

## **The No More CAFTAs Pledge for Trade Justice**

*Synopsis of the 8 Points in the Pledge – for more info go to [www.stopcafta.org](http://www.stopcafta.org)*

The process of negotiating, ratifying, and implementing so-called “free” trade agreements like the CAFTA is out of control, and the time has come to say “enough is enough!” Congress and all elected officials must demand a new approach, and candidates for Congress should be required to make their positions on trade clear and unambiguous so that people in the United States can make their choices accordingly. With this pledge we are demanding that our public officials start working toward a more just and equitable system.

What follows are explanations of each point in the Pledge. These points are meant to be suggestive, not definitive explanations of why a new model of trade agreement is necessary. There has been a tremendous amount work done by a variety of organizations to examine specific aspects of trade agreement, as well as efforts to craft in-depth, holistic alternatives. Some of this is adapted here as background material, and additional links to resources are also provided.

It’s also important to point out that none of these proposals and alternatives is meant to stand alone. For example, improving only the worker rights enforcement mechanism in a trade agreement would not by itself create a positive model for workers. All aspects of the current model of trade agreement, from the service and investment chapters to the tariff schedules on agriculture, are bad for worker rights. It is time for a change.

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### **Pledge - I will only support trade agreements that include:**

- 1.) Democratic participation, accountability and transparency during trade negotiations;
- 2.) Provisions that work to protect the dignified lives of small farmers, indigenous communities, women and otherwise vulnerable populations;
- 3.) Text in the body of the agreements guaranteeing that core labor and environmental standards are strengthened, as defined by international law;
- 4.) Space for national governments to pursue development strategies that support sustainable, locally-determined economic, social and environmental priorities;
- 5.) Provisions permitting debt cancellation and aid to be used in direct service to the poor to help close the gaps between and within rich and poor countries;
- 6.) A framework that focuses finance and investment on productive, long-term development that ensures economic security and sustainable use of resources;
- 7.) A guarantee that public services like health care, education and potable water will remain public and accessible to poor communities; and

8.) International trade and investment systems that emphasize fundamental human rights, in order to eclipse violence and oppression.

### **Point 1: Democratic participation, accountability and transparency during trade negotiations;**

*“A transparent, inclusive, and democratic process, both for the negotiation of the agreement and for its eventual implementation, is essential to ensure the legitimacy of the process.” Thea Lee, AFL-CIO in testimony to Congress on the Central America Free Trade Agreement.*

Members of Congress should demand complete transparency during trade negotiations. During the CAFTA negotiation process Congress and members of civil society were left on the sidelines. The Congressional Oversight Group in Congress received briefings during the negotiations, but these were not public and only included a handful of members. The concerns of many members of Congress were largely ignored, especially regarding protections for worker rights and the environment, as well as concerns related to intellectual property rights and access to medicines.

There were not adequate means of participation for member of civil society organizations. Trade advisory panels were drawn almost exclusively from the business community.

Below are recommendations drawn from a statement by Catholic Relief Services during the CAFTA negotiations. They are still valid today and should be the minimum standard that Congress should accept.

(To read the complete statement and recommendations from CRS go to:

[www.interaction.org/files.cgi/1889\\_Catholic\\_Relief\\_Services\\_Recommendations\\_on\\_CAFTA.doc](http://www.interaction.org/files.cgi/1889_Catholic_Relief_Services_Recommendations_on_CAFTA.doc))

#### **To Increase Transparency and Information Dissemination, Congress Should:**

- Open up the process significantly to all interested stakeholders, take active steps to promote public awareness about the agreement in the United States, and organize public debate over the substantive issues in the United States, while encouraging negotiating governments to foster meaningful public debate in their countries, via the media, public fora, and regular public hearings.
- Revoke any “confidentiality agreements” restricting negotiators from releasing the agenda of meetings or the outcomes of meetings. Instead, publicly release meeting agendas, a copy of the draft text of the agreement, statements of the negotiating position of the US government, and statements of the outcome of negotiations. Encourage Central American government to take similar steps in their own countries.
- Invite the Congressional Oversight Group to engage in the negotiating sessions as observers or through consultations before, during and after the negotiating sessions.
- Release International Trade Commission findings on the potential economic effects of trade agreements on the US economy and hold public hearings around the study BEFORE the conclusion of negotiations.

#### **To Increase Participation and Representation, Congress Should:**

- Broaden the representation on the advisory committees to the US Trade Representative beyond the business sector to include representatives from labor, environmental, small farmers, small business, immigrants, women, and other sectors.

- Establish formal mechanisms for soliciting input and comments from civil society stakeholders both prior to and during the negotiations and adopt feedback mechanisms to indicate how civil society perspectives and recommendations influenced the US government position.
- Grant observer status to a representative group of civil society leaders during the negotiations and encourage partner negotiating governments to do the same in their own countries.

