

# PUBLIC HEALTH STATEMENT ON THE U.S.-CENTRAL AMERICAN FREE TRADE AGREEMENT (CAFTA)

To: U.S. Congress, U.S. Trade Representative

We are writing to express our grave concerns regarding the US-Central American Free Trade Agreement (CAFTA) and similar pending trade agreements. CAFTA would establish rules for trade among seven nations (the U.S., Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic).

CAFTA would lock in threats to public health and health care. Many CAFTA provisions are already matters of controversy within the World Trade Organization (WTO). These provisions should not be approved in CAFTA, and should not stand as precedents for future trade agreements.

## Public Health Concerns

**1. There is no formal representation for health care and public health in US trade negotiations,** and little if any representation within other countries. Many industries sit on Advisory Committees to the U.S. Trade Representative, including tobacco, alcohol, pharmaceuticals, health insurance, and processed foods. There are no representatives from public health. No impact assessments are conducted on trade in health services.

*Costa Rica assigns its Ministry of Health to CAFTA's Committee on Technical Barriers to Trade. The US appoints only the USTR.*

## **2. CAFTA pits health and human rights against the rights of private foreign corporations.**

Measures that protect health have been successfully challenged under the investors' rights provisions of similar trade agreements. For example, under the North American Free Trade Agreement (NAFTA): 1) The US Metalclad Company successfully sued Mexico for \$16 million when Mexico refused to reopen a toxic waste dump that would contaminate people and the environment. 2) A private Canadian corporation is challenging an executive order by the State of California to remove the additive MTBE from gasoline. MTBE is known to leak into ground water, and acts as a carcinogen. 3) A Canadian tobacco company is challenging the Master Settlement Agreement on tobacco. 4) Unsafe trucks are allowed to drive from Mexico into the U.S.

Under CAFTA, nations can enact and enforce measures that are necessary to protect human, animal or plant life, but only if these measures are "applied in a manner which would constitute arbitrary or unjustifiable discrimination between countries, or a disguised restriction on trade in services." In comparison, nations can enact any measures they consider necessary for peace and security. There are no qualifications to this right.

## **3. CAFTA rules preempt the authority of public officials to protect health standards: professional licensing, environmental and occupational health, alcohol and tobacco protections, privacy rules, and patients' rights.** California state and local health regulations could be challenged:

- Nuclear power (SONGS)
- Sewage disposal
- Waste disposal (IWMD)
- Hazardous materials management (CUPA)
- Air quality: Toxic emissions industrial (AQMD); Motor vehicle emissions (AQMD)
- Water quality (OCWD/RWQB): Potable; Reclaimed/recycled; Recreational
- Food safety: Retail inspections; Food recalls
- Community planning: Restrictions on alcohol/tobacco sales; ETS laws/ordinances
- Building codes
- Traffic safety

**4. CAFTA can reduce access to vital services including health care, water supply and sanitation, education, and energy.** By covering health care and other services under trade rules, CAFTA would facilitate privatization of these services, making them less affordable, especially for vulnerable populations, and less accountable. While health is universally recognized as a human right, it may become a market commodity if trade agreements don't protect affordable universal access to health care.

*Doctors in El Salvador have gone on strike twice in the last three years to prevent privatization of their public health care system, in order to assure access and affordability of health services. Under CAFTA, government spending at scores of Salvadoran hospitals would be open to private companies.*

**5. CAFTA preempts the production and humanitarian distribution of affordable lifesaving medicines.** It also grants multinational corporations intellectual property rights to plants and seeds that the majority of the world's poor depend on, undermining sustainable, biologically diverse agriculture.

*Millions with HIV/AIDS cannot get affordable, life-saving medications due to the WTO's TRIPS agreement, which props up prices for drug companies. At the same time, many US residents can't afford needed drugs. CAFTA would cut access to affordable generic drugs in Central America, and prop up prices in the U.S..*

*Guatemalan farmers who depend on their knowledge of medicinal and nutritional plants could be required to pay transnational corporations that patent seeds, undermining their ability to survive.*

## 6. CAFTA Undermines Public Health Objectives of Government Procurement

Now, local, state and national governments' procurement contracts can specify standards for medical and financial privacy, quality and performance, local sustainable economic development, environmental protection, public health and safety, gender and racial equity, labor practices, and human rights. CAFTA rules on government procurement undermine these important capabilities. Under CAFTA, government actions to favor local companies or service suppliers, or to impose technical specifications, can be challenged as barriers to trade. The U.S. has agreed that these rules will cover health care services.

### Public Health and Health Care Community: Reframing the Trade Debate to Prioritize Health

The Call for Public Health Accountability in International Trade Agreements asks Congress and the USTR to take the following steps to prioritize health in international trade negotiations:

1. Assure that health is not pitted against commercial interests.
2. Include public health representatives in the negotiating advisory process, and promote transparency and democratic accountability at all levels of trade negotiations.
3. Call for an assessment of the impact of trade agreements on population health, and assure based on such assessment that these agreements do not have an adverse impact on health.
4. Exclude vital human services such as health care and water, and intellectual property rules that affect affordable medications, from trade negotiations and challenge under trade agreements.
5. Support enforceable commitments to advancing population health, and to achieving universal access to health care, affordable medications, and safe, affordable water in the U.S. and internationally.

American College of Preventive Medicine  
Center for Policy Analysis on Trade and Health (CPATH)  
People's Health Movement, U.S.A.  
Physicians for Social Responsibility

American Public Health Association  
Hesperian Foundation  
Physicians for Human Rights

Contact: CPATH ♦ Ellen R. Shaffer and Joe Brenner, Directors ♦ 98 Seal Rock Drive, San Francisco, CA 94121 USA  
phone: 415-933-6204 ♦ fax: 415-831-4091 email: cpath@cpath.org ♦ www.cpath.org