



## Center of Concern/U.S. Gender and Trade Network Fact Sheets on U.S. Trade Policymaking

### Fact Sheet #2: What you need to know about the U.S. - Central America Free Trade Agreement (CAFTA)

#### Did You Know That:

- The U.S.-Central American Free Trade Agreement (CAFTA) is a free trade agreement that is currently being negotiated between the U.S. and the five Central American nations: Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica.
- The negotiations officially began on January 8 and will continue once a month until December of 2003. The six negotiating governments plan to have the treaty finished and ready for approval by their national legislatures by the end of 2003.
- The first of nine scheduled CAFTA negotiating rounds took place in San José, Costa Rica from January 27-31 between government representatives and business leaders while ten thousand Costa Ricans protested on the streets outside.
- Two more negotiating rounds have already taken place in El Salvador and the U.S. A fourth negotiating round will take place in Guatemala from 12-16 of May, 2003. The fifth round is scheduled for Honduras from June 16-20, 2003. The sixth round is scheduled for the U.S. from the 28<sup>th</sup> of July through the 1<sup>st</sup> of August, 2003. The seventh will take place in Nicaragua from the 8-12<sup>th</sup> of September, 2003. The eighth and ninth rounds are scheduled for mid October and mid December (locations undecided).
- Many trade experts think of CAFTA as an extension of the North American Free Trade Agreement (NAFTA), the agreement between the US, Canada and Mexico. NAFTA has had extremely negative impacts on workers and marginalized peoples in all three countries.
- CAFTA is modeled after the recently complete US-Chile agreement. Only two months into the CAFTA negotiations the US had submitted proposals on 85% of the agreement, essentially every area except agriculture, labor, and telecommunications.<sup>1</sup>

#### Political Context

- President Bush announced at the beginning of 2003 that a free trade agreement between the United States and Central America is a top priority for his administration.<sup>2</sup>
- The US government sees CAFTA as central to creating the Free Trade Area of the Americas (FTAA). The FTAA is currently being negotiated between the U.S. and all the countries of Latin America with the exclusion of Cuba.<sup>3</sup>
- The U.S. and its business allies see a free trade agreement with Central America as essential for creating the legal and economic framework for Plan Puebla Panama (PPP). PPP is a ten-year "development" plan to build industrial infrastructure throughout the region. Many environmentalists, indigenous peoples, women and workers oppose PPP because of the probable devastating impacts it

<sup>1</sup> Trigueros, Guadalupe. "Avanzamos en el 85% de los textos" El Diario de Hoy, March 1, 2003.

<sup>2</sup> Merino del Rio, Jose. "CAFTA: A Perspective from Costa Rica: A Treaty Tied by Chains", Foro Accion Politica, February 20, 2003. <http://www.americaspolicy.org/commentary/2003/0302caftacr.html>

<sup>3</sup> For more information on the FTAA go to: <http://www.igtan.org/FTAA/FTAAResources.htm>.

will have on the environment, local agriculture, indigenous communities, local economies and women. CAFTA will create a framework that subordinates national legislation in Central American countries to a supranational accord with the U.S., ensuring the interests of multinational companies, the vast majority US companies, in the region.

- The United States is also pursuing bilateral trade discussions with Panama and the Dominican Republic. The discussions have included talks on a CAFTA "docking" mechanism whereby the two countries may be able to join CAFTA at some point in the future. Countries that are docked may be added to the agreement at the end of the negotiating process so that they would not have the option of negotiating the text, only the option to ratify it or not. US Trade Representative Robert Zoellick has also said that there may be differences on market access for docked countries.<sup>4</sup>
- USAID will give US \$37.9 million in technical assistance and cooperation to help Central America with the negotiations. A primary goal these sessions are meant to bring the Central America countries closer to completing the trade agreement within the year 2003. In past WTO negotiations these trainings have been used to push areas that are of special interest to the U.S.<sup>5</sup>

