



# **Fighting FTAs: the growing resistance to bilateral free trade and investment agreements**

**bilaterals.org • BIOTHAI • GRAIN**  
**February 2008**

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*Fighting FTAs: The growing resistance to bilateral free trade and investment agreements*

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Available in English, French, Spanish and Thai. Online at <http://www.fightingftas.org>.

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## **Contact information**

### **fightingftas.org**

fightingftas.org is a collaborative website where you will find the online version of this publication as well as: additional texts, audio interviews with activists, hundreds of photos from different anti-FTA struggles, selected videos and further resources. Several people, mostly from the bilaterals.org team, maintain the site. Also available on DVD, for those without internet access.

*Website:* <http://www.fightingftas.org>

*Email:* [fightingftas.org@gmail.com](mailto:fightingftas.org@gmail.com)

### **bilaterals.org**

bilaterals.org is a collective effort to share information and stimulate cooperation among movements and organisations fighting against bilateral free trade and investment agreements. It was launched in September 2004 as an open-publishing site. A small collective takes care of day-to-day updating and maintenance. The site contains over 10,000 articles about the push for and fight against FTAs, attracting 6,000 visitors each day. Your direct collaboration is needed and welcome.

*Website:* <http://www.bilaterals.org>

*Email:* [bilaterals.org@gmail.com](mailto:bilaterals.org@gmail.com)

### **BIOTHAI**

BIOTHAI (Biodiversity Action Thailand) was created in 1995 to raise public awareness and fight for better policies related to biodiversity, which is central to community livelihoods in Thailand. It presently has 7 staff and operates as both an organisation and a network. BIOTHAI was a founding member of FTA Watch and is heavily involved in people's struggles against FTAs, GMOs and the increasing industrialisation and corporate takeover of food and agriculture, not only in Thailand but also in Asia.

*Website:* <http://www.biothai.org>

*Email:* [info@biothai.net](mailto:info@biothai.net)

*Address:* 125/356 Narathip, Rattanatibeth Rd, Muang, Nonthaburi, Thailand

### **GRAIN**

GRAIN is a small international organisation that works to help support movements in their struggles against privatisation and corporate control in the area of food, biodiversity and agriculture. It was created in 1990 and has 15 staff spread across Africa, Asia, Europe, Latin America and North America. GRAIN has been involved in the struggle against FTAs since the late 1990s, when it became clear that bilateral trade and investment deals were becoming a cutting edge tool to push corporate control over agricultural biodiversity, farther and faster than the WTO and other international fora.

*Website:* <http://www.grain.org>

*Email:* [grain@grain.org](mailto:grain@grain.org)

*Address:* Girona 25 ppal, 08010 Barcelona, Spain

## **Authors**

To get in touch with any particular author, write to [fightingftas.org@gmail.com](mailto:fightingftas.org@gmail.com) (or if you don't have internet access, the GRAIN office address) and we will send you their contact details.

# Fighting FTAs

## the growing resistance to bilateral free trade and investment agreements

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This publication is dedicated to Oscar Leonardo Salas Angel, Heo Se-wook and countless others whose lives have ended too soon in the struggle against FTAs.

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## Dedication

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Oscar Salas (second from left), 20-year-old linguistics student, was shot by the Colombian government's anti-disturbance squads during a student mobilisation against the US-Colombia FTA in Bogota on 8 March 2006. He died two days later.

(Photo: Indymedia Colombia)



Heo Se-wook, 54-year-old taxi driver and member of the Korean Confederation of Trade Unions, immolated himself on 1 April 2007 in front of Hyatt Hotel, Seoul, in protest against the US-South Korea free trade agreement. Burned on 70% of his body, Heo succumbed to his injuries two weeks later.

(Photo: Korean Alliance against KORUS FTA)





Participants at the “Fighting FTAs” international strategy workshop, Bangkok, July 2006 (Photo: GRAIN)

## About this publication

In July 2006, in Bangkok, FTA Watch, a large but loose Thai coalition, organised the first international strategy workshop among grassroots activists fighting bilateral free trade and investment agreements (FTAs). They were supported in this effort by Médecins Sans Frontières, bilaterals.org and GRAIN. That three-day workshop, dubbed “Fighting FTAs”, was a unique event for many who attended.<sup>1</sup> Some say that we collectively processed many of the key strategy issues that later became important for them in their national struggles. Others felt that it was an important support to social movements. Yet others continued nurturing the links that were made during the workshop, especially in their regional settings.

While the workshop was never meant to set up any kind of permanent platform, several of the organisers decided in early 2007 to move forward in working together on more tools to share experiences and understanding about FTAs and the growing struggles around them. GRAIN and bilaterals.org initially agreed to draw up a document that would provide a “big picture” view of what these deals are about, coming from a shared political perspective. They were soon joined by BIOTHA, a member of FTA Watch, who also wanted to take a next step in helping facilitate a sharing of experiences from the national struggles. From this, a project came together to produce a collaborative publication. The three groups called on many people who came to the Bangkok workshop to join them in this effort, as well as others. The feedback was very positive and we pulled together as broad a collection as possible of written, audio and visual materials from around the world about people’s experiences with, and resistance to, bilateral trade and investment deals.

This publication aims to do three things. First, it tries to provide a solid understanding of the “FTA frenzy” that so many governments are caught up in. Many people often do not understand bilateral FTAs very well until their

government is on the path to signing one. Then again, there are significant differences between a US FTA, a Japanese FTA and a South-South one. Part one of this document tries to dissect and make sense of all that. Second, it brings together people’s accounts of the struggle against FTAs in their own countries from different parts of the world. While there is a huge diversity in these struggles, there is a lot of commonality too, as will be seen across part two. Where accounts could not be shared in writing, we tried to pull together some audio interviews, which are available through the publication’s website, <http://www.fightingftas.org>. Finally, part three tries to draw some learnings from people’s experiences to date, which might help those who have yet to engage in the fight against FTAs.

A few practical remarks. The material found in this publication and in the accompanying website is the fruit of a collective effort involving many people. There is no copyright or other form of ownership attached to it – and where we are not able to provide an original source for photos or other materials, we apologise.<sup>2</sup> We would also point out that the publication was put together through the course of 2007 and some material grew dated by the time it went to print. Finally, this material and the website that houses it will eventually be merged into bilaterals.org to keep things “under one roof”, since bilaterals.org already provides a massive collection of news and analysis about FTAs and peoples’ struggles and has been updated daily since September 2004.

Many people got involved in this project in one way or another, often contributing directly to the production of these materials, and we are keen to thank all of them: Christine Ahn, Anthony Akunzule, Ruperto Aleroz, Jemma Bailey, Andrés Barreda, Marisa Berry, Nicolás Botteghelz, Silvana Buján, Nick Buxton, Byun Jeong-pil, Eva Carazo, Laura Carlsen, Cecilia Cherrez, Choi Sejin, Stefan Christoff, Gabi Cob, Leigh Cookson, Margarita

<sup>1</sup> A summary report is available in English, Spanish and French at [http://www.bilaterals.org/rubrique.php3?id\\_rubrique=162](http://www.bilaterals.org/rubrique.php3?id_rubrique=162).

<sup>2</sup> We can easily correct these omissions on the publication’s website. If you would like anything changed in the web presentation, please contact [fightingftas.org@gmail.com](mailto:fightingftas.org@gmail.com).

Florez, Sarrah Gasendo, Dawood Hammoudeh, Fernando Hicap, John Hilary, María Eugenia Jeria, Jo Dongwon, Jamal Juma, Beverly Keen, Kole Kilibarda, Aehwa Kim, Chee-hyung Kim, Kate Kirkwood, Ingrid Kossmann, Marie-Eve Lamy, Wol-san Liem, Marc Maes, Min Kyung-woo, Camila Montecinos, Jennifer Moore, Movimiento Cultura contra el TLC, Kwanchai Muenying, Sandra Nicolas, Raquel Nuñez, Armin Paasch, Fabian Pacheco, Rubén Pagura, Paul Pantastico, Charly Poppe, Annette Ramos, Francisca Rodríguez, Silvia Rodríguez, Isaac Rojas, Maria Roof, Wallie Roux, Manuel Rozental, Azra Talat Sayeed, Devinder Sharma, Burke Stansbury, Aurelio Suarez, Maria Eugenia Trejos, Luis Paulino Vargas, Ramón Vera, Alberto Villareal, Dennis Villeareal, Marjorie Yerushalmi, Raul Zibechi, and all the staff at GRAIN. Our final appreciations go to Brot für alle (Switzerland), Brot für die Welt (Germany), Christian World Service (New Zealand), Misereor (Germany),

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While this publication is coming out first in English, Spanish and French, we would welcome it if other groups want to make it available in more languages or post it on their own websites. Please don't hesitate to use these materials as you wish.

Aziz Choudry for bilaterals.org  
Renée Vellvé and Carlos Vicente for GRAIN  
Witoon Lianchamroon for BIOTHA

December 2007

# one FTAs: the big picture

(bilaterals.org and GRAIN)

September 2007

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## Colonisation redux: new agreements, old games

**bilaterals.org and GRAIN** (September 2007)

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*“Colonial leopards rarely change their spots. They just stalk their prey in different ways”* (Moana Jackson, (Ngati Porou/ Ngati Kahungunu), Maori lawyer), 1995.

*“FTAs and farmers cannot live under the same sky.”*  
Choi Jae-Kwan, Korean Peasants League, July 2006



For the Korean people's movements, the introduction of IMF policies in South Korea in 1987, the nation's entry into the OECD and WTO in the mid-1990s and the pressure for FTAs in the 2000s form one continuum of neoliberalisation wreaking havoc in their country, especially on farmers and workers.

(Photo: Chamsaesang)

The comprehensiveness and range of many of today's bilateral free trade and investment agreements (FTAs) is striking. Typically, they cover an expansive – and worrying – array of areas and issues, which multiply their impacts across societies and sectors and provoke wide-ranging resistance to them in many countries. The US signed its first bilateral FTA with Israel in 1985. The European Union (EU) has been forging soft “trade cooperation” deals since the formal end of its colonial rule at the turn of the 1960s, moving gradually into stronger FTAs since the 1990s, often following the footprints of the US. The same goes for Western European countries that

are not part of the EU and which have been steadily harvesting their own FTAs since a first deal with Turkey in 1991.<sup>1</sup> Australia, Japan and other industrialised countries have been a bit slower to jump on the FTA train, although the 1983 Australia-New Zealand Closer Economic Relations Trade Agreement is an early example of a comprehensive FTA. But governments of

<sup>1</sup> We're referring to the European Free Trade Association (EFTA): Switzerland, Liechtenstein, Norway and Iceland.



the South have historically given more emphasis to forming regional blocs,<sup>2</sup> though in the 1980s several Latin American states penned a rash of small preferential trade deals among themselves. Bilateral investment treaties (BITs) started in 1959, but emerge from an even longer history of “commerce and amity” agreements going back to the 19th century.

