

The Honorable _____
House of Representatives
Washington, D.C. 20515

Dear Representative _____,

I am writing today because I want to urge you to oppose the U.S.-Dominican Republic (D.R.)-Central America Free Trade Agreement (CAFTA), which I understand is likely to come up for a vote soon after the elections. As a U.S. citizen and local activist on Guatemala, I have grave concerns regarding the likely impact of this trade agreement on both countries. While a number of issues are worrisome, I would like to highlight just a few.

Labor: CAFTA requires only that countries enforce their own domestic labor laws; it does not obligate them to adopt additional laws that would put them in compliance with basic international labor norms established by the U.N. and International Labor Organization. And yet Central America's and the Dominican Republic's existing labor laws fall far short of international standards according to human rights organizations.

Under the current Generalized System of Preferences regime, U.S. trade benefits to Central America and the D.R. have been conditional upon compliance with international worker's rights norms. CAFTA would eliminate this leverage. Under CAFTA, a violating country would only have to pay a fine, capped at \$US15 million, which it would pay *back to itself*, purportedly to improve labor law enforcement, although CAFTA provides no mechanism to ensure the fine would be used in this manner. Tariff benefits would be suspended only if a party fails to *pay the fine*, not because the party fails to address the underlying labor violation. Although CAFTA creates a Labor Cooperation and Capacity Building Mechanism to provide cooperative and technical labor assistance, it provides absolutely no funding for this body.

These weak labor enforcement measures stand in stark relief to powerful trade sanctions and unlimited cash damages for violation of CAFTA's *commercial* provisions. And *enforcement* of labor laws is crucial, because Guatemala – like the rest of Central America and the Dominican Republic – despite having a number of respectable labor laws on the books, does not effectively enforce them. According to the State Department's most recent Country Report on Human Rights Practices (2003), for example, Guatemala does not effectively protect workers who attempt to form unions; only 60% of the working population receives the minimum wage; more than half of workers engaged in day-long employment in the rural sector do not receive the wages, benefits and social security allocations required by law; women continue to receive significantly lower pay than men, "in many cases one quarter to one-half the salary for the same work;" approximately 20% of Guatemalan children age 7-14 years (507,000) work; the labor inspection system "remains inadequate and corrupt;" corporations regularly carry out illegal and sometimes violent reprisals with impunity against employees attempting to organize; and corporations continuously flaunt judicial rulings favoring employees.

Agriculture: Central American countries and the D.R. will be required to eliminate import tariffs on rice, beans, yellow corn, and dairy goods, staple products on which the livelihoods of more than 5.5 million small and medium producers depend. Ongoing U.S. agricultural subsidies and supports will permit the export and sale of U.S. agricultural goods below production costs, which is certain to put small Central American and Dominican farmers out of business, (just as NAFTA displaced 1.5 million small Mexican farmers), and place Central America's and the D.R.'s food security at risk.

Although a global debate concerning the safety of genetically-engineered (GE) crops continues, CAFTA would prematurely silence this discussion within Central America and the D.R., prohibiting parties from adhering to the Cartagena Protocol on Biosafety, which acknowledges the right of countries to regulate GE crops and require GE food labels. GE crops pose potential risks that have not been adequately studied. Yet even if GE crops *are* determined to be safe, CAFTA would restrict the traditional right of farmers to save and reuse seeds without paying royalties to patenting corporations, consolidating control of the food supply in the hands of a few multinational agribusiness corporations.

Services: Using a "negative list approach," CAFTA requires the liberalization and privatization of *all* services except for those explicitly listed for exclusion. This presents an enormous risk, as it is crucial that governments be able to guarantee universal access to certain fundamental services, such as education, health care, and water, through subsidization and consumer protection. Yet CAFTA would impose significant restrictions on member countries' ability to regulate service activities in their territories and ensure their compatibility with national interests.

