neighbors. But they cannot compete against the United States Treasury and the \$170 billion subsidies granted in your Farm Bill of 2002.” Only the largest of the Central American agricultural producers will be able to survive the liberalization of the agricultural market. Small farmers will be dominated in their smaller markets by mass-produced U.S. goods, subsidized by the U.S. government. U.S. goods will be able to infiltrate local Central American markets, but small Central American farmers, who have only a very limited ability to compete internationally, will not receive reciprocal economic opportunities in U.S. markets. Not surprisingly, these farmers will have no way of competing, even at home, and therefore will be pushed out of even the most local of markets.

Once their economic niche is taken over, these farmers will be forced to look for a new sustainable life. At present, there seems to be no viable economic replacement for agriculture within Central American economies. Larry Birns, the director of the Council of Hemispheric Affairs, underscored this dilemma in an interview: “The disaster here is that traditional Central American agricultural products represent the region’s strongest export sector, and with those under jeopardy, Central America will find it difficult to come up with an economic equivalent.”⁷⁸

As an example, at present agriculture makes up approximately 23% of Guatemala’s GDP, and represents two-thirds of its exports. According to the U.S. Government, an estimated 50% of the labor force works in agriculture.⁷⁹ How will these numbers be compensated for after the agricultural sector is replaced by U.S. subsidized farm products? Though it is certain that U.S. agricultural products will flood the Guatemalan market, pushing out small farmers, it is unlikely that economic replacement opportunities will be as numerous as touted by CAFTA supporters.

⁷⁸ “DR-CAFTA: How Will the Agreement Affect Immigration Trends?” Inter-American Dialogue, August 1, 2005

⁷⁹ CIA World Factbook, 2006

Many of the measures enacted by CAFTA will further degrade the quality of life for poorer populations. A case in point is the regulation of intellectual property laws. The CAFTA agreement consists of 1,000 pages of legalities and regulatory measures which the Dominican Republic and Central America parties have been obligated to accept. Latin American parties to CAFTA will have to wait five to 10 years before producing generic substitutes for “brand name” drugs. As Harold Meyerson wrote in an article in *The Washington Post*, “CAFTA thus effectively ensures the drug companies an extension of their monopoly on high-priced medications. It also ensures that thousands of Central Americans in need of such medications will have to go without.”⁸⁰

The U.S. government supports free trade, but only according to its rules, and in protection of select industries. With the destruction of traditional job opportunities and rising costs of staple goods in Central America, options for poor rural farmers become limited.

Such social and economic limitations frequently result in mass internal and external migration. Internal migration is characterized by large populations moving from rural sites to cities which are almost always unprepared economically and rarely have the infrastructure to support such rapid migration. According to a study done by the Autonomous National University of Mexico (UNAM), in the first eight years of NAFTA, rural Mexico has seen the loss of 10 million hectares of cultivated land with over 15 million peasants moving to cities in Mexico or the U.S.⁸¹ Often these impoverished migrants find even worse conditions with new concerns such as crime and marginalization in shanty towns within and around the city limits.

Many of the job opportunities that CAFTA promises to create should exist in these urban centers in the industrial sector; however, each non-U.S. member of CAFTA will be competing against one another to create a more attractive business environment for U.S. corporations. Such competition will inherently drive governments to offer special tax incentives and reduced labor standards in order to attract investment. In doing so, these countries will undermine the economic progress that they hope to achieve and as real wages decline as they have due to NAFTA in Mexico. Companies trying to keep profit margins high will have no incentive to raise wages for workers as the cost of living increases. These economic trends will only exacerbate the need for low wage workers to migrate.

External migration invariably leads Central American migrants to the United States or Mexico in search of a dignified means of survival. Since the inception of NAFTA, immigration of Mexicans to the United States has proliferated. In 1995 there were an estimated 2.5 million undocumented Mexicans in the United States. Since then, it is believed that over 8 million have made the dangerous journey across the border.⁸² Are we to believe that these trends will change under CAFTA, a free trade agreement largely constructed along the same principles as NAFTA?

With help from an alarmist press and a public concerned with maintaining the status quo, the U.S. government has employed stricter immigration regulations as well as a steady increase in “protection” of the southern border through beefed-up numbers of immigration officers. As Peter Andreas writes in his piece, “*The Escalation of U.S. Immigration Control in the Post-NAFTA Era*,” “the apparent paradox of U.S.-Mexico integration is that a barricaded border and a borderless economy are being created simultaneously.”⁸³ Yet stricter border controls to date have been ineffective as a means of

⁸⁰ “CAFTA's Profit Motive” by Harold Meyerson, *Washington Post*: Wednesday, March 30, 2005; Page A15

⁸¹ NAFTA Equals Death, Say Peasant Farmers by Diego Cevallos Published on Wednesday, December 4, 2002 by the Inter Press Service

⁸² Robin Hood in Reverse: Free Trade Agreements and Immigration,” by Anuradha Mittal: The Oakland Institute, 06/22/06.

⁸³ *Political Science Quarterly*, Volume 113, Number 4, 1 October 1998

detering unauthorized immigration. Rather, the issue of the border has become a platform for political grandstanding in an attempt to promote a sense of security and control by the U.S. government. In public, U.S. policy endorses the openness of economies as long as that openness does not extend to the immigration of “undesirables.”

CAFTA will likely lead to the end of Central American agricultural communities. With no alternatives for a new form of economic sustainability available, it is no wonder rural communities in Central America fear the end of their livelihoods and way of life. With the inevitable rise in the cost of living, migration becomes the only option for the disenfranchised, destitute rural family. The flood of undocumented workers to the United States will only slow when the needs of the rural poor are taken into consideration in the creation of multinational economic trade agreements.

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