### Roots of FTA pressure

While some may see the bewildering proliferation of bilateral FTAs and BITs throughout the world as a relatively new phenomenon, it has deep roots. These can be traced back to long before the creation of the World Bank and International Monetary Fund (IMF), not to mention international trade bodies like the World Trade Organisation (WTO) or its predecessor, the General Agreement on Tariffs and Trade (GATT). The origins of today’s FTA mania lie in a long history of colonial exploitation, capitalism and imperialism – just as many of today’s people’s movements against FTAs trace their own histories to previous generations of anti-colonial, anti-imperialist resistance and struggles for self-determination.

The predecessors of the first transnational corporations (TNCs) that now dominate national and global economies – and sharply influence the spread, scope and priorities of FTAs – brought together state and private capitalist interests, like the relationship between the British East India Company and the British Parliament and Crown, and the agreements stitched up by colonial powers and their companies with newly independent countries of the South.



“We don’t want this annexation – no to CAFTA!”, from the streets of Costa Rica in 2007

<sup>2</sup> Many people might recognise something in the alphabet soup: Mercosur, ASEAN, CAN, SADC, COMESA, SAARC, UEMOA, GCC and so on.

The tight interweaving of state power, geopolitics and corporate capitalist exploitation is therefore nothing new. Opponents of the US–Dominican Republic–Central America Free Trade Agreement (CAFTA), for instance, remind us to look back in history to understand fully Washington’s economic and geopolitical interests in pushing FTAs on the countries of the Americas. In the 1823 Monroe Doctrine, the US declared the western hemisphere to be its sphere of influence. Any attempt on the part of European powers “to extend their system to any portion of this hemisphere” was deemed “dangerous to our peace and safety”. This was reinforced in 1904 with the Roosevelt Corollary, which held that the US had the right as a “civilised nation” to intervene in its southern neighbours’ affairs as “an international police power”. George W. Bush’s trade agenda, and Washington’s military aid to Colombia and Mexico to support US geopolitical and corporate interests, continue this imperialist tradition.

The classic colonial state was structured for the exploitation and extraction of resources. More recently, neoliberal globalisation has forced countries into becoming sources of plunder for TNCs and facilitates the volatile and unencumbered flow of finance capital in various forms. At the heart of the strategy and tactics of FTA “negotiations” – especially North–South ones – lies a ruthless divide-and-rule game plan, struggles among powerful states and corporations (including those in rising powers such as South Africa, China, Brazil and India) over their “spheres of influence”, and a world view that commodifies nature, people and human relations for commercial exploitation and monopoly control. Alongside this we can see struggles and contradictions between contrasting forms of capitalist organisation, and new resource wars over energy, minerals and water, among other things. Over the last few years these processes have intensified a thousandfold.

Argentine political scientist Atilio Boron describes the current era as one

“characterised, now even more than in the past, by the concentration of capital, the overwhelming predominance of monopolies, the increasingly important role played by financial capital, the export of capital and the division of the world into different spheres of influence. The acceleration of globalisation that took place in the final quarter of the last century, instead of weakening or dissolving the imperialist structures of the world economy, magnified the structural asymmetries that define the insertion of the different countries in it. While a handful of developed capitalist nations increased their capacity to control, at least partially, the productive processes at a global level, the financialisation of the international economy and the growing circulation of goods and services, the great majority of countries witnessed the growth of their external dependency and the widening of the gap that separated them from the centre.”<sup>3</sup>

Since the end of the Cold War, people around the world have been sold the idea that neoliberal capitalist models of “development” are the only game in town. Yet despite the seeming ascendancy of TNCs and the “triumph” of capitalism, all has not been plain sailing for those promoting neoliberalism. Internal tensions among and within political and economic elites, as well as external

<sup>3</sup> Atilio Boron, *Empire and imperialism: A critical reading of Michael Hardt and Antonio Negri*, Zed Books, London, pp. 3–4.

Activists denounce the reality of free trade at the APEC Summit in Sydney, September 2007. The city was under intense security lockdown so that the business of FTA negotiations among the official delegates could carry on undisturbed.

(Photo: Selwyn Manning)



pressure from diverse and growing mass popular struggles against different faces of neoliberal globalisation, have forced its promoters on to the defensive. At the same time, there have been tensions between different forms of regionalism and globalism. During the often uncertain days of the Uruguay Round of GATT negotiations (1986–94) at the multilateral level, many governments pursued on the side regional initiatives such as the North American Free Trade Agreement (NAFTA) and Asia-Pacific Economic Cooperation (APEC). At that time, they were seen as the fall-back option, in case the Uruguay Round failed.

Attempts by proponents of neoliberal globalisation to downplay or deny the links between the the devastating financial crisis that swept through Asia in 1997–98 and the imposition of economic liberalisation were met with growing scepticism. But, as a remedy, major financial institutions and governments prescribed to the countries most affected more of the same bitter medicine. In the context of growing resistance to neoliberalism, former WTO Director General Supachai Panitchpakdi even claimed that 9/11 was “a blessing in disguise” for the globalisers.<sup>4</sup> Indeed, it has been cynically used ever since as a cudgel with which to bully countries in the South and to impel the push of neoliberalism. As the WTO has lurched from one crisis of legitimacy and credibility to another, and with multilateral trade negotiations fast going nowhere, international summits have become breeding grounds for bilateral FTAs. The WTO’s official stance on the explosive growth of FTAs has changed from one of smug confidence and dismissal to pathetic desperation. The current Director General of the WTO, Pascal Lamy, insists: “I consider that a bit of bilateral pepper in multilateral sauce makes it more tasty. But as we all know, a plate of pepper is not that great a meal.”<sup>5</sup>

Patrick Cronin, senior vice-president of the Washington-based Center for Strategic and International Studies, picked a better analogy in 2004: “With the setback to WTO reform at Cancún, the [Bush] administration is now focused like a laser beam on regional and especially bilateral trade accords.”<sup>6</sup> Laser-guided liberalisation – i.e. bilateralism, through FTAs – allows global powers like the US and the EU to rein in selected countries and restrict the potential for allies to stand up to Western bullying and double standards at fora like the WTO. Through bilateral deals, these blocs have been able to target more precisely those policies or other government measures which they dislike, severely restricting the rights and capacities of governments to maintain sovereign economic, social and environmental policy frameworks.



<sup>4</sup> “Supachai: Tragedy a blessing in disguise”, *Bangkok Post*, 22 November 2001.

<sup>5</sup> WTO e-training session, 29 March 2007. <https://etraining.wto.org/chat/archive/29mar2007.htm>

<sup>6</sup> *Daily Yomiuri*, Tokyo, 1 January 2004

## Shopping around

Behind every FTA we can find the hands of corporate capitalists. As TNCs and other domestic companies in the process of transnationalisation (often with the support of national governments) have consolidated, restructured, diversified and looked for new markets and areas of profit over the past 50 years, their national lobbying and political leverage have grown, as have their demands for expanded and enforceable freedoms from any regulations that they object to. They – and their financially rewarded political allies – have been forum shopping. When unable to get what they have sought in one venue, they have moved on. Corporations have pushed for the acceptance of binding disciplines that redefine and/or drag areas of what have hitherto been seen as sovereign domestic policy areas – such as agriculture, services and intellectual property – into international trade rule-making through global agreements such as those administered by the WTO. Two examples – investment and intellectual property – illustrate how TNCs have gone from forum to forum in recent decades trying to get what they want, and how FTAs have become their latest weapon of choice.

**Investment:** In the 1960s, the Organisation for Economic Cooperation and Development (OECD) adopted two non-binding codes on investment liberalisation: the Code of Liberalisation of Capital Movements and the Code of Liberalisation of Current Invisible Operations. It relied on peer pressure for compliance. Then, during the GATT Uruguay Round, the US, the EU and Japan tried to go a step further, pushing for an enforceable investment agreement. But this met with opposition. Between 1995 and 1998 there were yet further attempts to create a binding Multilateral Agreement on Investment (MAI) at the OECD, which included measures similar to NAFTA's Chapter 11. After the MAI proposal failed in 1998, due to both external opposition and internal disagreements among governments, renewed attempts to get an investment agreement

at the WTO went nowhere. Many states – especially from the South – firmly opposed any resurrection of the MAI at the WTO. But industrial countries have been expanding investment liberalisation through bilateral FTAs and BITs. Bilaterals provide a step-by-step approach which can form a launch pad for more comprehensive multilateral agreements. Once countries are enmeshed in webs of bilateral investment treaties, it will be harder to resist an MAI-type agreement at the multilateral level if negotiations ever start there again in earnest.

**Intellectual property:** Ditto with IPR. In the 1970s, governments of the North got frustrated trying to push stronger intellectual property rules through the UN's World Intellectual Property Organisation (WIPO). Southern countries were alert to the dangers of strong monopoly regimes, thanks especially to policy guidance coming out of the UN Conference on Trade and Development (UNCTAD), and they used the one-country-one-vote mechanism of the UN to block pressure from the North, which was seeking stronger rents from intellectual property due to the changing nature of corporate assets in their countries. In the 1980s, they went to the GATT and put intellectual property on the agenda of the Uruguay Round. The proposed agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was presented as a tool to help TNCs by stopping the cross-border flow of counterfeit brand-name clothing, music and videos.<sup>7</sup> But it set the stage for aggressively broadening patent rights on micro-organisms, crop seeds and life-saving medicines. At that time, most nations did not allow patents on food, pharmaceuticals or other products considered as basic to human needs. The US Intellectual Property Committee – a coalition of 13 large US corporations, including DuPont, Pfizer, Bristol-Myers, and Merck – worked with US trade representatives to draft language that would standardise global IPR laws along US lines, and make them enforceable under what would become the WTO. Such corporate activism greatly shaped TRIPS: a full 96 of the 111-strong

US delegation negotiating the text during the Uruguay Round came from the private sector.<sup>8</sup>

TRIPS thus became the first binding international agreement to permit corporate monopolies on life forms. But in a compromise with the EU, the US did not get all it wanted. Instead of requiring patents over plant varieties – the seeds that farmers sow – the agreement left it open for countries to opt for patents or some other form of plant variety ownership. Since then, the US, the EU and Japan have been working hard to raise this new “minimum standard” up the next notch through their bilateral FTAs. The US imposes patents on plants and animals in its FTAs, while the EU and Japan, for the benefit of their biotech companies, push the UPOV Convention, a set of patent-like rules to prevent farmers from saving seeds.

With drugs, a similar and even more sinister scenario has been playing out. At the WTO, the pharmaceutical lobby got only so much; it has been especially irked by an unclear understanding of what a battle over the interpretation of the conditions permit attached to compulsory licensing and parallel importation of patented drugs. They have thus aggressively turned to bilateral FTAs as a tool to impose far stricter rules preventing the manufacture and trade of generics. Whether in seeds or in medicines, the idea is to stop competition and rake in more profits from longer and stricter monopolies – no matter that we're talking of food and health. FTAs are the easiest and most effective way for corporations to get what they want right now.