Intellectual Property Rights: World Trade Organization rules grant patents for a period of 20 years. In the case of medicines and agrochemicals under CAFTA, however, countries must extend this period to take account of the time a patenting company uses to conduct health and safety tests prior to patent approval. Non-patenting companies seeking to produce less expensive, generic medicines will not be able to use such test data in a particular country, however, until

five years after the patenting company has been granted patent market rights *in that specific country*. This is likely to result in the delay of life-saving generic medicines reaching Central America and the D.R., and the eventual dominance of U.S. companies in this field once generics are permitted.

Lack of Transparency and Public Participation: CAFTA was negotiated in secret, to the exclusion of broad-based citizen participation, and without true democratic accountability. No independent social reviews or environmental impact assessments were carried out. During the first round of negotiations, U.S. representatives insisted all negotiators sign a confidentiality agreement requiring them to refrain from revealing even the agenda of meetings without the unanimous consent of all parties, as well as precluding negotiators from admitting the existence of the confidentiality agreement itself. In an article that appeared in the April 29th edition of *The Hill*, Senator Byron Dorgan (D-ND) expressed a commonly felt outrage at the privileged position of business interests during the negotiating process, noting that Central American business interests were given U.S. government reports about the likely impact of CAFTA on the U.S. economy at the same time those reports were being withheld from the Senate for reasons of confidentiality.

Investment: Chapter 10 is modeled after NAFTA's Chapter 11 and would allow foreign investors to bring complaints before international tribunals against any government implementing public policies that *might* affect profits the investor *projects to receive* in the future. Under NAFTA, there have been at least 28 cases presented by transnational corporations against the U.S., Canadian, and Mexican governments for loss of profits due to one regulatory policy or another. Investors have won every one of these disputes that has gone all the way through the arbitration process.

Chapter 3 makes it illegal for Central American countries and the Dominican Republic to restrict or prohibit imports from the U.S. as a means of curtailing illegal corporate trade practices by U.S. companies, such as violation of antitrust laws, but does not put the same limitation on the U.S. government.

CAFTA prohibits the imposition of performance requirements, such as job creation or technology transfer, on foreign investors, denying governments the right to establish public policies that respond to domestic objectives and priorities, and significantly decreasing the benefits of foreign direct investment.

Procurement: CAFTA's Chapter 9 undermines the ability of governments to take into consideration important national policy goals such as consumer protection, economic development, environmental protection, public health, gender and racial equity, and respect for human and labor rights, when awarding government contracts for goods and services. Instead, governments must accord foreign suppliers treatment no less favorable than that given domestic suppliers ("national treatment"), and they cannot consider any supplier qualifications beyond those "essential" to the performance of the contract, opening the door for foreign companies to challenge government procurement rules favoring suppliers that further social or development goals, such as environmentally-friendly, socially-conscious, or minority-owned firms.

Who Opposes CAFTA? The following are *only a handful* of the hundreds of organizations, community groups, religious entities, and social forces in the United States and Central America that oppose CAFTA: *on environmental grounds:* Sierra Club, National Wildlife Federation, Friends of the Earth, League of Conservation Voters, Natural Resources Defense Council, Center for International Environmental Law, Earthjustice, U.S. PIRG; *on women's rights issues:* Human Rights Watch, National Organization of Women, Women's Edge; *on labor grounds:* AFL-CIO, the Common Central American Union Platform (more than 22 different unions representing more than 400,000 Central American workers); the International Brotherhood of Teamsters, the United Steelworkers of America; *on public health and intellectual property issues:* American College of Preventive Medicine, American Public Health Association, Physicians for Human Rights, Physicians for Social Responsibility; *on agricultural issues:* National Family Farm Coalition, National Farmers Union, Institute for Agriculture and Trade Policy, hundreds of Central American social organizations in attendance at the 5th MesoAmerican Forum of the People held this July in El Salvador, Oxfam America.

As you can see, eminent institutions representing millions of people in the U.S., Central America, and the Dominican Republic stand opposed to CAFTA. **I thank you for your time and request a response to this letter indicating your position, as well as the reason for your position, on CAFTA.**

Sincerely,