**Point 2: Provisions that work to protect the dignified lives of small farmers, indigenous communities, women and other vulnerable populations;**

A main function of CAFTA and other free trade agreements has been to open markets to large-scale producers. Many vulnerable populations are overlooked through this globalization process, especially small farmers, indigenous communities, and women. Changes in the market often harm small farms and vulnerable workers by allowing much larger companies into the same playing field without protecting the original structure.

Under NAFTA, many Mexican farmers were forced to leave their land because they were unable to compete with U.S. imports. Corn grown in the U.S. by large-scale farms receiving subsidies from the U.S. government was sold for a lower price than Mexican farmers were able to grow and sell local corn.<sup>1</sup> Current trade negotiations threaten to create similar circumstances in South America. Soybean farmers in Bolivia face a loss of their market in Colombia due to that country's pending FTA with the U.S.<sup>2</sup>

When new free trade agreements alter the economic structure of a developing country without concern for those with minimal political power of their own, the people who have had to struggle for rights from the bottom up will most likely lose what they had managed to achieve. Through monitoring, inclusion of indigenous and other minority voices, and consideration of food, water, and land issues, future agreements must provide better protection than the failed model of CAFTA. Congress should pledge to include the interests of those who are often neglected in future free trade agreement negotiations.

**Point 3: Text in the body of the agreements guaranteeing that core labor and environmental standards are strengthened, as defined by international law;**

Previous trade agreements, notably CAFTA, the Chile agreement, and the agreement with Singapore, have not only undermined workers' rights in developing countries, they have weakened existing environmental standards and overridden previous legal protections for workers, such as the Generalized System of Preferences<sup>3</sup>.

Current standards in El Salvador, for example, will not support an acceptable level of working conditions for laborers<sup>4</sup>. Employees are threatened or fired if they engage in union activities or

<sup>1</sup> "Mexican Corn Farmers Blame Harvest of Misery on NAFTA": [http://www.teamster.org/03news/hn\\_031118\\_5.htm](http://www.teamster.org/03news/hn_031118_5.htm)  
 "After 10 Yrs of NAFTA, Mexican Corn Farmers Face Ruin":

<http://olm.blythe-systems.com/pipermail/nytr/Week-of-Mon-20051212/028339.html>

"Dumping Without Borders": <http://www.mindfully.org/WTO/2003/US-Mexican-Oxfam27aug03.htm>

<sup>2</sup> Weekly News Update on the Americas Issue #850, 5/14/06 [http://www.americas.org/item\\_27320](http://www.americas.org/item_27320)

<sup>3</sup> <http://www.usleap.org/trade/tradetempnew.htm#gsp>

<sup>4</sup> <http://www.hrw.org/editorials/2003/trade080103.htm>

stand up for their rights. And yet, CAFTA's provisions do not address these concerns. CAFTA calls on countries to uphold their own labor laws, provides only a weak enforcement framework for those laws, and does not also ensure that those laws be in compliance with international standards<sup>5</sup>.

CAFTA also weakens or eliminates existing environmental laws. Public Citizen's Lori Wallach called the agreement a "catastrophe," pointing out that CAFTA removes protective measures that were part of previous agreements<sup>6</sup>. Corporate responsibility for environmental violations is not enforceable<sup>7</sup>. The process that enables citizens to allege government failure provides for no clear measure to ensure compliance, in dramatic contrast to investors' ability to gain compensation for violations.

In light of CAFTA's subversion of labor and environmental standards and subsequent trade agreements' failure to substantially improve on those provisions, Congress should pledge to work against trade agreements that do not include text in the body of the agreement that protects and strengthens essential labor and environmental standards, as defined by international law. Future trade agreements must include incentives and legal provisions to encourage beneficial labor and environmental standards.

There are a number of suggested models to draw from for incorporating meaningful standards and enforcement. See the Alternatives for the Americas document at <http://www.art-us.org/docs/alternatives%20dec%202002.pdf>, pp 43-48, and attached resource list.

**Point 4: Space for national governments to pursue development strategies that support sustainable, locally-determined economic, social and environmental priorities;**

*The role of the state, in its broadest sense, is to look after the common good of its people. The democratic state should be a tool for society to use to address the economic and social problems the market cannot solve. The discussion should not be posed in terms of a polarization between the state and the market. The role of the state in leading hemispheric economic integration is irreplaceable if this process is to promote social justice, equity among regions and social groups, and sustainability.* Alternatives for the Americas, p 57

CAFTA treats the state as a service provider for capital. There is no space in the agreement for states to craft proactive strategies to regulate investment and production. Indeed, investment rules in CAFTA will likely inhibit the ability of governments in the region to craft new policies aimed at environmental security and human development. The threat of million dollar lawsuits from corporations angry at new regulations in and of itself will make governments reluctant to be proactive in protecting the environment and worker rights.