<sup>7</sup> TRIPS also covers copyrights and related performance rights, layouts of integrated circuits, geographical indicators (as for wines and cheeses), trademarks and industrial designs.

<sup>8</sup> Rob Weissman, “Patent Plunder: TRIPping the Third World”, *Multinational Monitor*, November 1990; see also Aziz Choudry, “Biotechnology, Intellectual Property Rights and the WTO” in Brian Tokar (ed.), *Gene Traders: Biotechnology, World Trade and the Globalization of Hunger*, Toward Freedom, Burlington, VT, 2004.



## Locking in and ratcheting up neoliberalism

FTAs are today a tool of choice to lock in and expand the discredited, socially and ecologically destructive model imposed on much of the world in the name of “development” by the World Bank, IMF and regional financial institutions. Structural adjustment programmes, meant to get countries on the right track, include privatising state-owned enterprises and services, slashing public spending, orienting economies towards export, increasing interest rates and taxes, and slashing subsidies on basic consumer items such as food, medicines and fuel. While this model has worked extremely well for transnational capital, it has been an abject failure for the majority of the world’s peoples. The so-called free-market model has led to increased inequalities between and within countries. The World Bank, IMF, Inter-American Development Bank and Asian Development Bank have for decades pushed “technical assistance” and loans to debtor countries in order to adjust them to full trade and investment liberalisation, with the World Bank dramatically increasing its funds to trade-related activities, particularly targeting least-developed countries, transition economies and those in the process of WTO accession. In reality it is aid for trade liberalisation.

Similarly, bilateral official development assistance policies work towards the same goals. Trade and aid linkages have been used by donor governments as leverage to advance the general spread of neoliberalism and specific policy reforms via multilateral, regional and bilateral trade and investment agreements. For example, USAID is a key promoter of biotechnology in the Third World – its work goes hand in hand with US corporate agendas and Washington’s international trade priorities. It offers “technical assistance” to countries engaged in FTAs with the US. Legislative changes to Vietnam’s intellectual property rights (IPR) laws were made under the USAID-funded STAR-VIETNAM technical assistance project, which is supporting implementation of the bilateral trade agreement with the US.<sup>9</sup> Other governments have similar programmes for “trade capacity building assistance”, such as the Canadian International Development Agency’s trade-related technical assistance, and similar programmes of the Australian, European and New Zealand governments. Japan’s Ministry of Economy, Trade and Industry has also created FTA-related aid



agreements relating to technical cooperation and personnel development in auto and steel sectors in Malaysia and Thailand.

Meanwhile, in many countries in the North, domestic economic reforms have often broadly mirrored the same neoliberal trends, with waves of privatisation, deregulation and liberalisation in the name of economic growth and competitiveness. For example, New Zealand, Australia and Canada, whose governments are all active players in FTAs, have promoted aggressive free-trade policies internationally, while all, to differing degrees, have moved their own economies towards corporatised, privatised and deregulated models. As elsewhere, embracing “free trade” means deploying a package of reforms: minimal controls on big business; unrestricted foreign investment; unlimited export of profits; privatisation of state assets, utilities and services; full exposure of domestic markets to cheap imports; privately funded and owned infrastructure operating through deregulated markets; market-driven service sectors, including social services such as education, transport and healthcare; competitive (i.e. low cost, deunionised) and flexible (temporary, part-time and contract-based) labour markets; and free movement for foreign investors (while retaining strict controls on foreign workers and refugees). The ultimate goal is a hyper-extended neoliberal regime, on a global scale, locked in for ever, with full enforcement machinery.



FTA means death under patent for people with HIV/AIDS and other diseases said protestors at the XVI International AIDS Conference in Toronto in 2006.

(Photo: Riekhavoc)

<sup>9</sup> See US-Vietnam Trade Council website.  
[http://www.usvtc.org/trade/ipr/STAR\\_IPR\\_28apr05.pdf](http://www.usvtc.org/trade/ipr/STAR_IPR_28apr05.pdf)

# Today's FTA frenzy

bilaterals.org and Grain

The shift to bilateral FTAs as the tool of choice to push neoliberalisation today stands on two historic pillars: the North America Free Trade Agreement (NAFTA) showed what an FTA can do to drive the expansion of capitalist globalisation; and the collapse of the World Trade Organisation (WTO)'s Doha Round made space for many more NAFTAs.

NAFTA, signed between Mexico, Canada and the US in 1992, was an expansion of the Canada-US FTA which took effect in 1989. Due to NAFTA's content and its North-South political and economic dynamic, it became something of a model for the next wave of bilateral trade deals. NAFTA broke new ground in:

- *Tearing down tariffs on US farm imports.* US maize, milk and other products became so cheap south of the Rio Grande that they

could outsell Mexican goods. Over a million Mexican campesinos have been forced off their lands as a result, unable to compete against subsidised US agribusiness.

- *Making it easier for US companies to set up shop in Mexico* to assemble manufactured goods and ship them cheaply back to the US. The costs have been paid by Mexican workers: suppression of labour rights, increased social violence (especially against

women) and the push towards emigration.

- *Giving US and Canadian corporations the right effectively to sue the Mexican government* for any policy decision or omission that directly or indirectly affects their expectations of making a profit from their investments in Mexico. The Mexican government has been sued for more than US\$1.7 billion through 15 NAFTA investor-state disputes since 1996.<sup>1</sup>
- *Providing a platform for the US government to impose security and immigration policies on Mexico* (as part of the "partnership"), *not to mention environmental and labour standards* that serve the interests of US corporations. An example of what this means can be found in the biotechnology arena, where Mexico has taken the lead in pushing the legal pre-eminence of what FTAs say about the labelling of genetically modified foods within (and against) the biosafety protocol of the UN's Convention on Biological Diversity.<sup>2</sup>

Simply put, NAFTA established a new paradigm in terms of what FTAs could achieve for TNCs.

While the full extent of NAFTA's tremendous impact is still unfolding, the multilateral trade system has entered a serious state of inertia, giving unprecedented impetus to FTAs as a way to push trade and investment liberalisation forward. The current round of WTO trade talks – meant to reduce tariffs on imported



Thai communities have protested heavily against the TRIPS-plus content of the proposed US-Thai FTA, because of the implications for farmers and people living with HIV/AIDS

<sup>1</sup> For details see Scott Sinclair, "NAFTA dispute table", Canadian Centre for Policy Alternatives, March 2007 at [http://policyalternatives.ca/documents/National\\_Office\\_Pubs/2007/NAFTA\\_Dispute\\_Table\\_March2007.pdf](http://policyalternatives.ca/documents/National_Office_Pubs/2007/NAFTA_Dispute_Table_March2007.pdf)

<sup>2</sup> See GRAIN and the African Centre for Biosafety, "Bilateral biosafety bullies", October 2006. <http://www.grain.org/briefings/?id=199>

farm and manufactured goods, open up trade in services, deregulate fisheries, etc. – has hardly got anywhere. It failed to get started in Seattle in November 1999, due to internal tensions among WTO members regarding the speed and scope of WTO talks, growing resentment towards the dominance of a handful of Northern governments, and external pressure from massive street protests which rocked the city during the WTO members' meeting. Shortly after the round started in Doha in November 2001, it hit bedrock in Cancún in September 2003, where political exasperation with both the EU's and the US's refusal to reduce internal agricultural subsidies while demanding that countries open up new areas for liberalisation was just too much for Southern governments, led by India and Brazil. Negotiations collapsed once again in Geneva in July 2006. Subsequent attempts to revive the talks have thus far been unsuccessful, although it would be unwise to dismiss the WTO altogether.

Two moments in this series of crises stand out:

- Cancún triggered a significant shift of pressure and focus towards FTAs. Robert Zoellick, then US Trade Representative, immediately retaliated with his "competitive liberalisation" programme, whereby the US would pit Southern countries against each other to fight for US market access on a select one-by-one bilateral basis. In no time, Washington announced FTA negotiations with Thailand, Ecuador, Peru, Colombia and, soon after, five countries in Central America. Japan, China and many other Asia-Pacific governments also started looking much more earnestly into FTAs and jumping into negotiations. It was during this period that many people adopted Columbia University economist Jagdish Bhagwati's phrase "spaghetti bowl effect" to describe the dangers of a complicated web of divergent bilateral trade rules replacing a more coherent multilateral regime that only a global forum like the WTO could maintain.
- The suspension of the Doha Round in July 2006 triggered yet another serious shift towards FTAs. While the US did not start new negotiations as a result, the EU was boosted into launching major new FTA talks with 21 countries in Latin America and Asia. By then, however, much had already changed since Cancún. Latin American countries had more or less "buried" the Free Trade Area of the Americas (FTAA) initiative, and some, led by Venezuela, had embarked on a rival Bolivarian Alternative for the Americas (ALBA). Venezuela had bolted from the Andean Community and joined Mercosur in protest against several Andean states' FTAs with Washington. The 77 African, Caribbean and Pacific countries of the ACP group were entering into the last phase of their negotiations with Brussels on economic partnership agreements (EPAs). And China – having secured partial but significant deals with Thailand and with ASEAN as a whole, besides starting to engage the West by initiating comprehensive FTA talks with New Zealand and then Australia – was embarking on a broader multi-tiered FTA strategy.

Compliance with WTO agreements has been brutally difficult, but bilateral deals with WTO-plus provisions are often even tougher. The bilaterals strategy is quite

clearly seen by EU and US trade negotiators as a way to push governments into going further and faster while they fail to get their way at the WTO.

## FTAs in relation to the WTO

While the two may seem like different directions, bilateral FTAs and the multilateral WTO bounce off each other in many ways.

### ***FTAs appear more limited than the WTO in terms of who they affect – but it's just an appearance.***

A Canada-Korea FTA, for instance, will mainly affect business opportunities – and therefore jobs, social rights and all sorts of regulatory frameworks governing markets – between Canada and Korea. But because of the "most favoured nation" principle that all WTO members must respect, any privileges granted by Korea to Canada under such an FTA would have to be extended to other nations that enter similar agreements with Korea. So while FTAs are limited to the countries involved, there is a built-in snowball effect to extend bilateral market privileges to others. This greatly facilitates the development of new international rules and standards in a bottom-up way. Rather than negotiate policies or best practices – e.g. to break down investment barriers – at a global (i.e. visible and slow) level, countries can create a series of *faits accomplis* by spreading them through bilateral deals. This viral effect is a major advantage of FTAs to powers such as the US, Switzerland, Japan and the EU. Big powers can effectively speak of "emerging international standards" – e.g. on broadcasting rights, copyright terms or pharmaceutical data protection – and then force everyone else into line.