### **Transparency, Participation and Accountability**

- The broad social movements in the United States and Central America which oppose this agreement have had almost no meaningful voice in the negotiations, making it extremely improbable that the agreement will respond to the needs of the majority of people in all six countries, in particular the most marginalized communities – women and people of color, including indigenous peoples.
- The timetable for the CAFTA negotiations makes it extremely difficult for civil society to participate in the process. The entire negotiations will be finished in less than a year, giving little time for assessment, comments or changes to the model that the U.S. is pushing.
- The CAFTA countries have agreed that the negotiating texts will not be released. The texts are classified as part of national security.
- At the beginning of negotiations the US demanded that all parties sign a confidentiality agreement. According to the agreement, negotiators could not reveal even the agenda of meetings and certainly not what agreements are reached, without unanimous consent of all negotiating teams –giving any one country a veto over what information gets released.<sup>6</sup>
- Negotiators opened an "adjoining room" where civil society representatives can sit during negotiations, giving negotiators the chance for consultation. Only representatives who are accredited by the governments of negotiating countries are allowed access to the room and with the new confidentiality agreement, even if negotiators decided to drop into the room for a consultation they are not allowed to give out any information.
- CAFTA governments have also organized both official and unofficial seminars and meetings between the negotiating teams and civil society. It is unclear how civil society groups are identified to participate in these meetings and what is considered meaningful dialogue.
- Civil Society comments in the U.S. will be posted on the U.S. Trade Representative (USTR) web site, but no further structures are in place for trade negotiators to respond to civil society groups relative to their variety of concerns.
- Groups in the U.S. are assured by USTR that all input is placed on an internal database, passed around to the Trade Policy Staff Committee, and read by every lead negotiator and every interagency member who sits on the Committee. USTR acknowledges that it could be better in responding to civil society. However, there is no viable mechanism in place to effectively respond to civil society groups.

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<sup>4</sup> "Zoellick Says Central America FTA Talks Are 'On Track' for Conclusion This Year." International Trade Reporter, April 17, 2003

<sup>5</sup> "Apoyo de AID a negociación con Estados Unidos," El Diario de Hoy, Feb 11, 2003.

<sup>6</sup> CAFTA Briefs: "New developments, but few surprises emerge from first CAFTA negotiating round in Costa Rica." CISPES Office, San Salvador, February 12, 2003.

- Briefings are being planned in different cities in the U.S. before each negotiating round. Civil society groups have requested that the U.S. government consider them as tools for dialogue instead of a public relations exercise.
- For these reasons, civil society groups are highly critical of the official process and have decided to focus their efforts on education and mobilization. The lack of an effective process for civil society participation is especially problematic for women's organizations and other organizations and communities, such as indigenous peoples, which are traditionally marginalized in Central America. These groups already have very little access to government and without a clear and transparent process for participation they will have no way to take part in decisions which will have far-reaching effects on their lives.

### **Agriculture**

- The issue of agriculture is one of the most contentious issues in the CAFTA negotiations. Government officials assume that it will take until the end of the negotiating period to resolve the differing positions on agriculture.
- Unions and social movement organizations across Central America have denounced the potential impacts of CAFTA on agriculture in the region. Looking at the impacts of NAFTA on Mexico's agricultural sector, small farmers in Central America have concluded that subsidized US agricultural imports will overwhelm the Central American market devastating the local agricultural sector.
- The Presidents of Nicaragua and Honduras have stated in meetings with the other Central American Presidents and President Bush and that they will not agree to a Free Trade Agreement that does not take steps to protect small Central American farmers from larger U.S. producers, who are heavily subsidized.<sup>7</sup>
- Agricultural industry groups in Central America are also taking a stand against CAFTA. Many are asking that their industries be left out of negotiations entirely. Large milk producers in all five Central American countries recently made a joint request that their sector not enter into free trade negotiations. In El Salvador, associations of large beef, chicken and agro-industry producers are asking to be left out of the agreement.<sup>8</sup>
- The U.S. is taking a very strong position on agriculture and has already let Central American countries know that if they attempt to exclude certain products from the agreement or maintain certain protectionist measures or safeguards the agreement will not be signed. U.S. Trade Representative Robert Zoellick has stated that no agricultural products will be excluded from the negotiations.<sup>9</sup> At the same time the US will not renounce its policy of domestic agriculture subsidies. Regina Vargo, US Trade Representative for Latin America, maintains that the US is unwilling to negotiate an end to agricultural subsidies in the U.S.

