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Environment and Trade: The Linchpin to Successful CAFTA Negotiations?

By John Audley

Trade and environment issues have virtually disappeared from negotiations between the United States and five Central American governments—Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua—despite the fact Congress finally got past its resistance to linking trade and the environment by making it a part of the Trade Promotion Authority. Negotiators from all sides have dumped important environmental issues by the side of the road during the U.S.-Central America Free Trade Agreement (CAFTA) trade talks, and there has been no effort to retrieve these issues. Few members of Congress (and the press) believe the environment/trade links are worth any time and energy—unless they want to use them as a reason to oppose a trade bill. In short, the once-pivotal environmental constituency has lost its leverage in trade policy.

Although some in the administration, Congress, and the business community may celebrate the disappearance of the environment—figuratively speaking—this stance is shortsighted. Public support for trade liberalization will not stop eroding until government leaders demonstrate significant progress on the social issues affected by trade.

After years of acrimonious debate, there is a real opportunity to make progress on trade and the environment in the CAFTA negotiations. To realize this objective, pro-traders must push the Bush administration to deliver more on the environment than a warmed-over version of the U.S.-Chile Free Trade Agreement. The key is to define the terms of the trade and environment debate in a way that addresses the challenges to environmental protection facing Central American governments.

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WHY ENVIRONMENT, AND WHY NOW?

For ten years, the relationship between environment and trade has been a hot-button issue with both trade enthusiasts and opponents alike. Environmentalists have argued that trade and environment linkages were obvious, and that trade rules should become instruments for proactive environmental policy. Trade proponents have rejected such claims, arguing instead that countries must first grow their economies; once the benefits from trade liberalization trickled down, their argument went, poor countries could then afford to care about their degraded, health-impairing environments. Through successive trade negotiations, the debate over the interrelationship between trade and the environment turned into a war, the lines hardened, and now there is not much discussion across the neutral zone.

Since this battle began, solid research has debunked the fear that free-trade agreements would create third world pollution havens and lead to a regulatory race to the bottom. At the same time, we now know that expanded economic activity in countries where governments have weak or nonexistent environmental protection policies may be harmful to people, to their environment, and to their long-term development goals. Notwithstanding this knowledge, the trade debate in the United States is frozen into an adversarial pose, with all sides dug deeply into their original positions.

Some trade enthusiasts may view the Bush administration's positions on environment and economic policies as a sign the war is nearly won and they no longer have to worry about connections between environment and trade. Domestic and international politics render such thinking foolish. Mounting evidence on the effects of trade on the environment has compelled many developing countries to explore ways to leverage trade openings into obtaining assistance for

environmental improvement. For these countries, managing resources responsibly and enhancing public health through improvements in waste management, potable water delivery, and wastewater removal are the keys to their environment and trade dilemma.

Some developed countries are also rethinking the links between trade and the environment. They are now trying to craft a trade and environment relationship that antitrade/proenvironment forces will acknowledge as serious proof that increased trade can actually improve environmental conditions in poor countries. To its credit, the United States has developed three approaches to negotiating environmental issues into trade agreements: into the agreement itself (such as a chapter on the environment); into parallel agreements on environmental cooperation (which broaden the range to include environmental issues not necessarily directly related to trade); and as part of technical-assistance and capacity-building packages.

To date, the results of the U.S. strategy to negotiating environment into trade agreements are mixed. In both the U.S.-Chile and U.S.-Singapore free trade accords, the parties agree to pay fines if the other party "fails to effectively enforce" its environmental laws. While this approach may work with more developed countries, less developed countries like the Central Americans fear the threat of fines, especially when they know that their ability to enforce environmental laws is weak. Latin American government officials remember with anger trade disputes with the United States involving tuna fish and shrimp caught in their countries' waters, and they do not want to give the United States any more leverage over their ability to trade.

In the poorest developing countries, environmental-cooperation accords and technical- assistance packages hold greater

promise of significant effect, because these emphasize a demand-driven, cooperative agenda to identify and solve problems related to trade and the environment. For example, if increased industry will result in production of hazardous waste, then how will a developing country manage it? Solutions range from encouraging companies to minimize waste (usually a good economic decision as well) to building a waste-management facility capable of proper disposal. The problem for U.S. negotiators is that negotiating enforcement fines makes it hard for developing country trade officials to view cooperative proposals positively.

In addition to the tensions created by a focus on negative trade measures, there are also many bugs to work out of the U.S. strategy linking trade negotiations to building environmental protection capacity. The U.S. is developing a bad habit of making commitments to enhance environmental protection without including any new resources. For example, three free trade agreements – U.S.-Jordan, U.S.-Chile, and U.S.-Singapore – include parallel commitments to provide technical assistance and establish a cooperative trade and environment agenda; as yet, none of these commitments includes new funds. There is also little evidence that new commitments arising from trade negotiations to strengthen environmental protection capacity build off existing programs. Since 1995, for example, U.S. federal agencies have joined forces with Central American environment and development ministries to reform their environmental laws. That job is nearly complete, but actual enforcement and public accountability are still years away. So far, however, representatives of this collaborative effort largely have been excluded from the capacity building discussions that run parallel to the CAFTA negotiations.

In sum, the U.S. approach to linking environment to trade – emphasis on fines for non-enforcement of environmental laws and ‘soft’ promises to strengthen cooperative approaches to building environmental protection capacity – will not work in Central America. Negotiators must develop a version of the Chile-U.S. model that directly addresses the challenges facing these countries: a commitment to build their economies, while developing their capacity to enhance public health and protect the environment.