### ***North-South FTAs go much further than the WTO.***

FTAs between industrialised countries and Southern countries are generally WTO-plus: they use WTO agreements as a minimum standard and go further. This has been happening in the areas of intellectual property (TRIPS), investment, and services (GATS) – the three areas that industrialised countries are most interested in seeing reformed for the benefit of their corporations. The US, EU and EFTA have been most adept at using FTAs for this purpose. Until now, Japan has been more willing to back down when negotiating partners protest, for example on IPR, though this may change soon.<sup>3</sup> FTAs between Southern countries generally do not impose major policy changes on each other, much less WTO-plus policies. One big exception to the WTO-plus character of North-South FTAs is migration. First World capital should be free to move across borders, but the mobility of Third World workers remains a delicate matter.<sup>4</sup>

### ***FTAs detract from the WTO achieving its ends.***

The WTO allows for FTAs under certain conditions.<sup>5</sup> FTAs are regarded by the WTO as, at best, "exceptions" to the rule of non-discrimination in trade relations. They are

<sup>4</sup> There are currently 192 million migrants in the world, most of whom are nationals of Third World countries who have gone to industrialised countries to find work.

<sup>5</sup> These conditions are laid out in what is called GATT Article XXIV. It says that WTO members can engage in sideline FTAs as long as they: (a) eliminate, and don't just reduce, tariffs and non-tariff barriers (b) within a reasonable period of time (usually interpreted as 10–12 years) and (c) cover "substantially all trade" between the parties (usually interpreted as 85–90%). GATT Article XXIV applies only to trade in goods and, as such, does not allow for "special and differentiated" treatment between countries. FTAs covering trade in services have to abide by Article 5 of the GATS Agreement, which does allow for special and differentiated treatment, as well as a few more flexibilities.

<sup>3</sup> See GRAIN, "Japan digs its claws into biodiversity through FTAs", Against the grain, August 2007 <http://www.grain.org/articles/?id=29>



tolerated as extracurricular pursuits while the “real business” of reforming global trade rules must take place at the all-encompassing multilateral level. Pundits and politicians fight over whether FTAs damage the WTO (by dispersing negotiating capacity and diverting trade itself) or actually support it (by promoting trade liberalisation in reality). What is clear is that much energy is going into designing piecemeal trade agreements far away from the slow-moving WTO.<sup>6</sup> Meanwhile, major Southern countries such as China, India and Brazil are gaining a bigger and bigger share of the trade pie (not because of FTAs, but because of aggressive domestic agendas). FTAs allow countries to pick and choose their privileged trade partners (markets), while trade power is shifting.

### ***FTAs serve a much broader purpose than the WTO.***

While FTAs simultaneously do less and more than the WTO, and hold the WTO back from achieving new levels of consensus around trade reform, the comparison stops there. While FTAs have a trade-spurring component – whether on the basis of competition or cooperation or both – they are primarily tools to move relationships forward. In the case of North-South agreements, these are usually relationships of domination. For instance, the US lowers its tariffs for some Colombian exports (“market access”) and in return gets untold freedom and sovereignty for its corporations to operate in Colombia. A country like the US does not choose a country like Colombia for an FTA because it’s a large trading partner, but for geopolitical reasons: e.g. to secure a presence in Latin America, to isolate and undermine President Chávez of neighbouring Venezuela, to get more leverage on Colombia to allow the aerial spraying of *coca* crops, to operate more closely in the war against the FARC guerrillas, and so on. In South-South agreements, there is also some power posturing, but most of these deals play out in a regional context where some amount of cooperation-building is necessary. FTAs are both tools of foreign policy and economic instruments used by individual governments (or regional groups of states).

### **Corporates setting the agenda**

FTA negotiating objectives are formed by corporations and governments working closely together. For instance, US agribusiness and pharmaceutical corporations are both the scriptwriters and cheerleaders of TRIPS-plus provisions in FTAs. The US government’s Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters (IFAC-3), in its April 2004 report on the IPR provisions of the US-Morocco FTA, states that it

“welcomes the pledge made by Morocco to provide patent protection for plants and animals and the confirmation made by both Parties that patents shall be available for any new uses or methods of using a known product for treating humans and animals. This

<sup>6</sup> For all its rules and bureaucracy, the WTO doesn’t really monitor FTAs. A committee is supposed to review them, to make sure that Article XXIV and so on are being respected. But although the committee meets, this work has hardly happened since the WTO began operations in 1994. Out of the 194 FTAs submitted to the committee for review as of March 2007, only 19 have gone through the full examination procedure – a paltry 9%.

<sup>7</sup> “Transcript: Susan Schwab interview”, *Financial Times*, London, 17 November 2006.  
[http://www.bilaterals.org/article.php3?id\\_article=6505](http://www.bilaterals.org/article.php3?id_article=6505)



(Photo: Chamsaesang)

*“Bilateral and regional FTAs in the Asia-Pacific are formalised manifestations of where our respective private sectors have taken us ... it is really business and government moving in tandem.”*

Susan Schwab, office of the US Trade Representative, 2006<sup>7</sup>

will make available patent protection for transgenic plants and animals that are new, involve an inventive step and are capable of industrial application.”

The Committee goes on to note that “this is a significant improvement over the commitments made by Chile and CAFTA in their FTAs and urges US negotiators to insist in all future FTAs that patent protection be made available to both plants and animals.”<sup>8</sup>

It is very clear that this is a global, not case-by-case, strategy for US industry. IFAC-3 is a veritable powerhouse of US corporate titans. Its members include Pfizer, Merck, Eli Lilly, the Biotechnology Industry Organisation, the Pharmaceutical Research and Manufacturers of America (PhRMA), Time Warner, Anheuser-Busch, and the private sector coalition for US copyright-based industries, the International Intellectual Property Alliance.<sup>9</sup> As intellectual property expert Peter Drahos puts it,

“IFAC is a committee that gets its hands dirty by reviewing and drafting specific agreements. It does this technical work across all US trade initiatives in intellectual property, whether bilateral, regional or multilateral. It is thus able to co-ordinate at a technical level the work it does across these different fora, thereby ensuring that US trade negotiating initiatives push intellectual property standards in the direction that US industry would like. The technical expertise on IFAC, as well as the expertise available to it from the corporate legal divisions of its members means

<sup>8</sup> The US-Morocco Free Trade Agreement (FTA): The Intellectual Property Provisions. Report of the Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters (IFAC-3), 6 April 2004.  
[http://www.ustr.gov/assets/Trade\\_Agreements/Bilateral/Morocco\\_FTA/Reports/asset\\_upload\\_file164\\_3139.pdf](http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Morocco_FTA/Reports/asset_upload_file164_3139.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Peter Drahos, “Expanding intellectual property’s empire: the role of FTAs”, Research School of Social Sciences, Australian National University, Canberra, November 2003.  
<http://www.grain.org/rights/tripsplus.cfm?id=28>



(Photo: Courtesy Health Gap)

that, for example, it can evaluate a country's intellectual property standards in detail when that country seeks WTO accession and it can provide detailed assessments of the standards that USTR negotiators must bring home in a negotiation."<sup>10</sup>

The Secretariat of the US-Thailand FTA Business Coalition comprises the US-ASEAN Business Council, representing US corporations with interests in ASEAN, and the National Association of Manufacturers (NAM), the largest industrial trade lobby group in the US. NAM boasts: "Our voice is not compromised by non-industry interests."<sup>11</sup> FedEx, General Electric Company, New York Life, Time Warner and Unocal are corporate chairs of the Coalition. Steering Committee members include: AIG, Cargill, Caterpillar, Citigroup, Corn Refiners Association, the Coalition of Services Industries, Dow Chemical, Ford, the National Pork Producers Council, PhRMA, Price-WaterhouseCoopers, Securities Industry Association, United Parcel Service and the US Chamber of Commerce.<sup>12</sup> These business coalitions play an integral role in forming US negotiating objectives for FTAs and are quite open about their self-interest and eagerness to keep raising the stakes. An important corporate backer of the recently signed US-Korea FTA was the American Insurance Association, which seeks to crack open the world's eighth largest insurance market. BusinessEurope (formerly the Union of Industrial and Employers' Confederations of Europe - UNICE) is also upfront about its goals for FTA deals: "Given the increasingly important role of services in EU exports, all future FTAs must ensure comprehensive liberalisation of key sectors including financial services, telecommunications, professional and business services and express delivery services. ... The EU has a comparative advantage across the board in services and needs to ensure that this advantage is pressed home in future FTAs."<sup>13</sup>

Nippon Keidanren - Japan's big business federation - was a key pressure group in shaping Tokyo's FTA ambitions towards Singapore, Mexico, South Korea and Indonesia. New Zealand dairy conglomerate Fonterra, formed by merger of the country's two largest dairy cooperatives and the New Zealand Dairy Board, enjoys a close relationship with the country's trade officials and is an aggressive proponent of agricultural trade liberalisation. Fonterra is a key supporter of a China-New Zealand FTA, as it wants to edge in on China's growing

demand for dairy products. The Australia-China Business Council, which is actively lobbying for a China-Australia FTA, has as its vice-presidents the presidents of Australia/Asia Gas and BHP Billiton Petroleum, and a corporate relations executive from Rio Tinto.

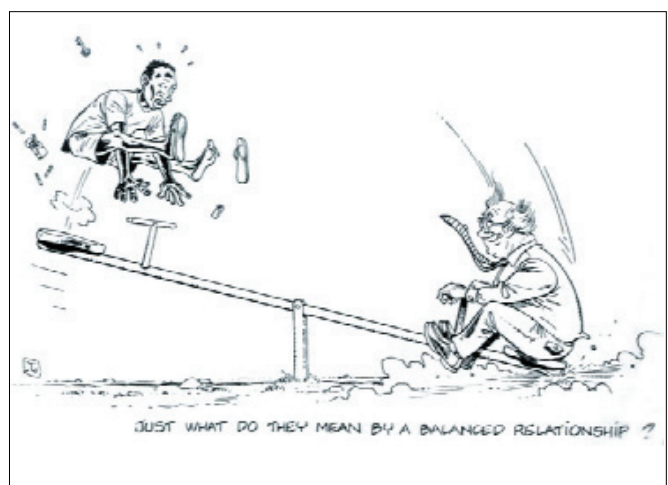
But Southern TNCs, such as Thailand's Charoen Pokphand (CP), have also been active players in influencing FTA talks for their own interests, which often run counter to those of small farmers. "Our Prime Minister Thaksin Shinawatra has discussed with the Prime Minister of Japan that Thailand will give up its insistence on withdrawing rice from the [Japan-Thailand FTA] negotiation in order to make the negotiations move forward. I think that Japan should prove its sincerity by not withdrawing other products such as shrimp, chicken and seafood," said Pornsilpa Patcharintanukul, CP senior executive and vice-secretary of Thailand Chamber.<sup>14</sup>

### Key points in understanding FTAs

To understand the overall FTA game, we have to look across all the different processes and draw out the key features of these agreements. It's not hard to do - and it's critical to understanding their power and how we may fight them.

