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LADB Staff

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by LADB Staff
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Five Central American countries signed the Central America Free Trade Agreement (CAFTA) with the US on May 28 in Washington, DC. As a practical matter, the event was without functional significance; the signatures will not put the provisions of the agreement into effect. Significant numbers of dissidents throughout the signatory countries, and at least one presidential candidate, cast doubt that the agreement in its present form would ever become law.

For the deal to come into play in any of the Central American countries, it would first have to be ratified in the legislature of each and in the US Congress. The Bush administration has admitted that proponents are far short of the votes needed to pass CAFTA in the US. It is unlikely that the matter would even come up for a vote before late 2005 or 2006. If this trade agreement for which negotiators worked a full year in grandiose negotiating sessions marked by secrecy, unity-shattering rancor among the parties that led some to negotiate separately (see NotiCen, 2004-01-29, 2004-05-20), protest in the popular sectors, and dissension in the private sector does pass in the US Congress, it could still fail to ever become operative as presently written.

Kerry wouldn't sign it

Democratic presidential candidate John Kerry said if elected he would reopen the talks because he does not approve of the way the accord treats labor and the environment. A renegotiated agreement would have to provide "adequate and fully enforceable protections" for the environment and for workers in Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, Kerry told The Wall Street Journal. No fewer than 10,000 Costa Ricans saw it Kerry's way and turned out in the streets of San Jose to let that be known. Hospital workers closed the road from the capital to the airport, and students closed other roads in the university area.

Striking teachers and workers from the Instituto Costarricense de Electricidad (ICE), the state power and telecommunications company, joined together for what could be a protracted battle against CAFTA. "This is barely the first step in a chain of actions that will not stop until the trade agreement is stopped," said union leader Albino Vargas. Among the companies that have announced support for the agreement are Boeing, Eastman Kodak, ExxonMobil, Intel, and Nestle.

They all stand to benefit from the US President George W. Bush-led march southward intended to blanket all of the hemisphere with free-trade agreements. The sole exemption, by mutual disdain, will be Cuba. CAFTA would bridge the North America Free Trade Agreement (NAFTA) to the north and the Free Trade Area of the Americas (FTAA) to the south. What is for Kerry a "disappointing and unnecessary step backwards" that would lead to "a race to the bottom on workers' rights and environmental protection," was, for US Trade Representative Robert Zoellick, "new hope for easing poverty, fostering development, and strengthening democracy."

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Signing for the Bush administration at the ceremony, Zoellick called Kerry's concerns "economic isolationism." Linda Chavez-Thompson, executive vice president of the AFL-CIO labor federation, said the deal would encourage US corporations to move jobs to Central America, where they can "manufacture goods in foreign sweatshops with low-wage labor and sell us those goods at huge profits."

A health hazard

Nestled somewhere in the sheaves of agreement paper are intellectual-property protections that will, say experts, make access to generic medications nearly impossible for Central Americans. Guillermo Murillo, assistant director of Agua Buena, a human rights organization based in Costa Rica, told a reporter, "The rights of patent owners are placed above human rights, especially the right to health." It is particularly galling to people in the field like Murillo to see what amounts to the overturning of safeguards against the loss of access to medicines won in World Trade Organization (WTO) negotiations years ago.

Member countries agreed in Doha, Qatar, in 2001 to protect health within the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). "The Doha Declaration was the product of the international community at its best, recognizing an overriding commitment to health care that cannot be subordinated to commercial considerations," wrote Robert Weissman of the Washington-based organization Essential Action in an analysis of CAFTA. Weissman said, as have others, that these achievements would be reversed under CAFTA.

Specifically, CAFTA would severely limit the practice, commonly used by companies that produce generic drugs, of relying on another company's safety and efficacy data to gain market approval for a generic copy of a branded drug. CAFTA allows a minimum of five years of exclusivity on undisclosed data used to register a drug. Murillo explained that this provision essentially grants pharmaceutical companies a monopoly on new drugs registered in member countries, since the monopolies can be manipulated to apply for up to ten years. CAFTA also departs from TRIPS by requiring countries to compensate patent owners for "unreasonable delays" in granting a patent or marketing approval by extending the patent life for up to five years.

TRIPS also upholds the right of countries to override the rights of patent owners in emergencies. CAFTA could take away that right, according to health activists, by the application of the limits on undisclosed data. The HIV/AIDS epidemic in the region is vulnerable to these restrictions on generics. An estimated 300,000 people are infected when the soon-to-be-included Dominican Republic (see NotiCen, 2004-01-22), which has half the cases, is included. Of 35,000 people who need antiretroviral drugs, only 6,000 get them.

Few can afford these expensive drugs, so it falls to the public-health institutions to supply them. With the limits on generics, "health budgets will have to be increased or there will be even less distribution for lack of resources," said Luis Villa of Medicos sin Fronteras in Guatemala. Villa pointed out that, under CAFTA provisions, countries will be inhibited from taking a chance on generics, because "since they are aware that multinationals can sue them, they simply won't register a medicine if there is any doubt." Delay could kill maquilas On textiles, a category with which there

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was considerable difficulty during negotiations, much of what Central America gained might be moot by the time the US Congress acts on the agreement.

Analysts expect a flight of investments and jobs away from Central America to China. The exodus will be triggered by the elimination of all remaining quantitative restrictions on importing garments and textiles to the US when the WTO 1995 Agreement on Textiles and Clothing (ATC) expires on Jan. 1, 2005. Central America will be just one region among many to lose this industry when the ATC floodgate opens, washing an expected 30 million textile jobs around the world to China, India, and Pakistan during the next three to five years. The case of Honduras illustrates this point. Textile assembly accounts for most of Honduras' manufacturing sector.

To avoid tariffs of from 18% to 28%, Honduras buys fabric and thread from the US. Under CAFTA, Honduras and other countries of the region could buy these materials from anywhere. That would partially offset the 20% cost advantage China has in labor and material. But, if CAFTA is delayed until 2005 or 2006, as it will likely be, the migration to China could already have taken place. The industry is well known for its ability to flee in an instant to take advantage of a labor-arbitrage opportunity. In this situation, the relative advantages are untested. Central America cannot compete in costs, but it can beat China in delivery of finished goods by sometimes as much as two weeks.

Giving China a one-year advantage could sound the death knell for the needle trades in the isthmus. Mexico lost almost a third of its maquila industry to China during a two-year period in the mid-1990s after Beijing employed an aggressive commercial and investment strategy. The loss of this industry, together with the expected crushing of small agricultural producers in the region if CAFTA goes in effect, has led analysts to conclude there will be substantially increased pressure on the poor and dispossessed to migrate to the US.

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