### **Gender Impact**

- The impact of the CAFTA agreement on the Central American agricultural and rural sectors will have far-reaching impacts for women. As people are forced to move from agricultural communities to urban environments in search of a livelihood, many women in poverty in Central America are left no option but to seek work in maquilas – export oriented factories which are known for poor working conditions and exploitative and sexist work environments. These factories seek out young women workers, usually indigenous women, who can be paid very little and given few benefits.
- The rapid shift from living in small agricultural communities, where the whole family works, to an urban setting where only young women are employable, has extreme impacts on families, communities and cultures. This has taken place on a large scale in Mexico, since NAFTA, and has already begun in Central America.

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<sup>7</sup> "Nicaragua Seeks Protections for Some Industries in CAFTA, Inside US Trade", April 18, 2003.

<sup>8</sup> CAFTA Briefs: "New developments, but few surprises emerge from first CAFTA negotiating round in Costa Rica," CISPES Office, San Salvador, February 12, 2003.

<sup>9</sup> IBID

- Food security is a central issue for women as they are the producers, processors, distributors, providers and consumers responsible for household food security.<sup>10</sup>

### Services

- In Central America, social movements have worked hard to prevent the privatization of essential services, including healthcare and electricity. These victories are under threat with CAFTA where all services are subject to be opened up for trade liberalization and privatization. This will threaten public services as well as services that are provided at a low cost. It will also threaten the job security of service workers.
- In Costa Rica, working against the potential privatization of electricity has been a primary issue of the social movements. They won a large victory when President Abel Pacheco promised not to allow the privatization of electricity or telecommunications. He stated, "I have no intention to sell the ICE [Costa Rican public electricity utility]. If they tell me that to enter into free trade I have to sell off the ICE, there will be no free trade agreement, period."<sup>11</sup>

### Gender Impact

- Women are the primary service providers, in families, society and the market economy. When people do not have access to essential services, either because they are not available or because they cannot afford to pay for the service, women end up providing these services for their families, including education, health care and the provision of clean water. This puts extreme stress and burden on women and jeopardizes the health of entire communities.
- For many women, public service jobs are the most secure jobs they can get and offer the most benefits, including healthcare. These government jobs could be subject to competition and privatization and therefore made less secure.

### Property Rights

- The US is asking for a 25-30 year protection period for intellectual property rights under CAFTA. This is an increase in the "protection" offered under the World Trade Organization, which lasts for a period of 20 years<sup>12</sup>.
- Pharmaceutical corporations and genetic-research firms are very interested in intellectual property rights under CAFTA because of the rich biological diversity in the region. These corporations plan to harvest plants and microorganisms for patenting as new discoveries. In reality, they will have opportunities to make legal claims and profits from plants, medicines and techniques that indigenous people of the area have used for centuries.

### Gender Impact

- Property rights laws, which exist under the WTO, involve extremely cumbersome administrative and legal processes which discourage local research and patenting by people with limited resources, especially women and indigenous peoples.
- Under these laws it is difficult for people in poverty to patent their inventions or knowledge in the areas of music/folklore, handicrafts, traditional medicines and other creative outputs. Women are often the keepers of this traditional knowledge and often make an income from the sales of handicrafts or use traditional medicines to care for their families. Their legal rights to this knowledge are put in jeopardy with cumbersome intellectual property laws<sup>13</sup>.
- Intellectual property laws encourage and institutionalize bio-piracy and make theft of genetic resources acceptable. This theft threatens the survival of traditional ways of life, often protected by women, and indigenous communities.<sup>14</sup>

<sup>10</sup> "IGTN Position Paper on the World Trade Organization," International Gender and Trade Network, Doha, Qatar. November 9-13, 2001.

<sup>11</sup> CAFTA Briefs: "New developments, but few surprises emerge from first CAFTA negotiating round in Costa Rica," CISPES Office, San Salvador, February 12, 2003.

<sup>12</sup> Ramos, Karla. "Medicamentos dan dolor de cabeza a negociadores TLC", Prensa Grafica, March 1, 2003.