**FTAs are just one tool:** Despite the strong focus on FTAs, no one puts all their eggs in one basket. Big powers like the US or the EU are especially adept at using a whole range of instruments to coerce smaller countries into following their economic policy prescriptions. They use the UN agencies, the international finance institutions (World Bank, International Monetary Fund, regional development banks), the WTO, their own development aid machinery, unilateral policies and plain old carrot-and-stick deals to build alliances and secure policy change. Even though FTAs dig deep, it's important not to see them as the only thing going on.

**Not all FTAs are created equal:** Some FTAs are essentially about domination.<sup>15</sup> Others are more about co-operation. Most will inevitably mix these two, but to different degrees.



<sup>15</sup> Aside from the domination-cooperation spectrum, FTAs differ a lot by name and nuance. We have free trade agreements (FTAs), preferential trade agreements (PTAs), economic cooperation agreements (ECAs), economic partnership agreements (EPAs), comprehensive economic partnership agreements (CEPAs), strategic economic partnership agreements (SEPA), comprehensive economic cooperation agreements (CECAs), regional trade agreements (RTAs), association agreements (AAs) and so on.

<sup>11</sup> NAM At A Glance. NAM Website:

[www.nam.org/s\\_nam/doc1.asp?CID=53&DID=224181](http://www.nam.org/s_nam/doc1.asp?CID=53&DID=224181)

<sup>12</sup> US-Thailand FTA Business Coalition website.

<http://www.us-asean.org/us-thai-fta/>

<sup>13</sup> "UNICE strategy on an EU approach to free trade agreements", Union of Industrial and Employers' Confederations of Europe, Brussels, 7 December 2006,

[http://www.bilaterals.org/article.php3?id\\_article=7265](http://www.bilaterals.org/article.php3?id_article=7265)

<sup>14</sup> Quoted in the *SiamRath Daily* of 27 October 2004.

North-South FTAs are generally designed to open Southern countries to private companies of the North, giving them freedom to operate. They do this particularly through investment, IPR and services provisions. (Bilateral investment treaties do the same.) These three are the most significant chapters of FTAs for industrialised countries, though there are many others which are also important (*see box: Anatomy of an FTA*). Southern countries are supposed to get increased market access: they are supposed to be able to sell more in the “developed” country as lower tariffs make their goods (and services, if they export any) more competitive. Reciprocity between two unequal partners does not make them equal, but, rather, reinforces unequal power relations. To make this whole scheme work, Northern countries often toss in some cash hand-outs for trade capacity-building or development cooperation – friendly

“sugar” to help the bitter “medicine” of dominance go down.

South-South FTAs, which are mushrooming at present, are invariably weaker agreements. Until now, they have mainly been tariff reduction schemes: the two (or more) parties agree to lower the tariffs they apply to each other’s exports and only for a limited list of goods.<sup>16</sup> Latin American governments entered into a lot of such deals as they moved out of import substitution and into export-oriented development strategies in the 1980s. Lately, this kind of simplistic FTA has become popular with Asian governments as a way of stoking regional trade and further testing the potential of economic integration, which, despite years of official talk, has still not amounted to much in Asia. Today, however, South-South FTAs are starting to expand from mere tariff

## Anatomy of an FTA

A typical “comprehensive” US FTA can cover 20 issues.

- **investment:** a package of rights to ensure that one party’s companies can set up and operate in the other country with no interference from the state; includes enforcement of those rights, the right of investors to sue the foreign government and an independent dispute settlement mechanism which relies on arbitration behind closed doors at the World Bank instead of national courts
- **intellectual property:** a package of rights to ensure that one party’s companies can own, as exclusive property and for the longest period of time possible, any kind of knowledge or information (brands, plant and animal varieties, drug formulas, satellite transmissions, webpages downloaded onto computers, business methods, etc) in the other country; includes enforcement of those rights through criminal, rather than civil, law; usually includes forced compliance with a number of international intellectual property treaties
- **services:** the right of one party’s companies to own and operate in all service industries of the other country: banking,

law, accounting, health, education, water, energy, culture, communications, transportation, etc. (A “service”, it’s been said, is anything that you can’t drop on your foot.)

- **financial services:** specific provisions to liberalise insurance, pension and banking-related services, removal of capital controls if they exist
- **environment:** both parties agree to implement their own environmental laws; may include forced compliance with a few international environment treaties
- **government procurement:** the right of one party’s companies to supply the foreign government (e.g. military and police supplies)
- **sanitary and phytosanitary measures:** US standards shall apply (e.g. no barriers to the commercialisation of GMOs)
- **technical barriers to trade:** US standards shall apply (e.g. no labelling of GMOs)
- **market access:** specific tariffs and quotas, especially on agriculture, fishery and textile products
- **transparency:** the right of one party’s companies to be informed of new laws being drafted in the other country and the right to comment on those laws before they are adopted, so that they don’t disfavour the foreign investor

- **labour:** both parties agree to implement their own labour laws; may include a commitment to implement a number of International Labour Organisation standards (but not the ILO conventions)
- **electronic commerce:** preventing taxation on commercial transactions conducted over the internet
- **rules of origin:** thresholds to determine when a product can be considered “made in \_\_\_” for market access purposes; in textiles, the US applies a “yarn-forward” rule (the yarn itself must be from the US)
- **competition policy:** both parties agree to implement their own anti-monopoly laws
- **customs:** agreed measures to speed up customs
- **trade remedies:** limited allowance for temporary safeguards in case imports surge as a result of market openings
- **dispute settlement:** arbitration at a forum of choice; allows for the payment of fees as a remedy when the complaint is about labour or environmental laws

Several of these issues have been declared “non-negotiable” by Southern governments at the WTO.

<sup>16</sup> These are usually referred to as “preferential trade agreements” (PTAs) or even “partial” PTAs.



reduction schemes to broader economic liberalisation pacts addressing both services and investment. But they still do not dictate policy changes on the signatory states the way North-South agreements do.

**FTAs are driven by wider concerns than “trade”:** They are mostly driven by a mixture of geopolitical, security and economic concerns. Geopolitical concerns – power relationships between countries – are quite evident in the US and EU FTAs, not only in the choice of countries that they pursue FTAs with but also in the contents. Some examples:

- The US is using FTAs to undermine social and political opposition to Israel in the Middle East and the broader Arab world. Examples are FTAs concluded with Jordan, Bahrain and Morocco; the Palestinian component of the US-Israel FTA; the US-sponsored Egypt-Israel Qualified Industrial Zones; games played with Egypt (where the US dangled an FTA carrot, withdrew it, dangled it again and withdrew it again depending on the issue of the moment); and the overall US-Middle East FTA project
- US FTAs in the Arab world have created significant problems for regional alliances such as the Gulf Cooperation Council (GCC) and the Arab League. One GCC rule is that no member can independently enter into an FTA with a third party. Bahrain broke that rule by signing with the US, causing tremendous strain on the group for several years. Further US deals with Oman and talks with the UAE created a *fait accompli* that the GCC – especially Saudi Arabia – was forced to accept. Bahrain has had to drop out of the Arab League’s long-standing boycott of Israel because of its FTA with Washington. The US-Morocco deal prevents Morocco from applying trade preferences to third parties that are not net exporters of certain agricultural products. Hence Morocco cannot fully implement its commitments under the Agadir Agreement, an FTA between four Arab countries that is meant to be a springboard toward the Arab League’s own FTA. And there is the “capitalism stops terrorism” hype. Announcing the start of talks on a US-Pakistan BIT in September 2004, Robert Zoellick said: “Pakistan and the United States are partners in combating global terrorism. A BIT based on the high standards contained in our model text can play an important role in strengthening Pakistan’s economy, so as to create new opportunities for exporters and investors in both economies and assist in meeting the economic conditions to counter terrorism.”<sup>17</sup>
- In Latin America, FTAs have been used by Washington for various geopolitical purposes: to control the border with Mexico (NAFTA), to create a buffer to Chávez (by offering a TIFA, a BIT and an FTA to Uruguay,

which has divided Mercosur, an economic cornerstone that Chávez would like to rely on), to isolate Brazil (again by courting Uruguay and detabilsing Mercosur) and to maintain economic (e.g. the Panama canal) and military dominance in the region (particularly in Colombia, where US military advisers are stationed near the Venezuelan border helping the Colombian military fight FARC. As in the Middle East, Washington’s FTA drive in Latin America has also put tremendous strain on regional blocs – not only Mercosur but also the Andean Community. When the US Senate gave its “thumbs up” to the US-Peru FTA, the business world gushed: “As Peruvians [now] gain choices about their future, they won’t have to turn to Chávez for answers.”<sup>18</sup> Bush is now lobbying Congress to ratify the US-Colombia deal as “the main US policy tool” to stop Chávez.<sup>19</sup>

- EU FTAs explicitly address military issues. The initialled agreement with Syria has a special provision committing Damascus to the pursuit of a “verifiable Middle East zone free of weapons of mass destruction, nuclear, biological and chemical, and their delivery systems”.<sup>20</sup> The EU has been seeking the same with Iran, and even managed to stop (at least temporarily) Tehran’s uranium enrichment programme as a basis for the resumption of FTA talks.<sup>21</sup> Meanwhile, Brussels has been stammering over whether to include or delete a weapons of mass destruction clause in its FTA with nuclear power India,<sup>22</sup> and moving towards a broader commitment not only to prevent the “proliferation of WMDs” but to “fight terrorism” in forthcoming FTAs with Central America and the Andean Community.<sup>23</sup>
- The Australian government’s FTA game plan is starting to merge brazenly with military objectives. Prior to the launch of FTA talks with Japan in 2007 it signed a joint security cooperation pact with the officially demilitarised country.<sup>24</sup> Plans for an Australia-Israel

*“The sense that is now being conveyed around the world is that US policy is to sign FTAs with other countries only if they are prepared to adhere to US foreign policy positions. An FTA, in other words, is not necessarily an agreement for which all parties benefit from trade expansion but rather a favor to be bestowed based on support of US foreign policy.”<sup>26</sup>*

Sidney Weintraub, Centre for Strategic and International Studies

<sup>17</sup> “United States, Pakistan Begin Bilateral Investment Treaty Negotiations”, USTR press statement, 28 September 2004, <http://www.state.gov/e/eb/rls/prsrl/2004/36573.htm>

<sup>18</sup> “Peru is in, now where’s Colombia?” *Business Investor’s Daily*, Editorial, 4 December 2007. <http://www.investors.com/editorial/editorialcontent.asp?secid=1501&status=article&id=281664179614983>

<sup>19</sup> Agence France-Presse, “Bush wields Colombia trade deal to halt Venezuela”, Washington DC, 8 December 2007, [http://www.bilaterals.org/article.php3?id\\_article=10626](http://www.bilaterals.org/article.php3?id_article=10626)

<sup>20</sup> EU-Syria Association Agreement of 2004, Article 4, at [http://www.bilaterals.org/IMG/pdf/com2004\\_0808en01.pdf](http://www.bilaterals.org/IMG/pdf/com2004_0808en01.pdf)

<sup>21</sup> Dilip Hiro, “No Carrots, All Stick”, *Mother Jones*, 8 November 2004, [http://www.bilaterals.org/article.php3?id\\_article=941](http://www.bilaterals.org/article.php3?id_article=941)

<sup>22</sup> “EU aide worried by calls to drop India WMD clause”, Reuters, 2 March

2007, at [http://www.bilaterals.org/article.php3?id\\_article=7311](http://www.bilaterals.org/article.php3?id_article=7311)

<sup>23</sup> Draft EU-CAN negotiating directive at [http://www.bilaterals.org/article.php3?id\\_article=8334](http://www.bilaterals.org/article.php3?id_article=8334) and draft EU-Central America negotiating directive at [http://www.bilaterals.org/article.php3?id\\_article=8336](http://www.bilaterals.org/article.php3?id_article=8336). No mention of terrorism or WMDs appears in the draft EU-ASEAN negotiating directive.