The ideology of neo-liberalism is just that – an ideology. There is no evidence that free trade deals will lead to growth in the middle class, and thus new demands for regulation. We have not seen this in Mexico, and there is absolutely no basis for assuming this will result in any of the countries in Central America. Congress needs to address these agreements from an empirical assessment of results, and not debate the vagaries of ideology. Government still have a vitally important role in

<sup>5</sup> <http://hrw.org/english/docs/2004/03/09/usint8099.htm>

<sup>6</sup> <http://www.cnn.com/2005/US/02/28/cafta.politics/>

<sup>7</sup> <http://www.house.gov/sherrod/brown/CAFTAEnviroFactSheet.pdf>

protecting and providing for citizens. If Congress is presented a trade agreement that severely limits the capacity of the state to play that historic role, the agreement must be rejected.

**Point 5: Provisions permitting debt cancellation and aid to be used in direct service to the poor to help close the gaps between and within rich and poor countries;**

*The application of the National Treatment principle would restrict the ability of the debtor government to use tools needed for the recovery of the local economy in post-crisis situations. Aldo Caliarì, “CAFTA’s Debt Trap”<sup>8</sup>*

The Central America Free Trade Agreement included provisions that will make it more difficult for countries in the region to restructure their public debts. Specifically, CAFTA treats sovereign debt as an investment, and thus subject to “national treatment” standards. The national treatment standard is a legal requirement embedded in CAFTA that requires countries to treat international investors (businesses, goods, etc...) at least as well as domestic investors. Applying the national treatment standard to debt would mean, for example, that a government would be restricted from clearing debts held by local banks before those held by international banks. Clearing domestic debts first can be a useful tool for governments struggling through a fiscal crisis, as it allows them to go back to domestic capital markets where they may receive more favorable terms at a time when international creditors are reluctant. Aldo Caliarì has written extensively on the problems of applying national treatment to debt in CAFTA and the previously passed free trade agreement with Chile.<sup>9</sup>

Further, CAFTA will almost certainly increase public indebtedness in Central America. Raul Moreno, economist at the University of San Salvador, has done perhaps the most research on this question. His analysis suggests a dramatic increase in indebtedness as public revenues will fall as a result of lowered tariffs<sup>10</sup>. Increased foreign investment will put pressure on capital accounts in the region, as profit repatriations will outpace original investment over time. Further, the inflow and outflow of goods does not bode well for the region either. Rapid increases in agricultural imports from the United States will not be offset by the marginal (at best) increases in exports from maquiladoras.

Congress should block efforts to apply “national treatment” standards to debt. Further, the impact of trade rules on regional public debts will have far-reaching consequences. As state revenues are pinched even further, the capacity of governments in the region to provide even the most basic services will be further eroded.

**Point 6: A framework that focuses finance and investment on productive, long-term development that ensures economic security and sustainable use of resources;**

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<sup>8</sup> <http://www.fpif.org/fpif.txt/1182>

<sup>9</sup> See for example, “CAFTA Rules on Sovereign Debt: Cementing the Chains of Debt” at [http://www.igtn.org/pdfs/361\\_CAFTA%20and%20Sov%20Debt.pdf](http://www.igtn.org/pdfs/361_CAFTA%20and%20Sov%20Debt.pdf)

<sup>10</sup> Moreno, Raul: “CAFTA-DR y la deuda externa en Centroamérica”

*Foreign investment is welcome in our countries, provided that it adheres to regulations that enforce the economic and social rights of citizens and environmental sustainability. Foreign direct investment (FDI) can play a positive role when it is invested in productive rather than speculative activities, when it transfers appropriate technology and when it facilitates access to markets and creates employment consistent with democratically determined national development plans. It can also have negative effects when it absorbs local savings, disrupts local industries, pollutes the environment, or when the jobs it creates are in enclaves disconnected from the national economy. It is also negative when large flows of fly-by-night capital exit, thus destabilizing economies, or when it results in speculation against national currencies.<sup>11</sup>*

There is not a straight line between foreign investment and development. As with all other aspects of international commerce, benefits from foreign investment can only be widely distributed when institutions exist to regulate and channel investment to the most productive uses that meet the needs of people. CAFTA as the current benchmark for trade agreements does precisely the opposite. The only needs addressed in the investment chapter are those of corporations.

Indeed, by granting corporations, not citizens, access to special dispute mechanisms to challenge new regulations, CAFTA ensures that investment will be made based on the short-term interests of transnational corporations. The impact of such rules can be seen with our ten-year history of investment disputes under chapter 11 of the North American Free Trade Agreement. CAFTA will be even worse, by applying the definition of investment to additional categories (such as debt, see above). Congress must turn this model around.