<sup>13</sup> "IGTN Position Paper on the World Trade Organization," International Gender and Trade Network, Doha, Qatar. November 9-13, 2001.

<sup>14</sup> IBID.

## **Labor Rights in CAFTA**

- At the May 12-16 CAFTA negotiations in Guatemala, U.S. trade negotiators may propose labor rights protections similar to those in the U.S. agreements with Chile and Singapore.
- These are weak provisions that only require countries to enforce existing laws, even if those laws do not meet minimal international standards.
- Human rights and labor groups warn that these laws will have little meaning in many Central American countries where labor laws are very weak as are the institutions charged with enforcing labor laws.<sup>15</sup>
- These labor rights provisions do not address the central problem that labor rights must be universally protected.

## **Gender Impact**

- Labor protections in Central America are central to women's rights as women are entering the workforce in great numbers at this time. Many women are entering into work in maquilas which are characterized by poverty-level wages, long hours, and no unions; most violate internationally-recognized worker rights and almost all Central American maquilas export to U.S. companies.<sup>16</sup> Maquila workers have found it nearly impossible to organize unions in maquila. Many workers and advocates feel that international standards are needed to end the race to bottom –whereby corporations move around the globe seeking locations with the worst labor and environmental standards, where workers are exploited the most.

## **Investment:**

- US Trade Representative, Robert Zoellick told reporters that the United States expected the CAFTA investment provisions on investment to closely track those of the U.S.-Chile Free Trade Agreement.<sup>17</sup>
- The U.S.-Chile accord includes the same "investor-state" mechanism as NAFTA. This mechanism allows foreign investors to legally demand compensation for laws that threaten their potential profits. Approximately twenty-seven suits have been brought under NAFTA, many of which challenged local health and environmental laws.<sup>18</sup>
- Despite Congressional instructions to U.S. negotiators, the language in the U.S.-Chile agreement gives foreign investors greater rights than local investors, including the right to bypass local judicial systems to demand compensation under conditions that would never be allowed for domestic investors.<sup>19</sup>

## **Gender Impact**

- Investment laws that currently exist in free trade agreements undermine the right of governments to empower local investors, including women investors, who cannot compete on an equal footing with foreign investors.
- These investment laws undermine government's right to effectively regulate foreign investment. Foreign Direct Investment in export processing zones and industrial zones, where maquilas are located, leads to appalling labor conditions that differentially impact women than men as this investment is outside of national labor control.

Compiled by Farah Fosse, Center of Concern and U.S. Gender and Trade Network

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<sup>15</sup> El Salvador's Failure to Protect Workers' Human Rights: Implications for CAFTA Preliminary Findings of Human Rights Watch Research," Human Rights Watch May, 2003, <http://hrw.org/backgrounder/americas/salvador050103-bck.htm>.

<sup>16</sup> Fosse, Farah. "Voices from Central America: Behind the Trade Agreements," Center Focus, Issue #159 (1) February/March 2003.

<sup>17</sup> "Zoellick Says Central America FTA Talks Are 'On Track' for Conclusion This Year." International Trade Reporter, April 17, 2003.

<sup>18</sup> "Joint Declaration on the Proposed U.S.-Chile Free Trade Agreement," Alianza Chilena por un Comercio Justo y Responsable and the Alliance for Responsible Trade, 11 April 2003.

<sup>19</sup> IBID.

**Other Center of Concern/U.S. Gender and Trade Briefs include:**

- Fact Sheet #1: USAID Trade Related Capacity Building In Developing and Transition Countries

**Other planned Center of Concern/U.S. Gender and Trade Briefs include:**

- What you need to know about the Free Trade Area of the Americas
- What you need to know about Plan Puebla Panama
- What you need to know about the U.S./Chile bilateral trade agreement
- What you need to know about the Millennium Challenge Account
- What you need to know about the Global Development Alliance
- What you need to know about Private Sector Development in the World Bank and its relation to trade in services
- What you need to know about the U.S. position on trade in agriculture
- What you need to know about the U.S. position on trade in services
- What you need to know about the upcoming WTO Ministerial in Cancun, Mexico

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