<sup>24</sup> Kyodo, “Japan, Australia strike strategic security cooperation agreement”, Tokyo, 13 March 2007. [http://www.bilaterals.org/article.php3?id\\_article=9759](http://www.bilaterals.org/article.php3?id_article=9759)

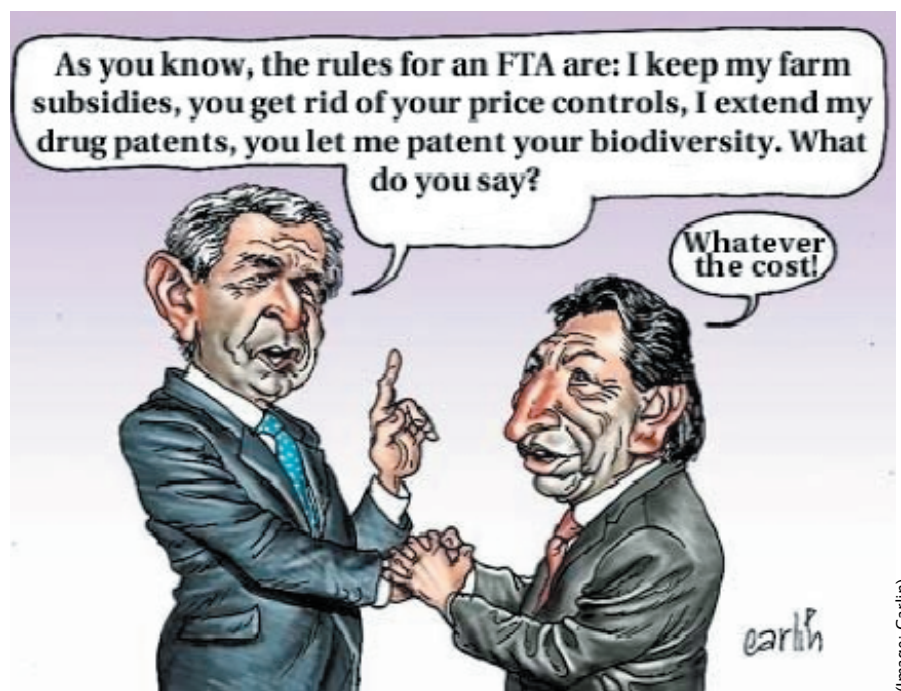
<sup>25</sup> Mark Dodd, “Israeli deal to boost defence”, *The Australian*, 26 September 2007. <http://www.theaustralian.news.com.au/story/0,25197,22483470-15084,00.html>

<sup>26</sup> Sidney Weintraub, “The politics of US trade policy”, BBC, 3 September 2003. <http://news.bbc.co.uk/1/hi/business/3169649.stm>

FTA, to be concluded in time for Israel's 60th birthday in 2008, are tightly linked to plans for joint defence cooperation, in addition to the business opportunities in high-tech weaponry sales that the deal is expected to provide.<sup>25</sup>

The strong foreign policy agenda underpinning US FTAs helps to explain why Washington picks countries with whom the US trades very little for FTAs. It's hard to disentangle geopolitical concerns from the security issues that drive FTAs. The security issues are not just about guns and borders. Security agendas pursued through FTAs extend visibly today to energy and food, even if these rely on trade.

- Countries like China, Japan, the US and the EU – all big FTA pushers – are highly dependent on foreign countries for their energy needs. In its pending deal with Brunei, Japan has included for the first time a chapter on energy, assuring Tokyo a guaranteed supply of oil and gas. The same was achieved under the Japan-Indonesia FTA. The long-pending FTA between the EU and the GCC, under negotiation since 1990, is supposed to allow EU ownership of petrochemical companies in the Gulf states. India's tariffs on oil palm, used for the production of agrofuel, have been a knotty concern holding up the India-ASEAN FTA.
- Japan and China are highly dependent on the outside world for their food security, and this is reflected in their FTA strategies. FTAs provide an assurance to Japan of certain food supplies for which it can impose specific health and safety standards on the provider country. With the ASEAN countries, Japan has worked out provisions on tropical fruit and seafood; with Australia it will work out beef and dairy, and any potential FTA with China will certainly specifically cover vegetables and oilseeds. Japan's food security concerns also translate into systematically keeping rice out of its FTAs, in order to maintain high tariffs on imports (up to 500%)



(Image: Carlin)

and keep its domestic rice industry viable, and negotiating improved access to fishing waters. China's food security agenda shows up vividly in Asia, where the Chinese are seen to be building up, for the long term, an outsourced food supply support system. Liberalisation of agricultural trade has been the first impact of the China-ASEAN FTA, the China-Thailand FTA and the China-Philippines agreements.<sup>27</sup> Part of this impact is the flooding of local markets with cheap Chinese fruits and vegetables, driving Thai and Filipino farmers into serious difficulties. But the other part is the influx of Chinese land acquisitions and corporate investment to develop local food production for export to China, especially in staple foods like rice.<sup>28</sup>

**The economics are basic – but potent:** North-South FTAs and BITs are really tools to expand the investment rights, opportunities and environments for TNCs from the North. Within this frame, property rights – and most specifically IPRs – are a crucial factor. Investment rights and property rights are almost two sides of the same coin: what is at stake is control over assets. Many FTAs and BITs specifically include IPR in their definitions of "investment". That means *private* control over *private* assets, above and against public

interest and previously held ideas about the role of the State. That is what most North-South FTAs boil down to: expanding control and ownership over productive resources for the benefit of TNCs with historical roots in the North.

FTAs deliver this control by setting norms and standards – pushed by the North – that both parties eventually agree to. Once they agree, governments of the South often have to rewrite a number of their domestic laws to reflect those standards, and both parties will set up joint bodies to see the agreement implemented. To make sure it all works, a number of dispute settlement mechanisms are built in.

Several World Bank and UNCTAD studies show that there is no direct relationship between signing an investment agreement and receiving increased foreign investment. China, South Africa and Brazil are prime examples of countries that have captured big investment inflows in recent years without such agreements. Indeed, signing such an agreement can get you into costly legal disputes for failing to deliver the right investment conditions, resulting in net financial losses.

The rights for TNCs that are created through these agreements include the right to:

<sup>27</sup> See: the China-ASEAN section of bilaterals.org at [http://www.bilaterals.org/rubrique.php3?id\\_rubrique=95](http://www.bilaterals.org/rubrique.php3?id_rubrique=95); Kingkorn Narintarakul, "Thai-China free trade agreement for whose benefit?", Asia Pacific Network on Food Sovereignty (APNFS), 2004 at <http://www.apnfs.org/docs/apnfs2004kingkorn.pdf>; Natividad Bernadino, "The ASEAN-China free trade area: issues & prospects", APNFS, 2004 at <http://www.apnfs.org/docs/apnfs2004naty.pdf>

<sup>28</sup> GRAIN, "China-Philippines hybrid rice tie-up", 29 October 2002 at <http://www.grain.org/hybridrice/?lid=18> and "Hybrid rice and China's expanding empire", 6 February 2007 at <http://www.grain.org/hybridrice/?lid=176>. See also TJ Burgonio, "Probe sought on biofuels pacts between RP and China", *Philippine Daily Inquirer*, 20 May 2007, at [http://newsinfo.inquirer.net/breakingnews/nation/view\\_article.php?article\\_id=67037](http://newsinfo.inquirer.net/breakingnews/nation/view_article.php?article_id=67037)



Mobilisation against the Japan–Philippines FTA, in front of the Japanese Embassy in Manila, November 2006.

- be treated no less favourably than domestic companies (“national treatment”)
- get any “better” treatment that is offered to TNCs under other trade deals (“most favoured nation”)
- enjoy secure ownership of all assets: no expropriation (whether direct or indirect), no nationalisation and fewer possibilities for the state to issue compulsory licences in the public interest
- realise any anticipated profits – and to sue the state if any public policy measure or decision gets in the way of that
- conduct business with minimal hassle from the government: no requirements to hire local workers, no obligations to transfer technology, full freedom to send money out of the country and generally few restrictions on moving capital around
- have direct access to local policy-making processes
- expand their commercial monopolies through a longer menu of intellectual property rights (trademarks over sounds and scents; patents on plants and animals; longer copyright and patent terms; extension of pharmaceutical patents to test data, to prevent the marketing of generics; new geographical indications, issued on a first-come-first-served basis; extension of copyright to encrypted satellite transmissions; etc.) and state commitments to enforce those rights.

After the control agenda comes the opening up of new markets. FTAs are breaking new ground as they reach into sensitive areas that governments can’t agree on at the WTO: services, investment, electronic commerce, even parts of agricultural trade and fisheries. All North–South FTAs cover trade not only in goods but in services as well. Services account for 60–70% of indus-

trial economies, in terms of jobs and income, and have been the fastest-growing sector of world trade in the past 15 years. The EU is the single biggest exporter of services in the world (52%), followed by the United States, China and Japan.<sup>29</sup> Many countries are counting on building their future wealth through increased trade in services. FTAs play a key role in this by committing countries to “open up” – deregulating and privatising – services trade beyond levels required at the WTO. This means allowing foreign corporations to do business in sectors where they otherwise cannot. This may be in education, banking, accounting, legal services, insurance, pensions, media (newspapers, radio, television) and entertainment, telecommunications, transportation and delivery services (post, courier), utilities (power, water), medical services (hospitals), food retailing and even security. Under the strongest North–South FTAs, this is an invitation for Western companies to come and take over huge areas of what used to be considered public services and the role of the state. As many experiences show – especially in water privatisation – this leads to a degradation of living standards, especially for the poor, as prices go up (making services inaccessible) while accountability goes down.

For Southern countries, the main interest of FTAs is to gain potential market access. This comes at huge costs.

- Under North–South FTAs, the market access for the South is generally very small. For the Japan–Philippines Economic Partnership Agreement (JPEPA), Japan got improved access to the Philippines automobile market, new fishing opportunities in the

<sup>29</sup> WTO, *World Trade Report 2006*, p. 12.