### **Point 7: A guarantee that public services like health care, education and potable water will remain public and accessible to poor communities;**

There has been considerable pressure from corporate interests to privatize public services in order to increase efficiency and liberalize economies. The record of these efforts has been anything but stellar.

The United States, in the forefront of this movement, enjoys one of the least efficient and equitable health care systems in the developed world, with costs generally considered to be out of control. Our public rail transport system has spiraled downward, and there is pressure on public water and sewage utilities to consider the benefits of privatization in applying for federal grants. The privatization of public education has at best yielded questionable benefits.

On the international level, the pressures are being applied through the unholy trinity of multilateral organizations; the International Monetary Fund, the World Bank and the World Trade Organization. In order to secure loans from the WB and the IMF (and others), countries agree to structural adjustment regimes designed to liberalize their economies and repay the loans, and this generally requires the sale of public utilities such as water systems and restrictions on expenditures for education and health. One of the best known cases was the disastrous attempt at privatization of the water system of Cochabamba, Bolivia. In 1998, under financial pressure from the World Bank, Bolivia removed subsidies from the ailing Cochabamba public water supply system and passed control over to Aguas dei Tunari, a subsidiary of the US construction giant, Bechtel. "The World Bank then granted monopolies to private water concessionaires, calling for full-cost water pricing,

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<sup>11</sup> <http://www.art-us.org/docs/alternatives%20dec%202002.pdf>, p 77

pegged the cost of water to the U.S. dollar, and instructed the Bolivian government that the loan monies would not be used to subsidize the poor for water services.”

“After seeing their water rates jacked by up to nearly 35 percent, the people of Cochabamba took to the streets... After a week of escalating protests, ... [the president of Bolivia] announced that the government would break its contract with Bechtel. But not before a 17-year-old boy [among others] was shot to death.”<sup>12</sup>

“In a city where the minimum wage is less than \$100 a month, water bills reached \$20 a month, nearly the cost of feeding a family of five for two weeks.”<sup>13</sup>

The effects on health and education have been less headline grabbing but no less damaging to the future health of the countries undergoing the process of structural adjustment forced privatization. Congress must commit to keeping public services public and accessible to poor communities.

### **Point 8: International trade and investment systems should emphasize fundamental human rights in order to eclipse violence and oppression.**

*In virtue of international law and, in particular, the Charter of the United Nations, Charter of the Organization of American States, Universal Declaration of Human Rights, International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), American Declaration of the Rights and Duties of Man, American Convention on Human Rights, and the Protocol of San Salvador, states are required to respect, protect, and promote the exercise and fulfillment of all universal and indivisible human rights. In order to fulfill this obligation, states must demand and ensure that other social and economic players within their jurisdictions, including transnational corporations, also respect human rights.*<sup>14</sup>

All parties to an FTA must adhere to internationally recognized standards such as the UN Declaration of Human Rights, and other international agreements. This is especially important as past experience shows that human rights are often abused or ignored in the interest of increasing profit. FTAs must include enforceable labor and environmental standards, and provide opportunities for grievances to be aired. They must also include effective measures to hold companies and governments accountable for their actions.

CAFTA has failed on this count. As part of the process of negotiating and implementing the Central America Free Trade Agreement, the United States Trade Representative (USTR) has made numerous demands on the governments of the region to adopt policies and international protocols that contravene UN Conventions meant to protect human rights. The most egregious example of this has been USTR demands concerning extending the protection of U.S. corporate-held pharmaceutical patents, thereby undermining access to generic medicines. In a recent report by the Center of Concern, it is shown that CAFTA will have a highly detrimental effect on the health of the people:

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<sup>12</sup> Barlow, Maude & Clarke, Tony: “Blue Gold”, p155

<sup>13</sup> Shiva, Vandana: “Water Wars”, p102

<sup>14</sup> <http://www.art-us.org/docs/alternatives%20dec%202002.pdf>, p 15.

It is estimated that the Central American Free Trade Agreement (CAFTA) will result in an 800% "increase in the cost of medicines in Costa Rica." Generic drug treatment costs a few hundred dollars a year in Honduras, while patented drugs cost \$12,000 per year in the U.S.<sup>15</sup>

The well-being of the people should be of paramount concern in any negotiation. Congress should ensure that no agreement be allowed to pass when it does not guarantee the human rights of all affected people.

**--- Background prepared by members of the Stop CAFTA Coalition. For inquiries and more information contact Tom Ricker at [tomr@quixote.org](mailto:tomr@quixote.org) or go to [www.stopcafta.org](http://www.stopcafta.org)**

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<sup>15</sup> Trade in the Americas: Women Central to the Debate, Download at: <http://www.coc.org/bin/view.fpl/1090/article/3834.html>