THE OPPORTUNITY FOR EFFECTIVE INTEGRATION IS NOW

Real world politics dictate that CAFTA will not succeed without a more robust effort to leverage genuine environmental gains; a strong political coalition is forming in the United States to oppose the agreement. No one would be surprised if organized labor opposes the agreement, but organized labor may be joined by U.S. agriculture interests seeking even greater protection from international competition. If some combination of labor and agriculture interests jell into CAFTA opposition, the results could be disastrous. An agreement that unjustly limits the ability of Central Americans to trade the two products they have to sell—apparel and agriculture—correctly would be criticized as antidevelopment.

If pursued properly in CAFTA, environmental objectives can be used to strengthen the coalition in support of the final package. In fact, because the supporting coalition will be challenged from all sides, votes in favor of stronger efforts to protect the environment could become the swing bloc necessary to win support. To obtain this backing, pro-trade members and their supporters must be able to defend their pro-CAFTA votes on environmental grounds, by insisting the administration deliver more on the environment than it did in its trade agreement with Chile.

First, the U.S. Government must work with its Central American government trading partners to develop a package of meaningful technical-assistance and capacity-building commitments that extend ongoing efforts. The agreement must hold Central American governments accountable for improved protection of the environment and public health. Spending U.S. tax dollars on technical-assistance programs that do not produce real reform is not only a waste of money, it sends the wrong message to other governments: that they can negotiate for more foreign aid without changing their behavior or living up to their promises.

The solution to this objective will not be found in market access rules. Tariff rates are close to zero on most environmentally sensitive products made in Central America and trade rules do not differentiate between green and nongreen products, so using increased market access as an incentive is not possible. Instead, the parties must agree to a specific timeline for implementing revised environmental laws and regulations, as well as to some independent means of verifying effectiveness. Given the cooperative work program begun in 1995, Central American environment ministries should be able to enforce their own laws within ten years. Until that time, independent monitoring by either the United Nations Environment Program, or the environment division in the Organization for American States, would provide donor countries like the U.S. with the information they will need to judge the effectiveness of international support for improvements in environment and human health protection.

Finally, citizens must have an opportunity to play a significant role in the administration of the trade agreement and technical-assistance programs. One of the most important elements of this involvement is citizens' ability to raise concerns about the nonenforcement of

environmental laws to attract trade and investment. Central American governments have begun to reach out to their citizens on trade-related matters, but eight months of public outreach cannot mend decades of mistrust.

Building off the U.S.-Chile FTA, the United States and Central American governments can demonstrate to the rest of the world that deeper integration between rich and poor countries is not only politically possible, it can also improve quality of life for all people involved.

WHY SHOULD I TAKE A STAND FOR ENVIRONMENT IN CAFTA?

Whether you are a government official, businessperson, or a representative from a nongovernmental organization, it is reasonable to ask, why should I care much about stronger environmental provisions in CAFTA? There are numerous answers.

It Is the Right Thing to Do

Central Americans need long-term technical assistance to build their capacity to protect the environment and human health. Incorporating technical assistance into trade negotiations enables U.S. officials to place conditions on continued technical assistance, which increase the chance that Central Americans will actually live up to their end of the bargain and produce the environment and public health protections so desperately needed.

Congress needs to tell the Bush administration that incorporating environmental concerns into trade deals is not a one-size-fits-all exercise. Using the environmental provisions in the U.S.-Jordan Free Trade Agreement as a floor is fine, but these should be neither a ceiling nor a box. To enable congressional members to defend their votes against attacks from environmental groups, the CAFTA negotiations must lead to relevant environmental provisions. Central

American governments generally lack effective enforcement tools and their democratic procedures are weak; both components are essential for a punitive approach to trade and environment that will work.

**Business Stakes
Are Higher Than They Seem**

Whatever the final product, the agreement will help to shape the business environment. An increasingly important component of that environment is consumers' demonstrated desire to purchase products made in an environmentally responsible way and with due respect for workers' rights. Business leaders can and should devote resources to ensure the manufacturing plants they operate or employ address these consumer demands, and their efforts are easier when governments perform properly as effective regulators. Smart businesspeople know they cannot operate successfully in poorly regulated or unregulated environments.

**Environmental Groups
Must Get Back in the Game**

CAFTA negotiations present U.S. environmental organizations with a real opportunity to get off the bench and back into the trade game. To be successful, they will have to shift their focus away from the use of punitive trade measures as a means of enforcing environmental laws,

and away from their fear that trade disciplines are solely designed to rob regulators of their authority. Protecting environmental laws from improper pressure from trade rules is a responsible role for environmentalists to play, but it cannot be their only role if they truly care about improving the quality of the environment and public health in Central America. In the United States, environmental groups enjoy a variety of avenues to influence regulatory policy, and trade rules will not block those routes. In Central America, the idea of regulatory authority has no real meaning, as regulatory agencies have not yet developed any true capacity to regulate. Northern environmental groups should take this opportunity to end the impression they put the well being of flora and fauna above that of real people in developing countries.

Environmental issues in the CAFTA negotiations may be off the radar screen for the moment, but if trade proponents really want to see this agreement pass, they should work hard to find a way to make protection of the environment and human health a centerpiece in negotiations. This is possible, but success will require heavy lifting from all sides to overcome the tendency to fall back upon the current model for trade and the environment, which simply does not work in Central America. The time is right, but is the leadership there? ■

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