Philippine seas (to replace imports), stronger investment guarantees and even the green light to export toxic wastes, while the Philippines got reduced tariffs on a few exported fruits and a quota to be able to send 100 nurses a year to Japan. In the Japan–Thailand deal, Japan got major new investment opportunities in the automobile and health sectors,<sup>30</sup> while Thailand got a measly quota to send chefs and masseuses to Japan.

- In agriculture, the imbalance is terrible. Third World countries generally have to dismantle agricultural protections, in the form of tariffs and price controls, while the industrialised country does not have to touch its farm subsidies which form the basis of dumping. The US–Colombia agreement is a stark example. In the first year of the FTA, it is estimated that US farm exports to Colombia will grow 73 times more than Colombia’s farm exports to the US.<sup>31</sup>
- Many North–South FTAs pit neighbouring Southern countries in competition against each other for small market openings of a few products. For instance, Japan has individually promised the Philippines, Thailand and Indonesia, in their separate FTA talks, great new openings for their mangoes and shrimp. But the Japanese can only consume so many of these. Yet exporters in all three countries were led to believe that they were getting special deals on a privileged basis. The same has been happening in Latin America, where the US has promised Colombia, Ecuador and Peru great export opportunities for mango in exchange for what in effect will be the destruction of their domestic production of cereals, meat, dairy and oil crops.<sup>32</sup>

While there are exceptions, market access for Third World countries under North–South FTAs is mostly a mirage. Many Southern countries are specialised in a few primary exports that are increasingly structurally controlled by TNCs. FTAs push them further into that trap,

rather than supporting diversification – much less food sovereignty. Southern governments are increasingly trying to apply the same formula to regional trade agreements among themselves, without necessarily addressing the problem of their structural similarities leading to pointless competition.

**Keeping the public out:** Secrecy invariably shrouds FTAs. Negotiated behind closed doors, only a small group of government-appointed experts is involved, texts are kept secret until they are signed, and in most cases elected representatives have little or no say in the matter. Why countries are negotiating them, what is negotiated, who is involved from the corporate sector, what the impacts will be: these are some of the questions that come up all the time and get the same lame answers. We are told that everyone is doing it, and that we can’t afford to be left out, that we cannot know the details of what is being negotiated because it is sensitive, but to trust that we will see new jobs and new business opportunities as a result.

Ultimately, the biggest problem with the secrecy that shrouds FTA talks is not so much the lack of public knowledge or participation in the process. It is the fact that many FTAs subvert national laws, take authority away from national legal systems and undermine principles established in state constitutions.

The economic hype, the language of fighting terrorism through liberalised trade and investment, and the talk of upholding democracy that surround these bilateral agreements reminds us that neoliberalism and the brute force of imperialism march hand in hand in the 21st century. With the demonisation and criminalisation of many peoples’ movements against FTAs as enemies of the state, to be confronted with repression and brutal security operations, such connections are not far removed from many daily struggles for justice, dignity and survival.

<sup>30</sup> Japan is expected to invest heavily in the health tourism industry in Thailand for rich and ageing Japanese.

<sup>31</sup> Aurelio Suárez Montoya, “Agrio balance del agro en el TLC”, RECALCA, March 2007, at [http://www.recalca.org.co/AAdoceducativos/4\\_AGRIO\\_BALANCE\\_AGRO\\_TLC.pdf](http://www.recalca.org.co/AAdoceducativos/4_AGRIO_BALANCE_AGRO_TLC.pdf)

<sup>32</sup> Aurelio Suárez Montoya, “La CAN obtiene nichos para comida exótica y entrega todos sus mercados masivos de cereales”, BolPress, 5 November 20 at <http://bolpress.com/art.php?Cod=2006051132>

## FTAs and biodiversity

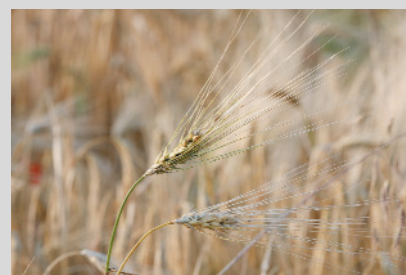
Bilateral trade and investment agreements (FTAs) facilitate the privatisation, exploitation and contamination of biodiversity by global corporate interests. Biodiversity is so crucial for local peoples’ livelihoods and any “alternatives” to mainstream development models, and so intricately connected to local cultures, that these FTA impacts are of vital concern for many people’s movements.

### Privatisation

FTAs push the privatisation of biodiversity by forcing countries to change their intellectual property laws to allow for greater private ownership of life forms than the WTO dictates. So countries often have to: (a) change national

laws to make it possible to get patents on plants and animals; (b) set secure conditions for corporate ownership over plant varieties (seeds) by joining UPOV (International Union for the Protection of New Varieties of Plants); and (c) facilitate the patenting of micro-organisms by signing the Budapest Treaty. Some Southern governments are even trying to use FTAs to set up intellectual property rights (IPR) for traditional knowledge related to biodiversity.

These changes in national laws turn what once “belonged” to communities into the exclusive property of transnational corporations (TNCs). So people must pay royalties to use “their” prod-



FTAs are the front line of the push to allow patents on life today. The implications for farmers, and for food sovereignty, are tremendous. Patenting seeds means profound corporate control over the food supply. (Photo: Daniel Schwen)

ucts. Saving and swapping seeds harvested from crops that are someone’s “intellectual property” becomes illegal. Farmers can be sued if patented genes are found in their field, even if they



Farmers in Araypalla, Peru, in 2006: "Another area that will be liberalised with the FTA is the distribution of seeds and GM products. The massive arrival of GM maize from the US will prevent Latin American farmers from being able to protect their crops from genetic contamination and will deny people the right to know what they are eating" (Photo: Francisco Molino)

didn't buy the corporate seed. The purpose is to enhance profits and overall market control for agribusiness TNCs and their shareholders. The US will not sign an FTA without these provisions. The European Union (EU) pushes most of them as well. European Free Trade Association (EFTA) governments and Japan also use FTAs to get strong IPR over biodiversity in other countries.

#### Exploitation

FTAs make it easier for TNCs to exploit a country's biodiversity in several ways. Bioprospecting – exploration and research into biodiversity seeking useful genes, genetic traits or processes for new commercial products – is included in these trade agreements, generally through rules on services and investment. Many new rights and freedoms are carved out for foreign companies: to come and do research, to export collected biological materials, to get property rights over research results, not to have to obtain legal domicile in the country that you're bioprospecting in, etc. These can clash with, and trump, national biodiversity laws.

Costa Rica, for instance – the country that gave bioprospecting a name in 1991, when pharmaceutical TNC Merck signed a US\$1 million deal with INBio (National Biodiversity Institute) to plough through Costa Rica's forests in search of new medicines – has very careful rules about how foreigners can come and collect biological specimens. Those have been thrown to the wind by the Central America Free Trade Agreement (CAFTA), whose freedoms for US investors will now apply instead of the national biodiversity law. The Malaysian government was also concerned about this happening under its FTA with Japan, so it excluded matters that are governed by state or federal law from the FTA's investment rules for bioprospecting

Globally, FTAs also make it far easier for agribusiness TNCs to set up production, processing and/or export facilities. This happens through the expansion of not only Northern companies but also Southern TNCs, such as Charoen Pokphand (CP) in Asia. By providing new rights and freedom to operate to these TNCs, and other financial incentives, firms are encouraged to set up operations locally. In the areas of agriculture and livestock, this usually means getting farmers to convert to specific seeds or breeds raised in high-tech monoculture conditions. For fishing, it can mean foreign firms gaining rights to exploit local fish stocks, a major concern with the Japan-Philippines FTA (JPEPA). Expansion of industrial food production destroys local biodiversity, either exhausting it or replacing it with a few corporate-approved, highly marketable and profitable breeds.

#### Contamination

Increasingly, FTAs are used to ensure that countries cannot prevent the testing, commercial release and mass consumption of genetically modified organisms (GMOs). SPS (sanitary and phytosanitary standards) provisions determine what kind of health and safety norms can "interfere with" agricultural trade, which should otherwise be unfettered. As world food production becomes more delocalised, and global agricultural trade grows, countries are anxious to preserve their own health and safety standards. But the US vehemently insists that its standards shall apply to FTA partners. The EU is the same way about its own SPS standards, which it calls "non-negotiable". Meanwhile, TBT (technical barriers to trade) provisions limit the labelling rules.

Washington increasingly requires FTA partners to accept that any food or agricultural product cleared for export from the US is automatically approved for import. The US does all the testing, applying their own criteria, and the other government must agree to trust them. (Not even disputes are allowed.) Yet the US does not have a national, much less credible, food safety system, while it practices an agriculture that is extremely reliant on chemicals, GMOs and other controversial technologies such as irradiation. Korea banned the import of US beef as soon as BSE (mad cow disease) was discovered in the US, yet Washington made the re-opening of Korea's beef market a precondition to any FTA.

Meanwhile, consumers' movements, farmers' organisations, and many others are trying to prevent food and agricultural systems from being contaminated by GMOs. Under pressure from Monsanto and others, the US government uses backdoor channels provided by FTA negotiations to force acceptance of GMOs by those countries still resisting them. It has pressured Australia, Ecuador, Thailand, Malaysia and Korea, among others, in this way. Public pressure in Australia prevented any immediate opening of the market to GM products from the US. But the two governments did agree to set up a committee to further the talks. Washington and Seoul allegedly signed a memorandum of understanding through which Korea would not discriminate against US goods in its implementation of the Convention on Biological Diversity's Biosafety Protocol. This means that GM foods from the US should, as much as possible, not be labelled as such when sold in Korea, since that could hurt US food sales.



The threat of mad cow disease is an important component of public opposition to the US-Korea FTA. Washington is aggressively using the FTA to reopen to the Korean market to US beef exports. (Photo: Chamsaesang)

# What is going on where?

According to the World Bank, by mid-2004 there were a total of 229 FTAs in force worldwide, with 174 countries having signed on to at least one.<sup>1</sup> This is a conservative and obviously old figure, though it is the latest published. It does not take into account FTAs signed but not in force, nor those under negotiation or in the pipeline.

According to the WTO, by March 2007 a total of 194 FTAs had been “notified” to the organisation.<sup>2</sup> This is only a subset of all FTAs. The WTO requires that its members inform it of any outside trade agreements that they sign on to so that these can be examined for their compatibility with WTO rules. In reality, not all WTO members do this, nor do they do it for all their FTAs. Numerous non-WTO members have FTAs.

According to the Asian Development Bank, by the end of 2006 there were 192 FTAs – 84 concluded, 57 under negotiation and 51 proposed – in Asia and the Pacific alone.<sup>3</sup> In Latin America, the Organisation of American States speaks of 81 FTAs (of all sorts) in force from Canada down to Chile.<sup>4</sup>

UNCTAD says that there were 5,500 international investment-related agreements in place by early 2007 – a figure growing by three per week.<sup>5</sup> This includes not only BITs and FTAs with an investment chapter, but also double taxation treaties (agreements between two countries not to tax the same entity twice, whether a corporation or a worker). Besides these, there are about 2,500 BITs in place. Some 644 of them are South-South BITs, the most actively growing segment in the last ten years.<sup>6</sup>

There are many different processes and logics at play. To understand the different dynamics, we look at the big players, region by region.

## Asia and Pacific

In terms of North-South dynamics, the US, the EU, EFTA, Japan, Australia and New Zealand are all actively trying to secure bilateral FTAs in Asia.

The US is playing several cards. While talk of an APEC-wide free trade area spanning the whole Pacific comes and goes, Washington is pushing hardest on a few other buttons. It wants an FTA with ASEAN (Association of South-east Asian Nations), which it has been pursuing in a bottom-up fashion: bilateral FTAs with each member first, then a single FTA with ASEAN as a whole. After it got a far-reaching FTA with Singapore, the Americans went after Thailand and Malaysia. The Thai talks broke down because of people’s protests, followed by a military coup, and Indonesia and the Philippines are not ready to start negotiations (in Washington’s eyes), so



FTA frenzy: all the world’s governments seem to want one – if not, they feel left behind (behind what?)

this plan is moving slowly. In the meantime, the US won a shaky deal with South Korea – a very strong trade partner and important geopolitical anchor for Washington – though it has yet to be ratified. In South Asia, the US is taking it step by step with India – securing first a nuclear deal, then moving on to stronger agricultural cooperation – and is, smartly, not in a rush. With Pakistan and Bangladesh, the US is trying to set up clear business relationships through BITs first. Meanwhile, the US has too many pressing problems with Beijing – a phenomenal trade deficit, a need to get the yuan devalued – even to consider an FTA.

Europe has been somewhat more distant. The European Free Trade Association (EFTA) has struck a few deals here and there, and the EU has promised ASEAN an FTA like the US. But the EU has been sidetracked in recent years,<sup>7</sup> and only now are things starting to move. By 2008, the EU expects to have concluded deals with Korea, ASEAN and India. It has also started working with China to put their bilateral trade and investment relations on a firmer footing.

<sup>1</sup> Denis Medvedev, “Preferential trade agreements and their role in world trade”, World Bank Policy Research Working Paper 4038, October 2006, <http://go.worldbank.org/2KKER5K700>

<sup>2</sup> See [http://www.wto.org/english/tratop\\_e/region\\_e/summary\\_e.xls](http://www.wto.org/english/tratop_e/region_e/summary_e.xls).

<sup>3</sup> The database of FTAs is available at the Asia Regional Integration Centre website, launched by ADB in October 2006: <http://aric.adb.org/FTAByCountryAll.php>

<sup>4</sup> See the SICE database at [http://www.sice.oas.org/agreements\\_e.asp](http://www.sice.oas.org/agreements_e.asp)

We exclude the multilateral agreement from the count but retain the rest.

<sup>5</sup> See <http://www.unctad.org/Templates/meeting.asp?intItemID=1942&lang=1&m=13507>

<sup>6</sup> UNCTAD, “World Investment Report 2006”, available at: <http://www.unctad.org/Templates/WebFlyer.asp?intItemID=3968&lang=1>

<sup>7</sup> It was focusing more energy on Latin America, the Gulf countries, the Mediterranean region and the WTO.



Australia and New Zealand have been selectively trying to score deals with other countries in the region. The typical menu of Thailand, Malaysia, Korea and India have been on their radar. Both countries are going for the big fish: China and Japan. Australia's Labor government, elected late in 2007, is deeply committed to free trade.

Despite its strong dependence on trade for food and energy, and its critical geopolitical position, Tokyo has never really had an FTA strategy. Its business sector, formally represented through its federation, Nippon Keidanren, has been lobbying the government for years, but successive Liberal Democratic administrations have been weak on delivering anything more than dressed-up friendship treaties. Mexico, Singapore, Malaysia, Thailand and the Philippines were among Japan's early FTA forays – and they are not harmless agreements. But now that rival Washington has struck a deal with Seoul, with clear and immediate repercussions for certain Japanese conglomerates, Tokyo is trying to get bolder and more aggressive,<sup>8</sup> with the ultimate goal of orchestrating an all-Asia FTA, including India, China, ASEAN and Korea. Unless anything changes in its relations with China and Korea, this is a far-off dream. We can expect Japan to upgrade the depth and scope of its FTAs; this is visible in its most recent deals with Bangkok, Manila and Kuala Lumpur.

On the South-South axis, the major FTA players in the region are China, India, Korea, Singapore, Thailand and Taiwan. Everyone wants a deal with ASEAN, though its secretariat is only now starting to accept the notion that FTAs can make up for a failed WTO. Serious deals, as seen from the ground, are in construction at the level of China-ASEAN, India-ASEAN and Korea-ASEAN. Singapore, Korea, Thailand and Taiwan are cutting deals with a smattering of countries, with Singapore running a highly proactive FTA programme. India has some FTAs with Sri Lanka, Singapore and Mauritius and, outside the region, is involved with Mercosur, the Gulf Cooperation Council (GCC) and the EU, but it does not seem to have a clear plan. China and India are the big Asian powers convinced that FTAs are a necessary approach and actively working to expand their networks.

In terms of regional blocs, not much is happening. ASEAN, SAARC (South Asian Association for Regional

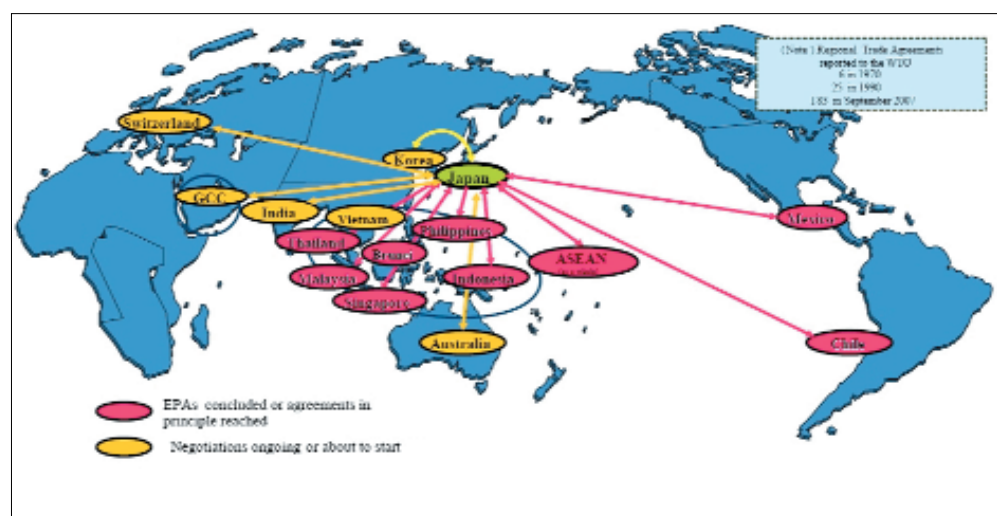
Cooperation) and BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) all have plans to create common markets, but they are either not strong (e.g. ASEAN Free Trade Area [AFTA], and BIMSTEC FTA) or can't get off the ground (South Asia Free Trade Agreement – SAFTA).

### West Asia and North Africa

In terms of North-South politics, the Middle East is a crossroads of competition to cut bilateral deals for two obvious reasons: oil and Israel. Both the US and the EU have grand plans for separate region-wide FTAs. Washington's is called the US-Middle East FTA (MEFTA), slated for completion in 2013. Brussels' is called the Euro-Mediterranean FTA (EMFTA), slated for implementation in 2010. The two deals, if successful, will differ in the typical way that US and EU FTAs differ: MEFTA will emphasise hard-nosed business rules and remove any discrimination towards Israel; EMFTA will pull the region into political harmonisation with the EU. But they will embrace the same countries (except for Libya and Turkey) and put them under strong pressure to conform to the West's corporate and geopolitical agendas, through competing market offers.<sup>9</sup> The EU is well advanced on its roadmap to EMFTA, though it faces a backlash over non-enforcement of the human rights clause in its FTA with Israel and has been unable to sign its deal with Syria yet. The US is less advanced on the MEFTA roadmap. It has FTAs in force with Israel, Bahrain, Jordan and Morocco; a deal is done with Oman; the US-UAE deal was stalled by security paranoia in the US; and the rest is under construction.

Where the EMFTA and MEFTA do not collide geographically, the EU is trying to cut separate deals. This concerns Iran, Iraq, and the Gulf States, with whom the EU has been negotiating a bloc-to-bloc FTA since 1990. The EU-GCC deal is held up by the Gulf's hesitance to give EU firms ownership rights over the region's petrochemical companies.

As in other parts of the world, the EFTA grouping, led by Switzerland and Norway, is just a footstep behind the US and the EU. EFTA has its own FTAs with most countries of the region.



Japan's FTA scorecard, as of October 2007 (Image: Japan Ministry of Foreign Affairs)

<sup>8</sup> See MITI, "Japan releases 2007 report on compliance by major trading partners with trade agreements – WTO, FTA/EPA, and BIT", 16 April 2007, wikified at [http://www.bilaterals.org/article.php3?id\\_article=7911](http://www.bilaterals.org/article.php3?id_article=7911)

<sup>9</sup> How competitive depends on what the US decides about rules of origin: whether it will respect the EU's system, which recognises all countries in the region as a single country of origin ("cumulative" rules), or continue pushing its own.

Most other powerful economies are trying to seal their own bilateral FTAs with the GCC. Japan, EFTA, Australia and New Zealand have either started talks or are about to launch negotiations with the GCC.

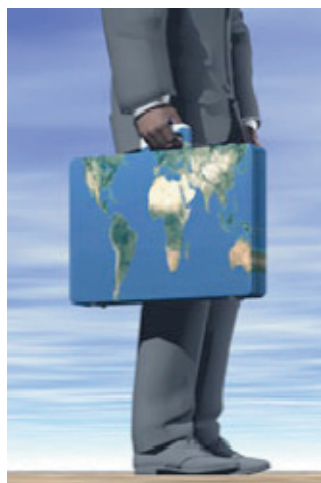
There are several important regional initiatives to form South-South trade blocs: the Arab Maghreb Union (Algeria, Libya, Mauritania, Morocco and Tunisia), the Agadir Agreement (Egypt, Jordan, Lebanon, Morocco), the Greater Arab FTA (Arab League countries) and the GCC. The GCC attracts the most FTA bids from outside the region because of its oil. China, Mercosur (Argentina, Brazil, Paraguay, Uruguay and Venezuela), Korea, Pakistan and Singapore are at the top of the list. Bilaterally, Egypt, Israel and Morocco have the most FTAs with other nations.

### *Sub-Saharan Africa*

The trade scene in Africa seems like a tug of war between the pending EU Economic Partnership Agreements (EPAs), the struggle to put regional formations on a better footing, and China's serious penetration of the continent.

The EU EPAs are the biggest thing under discussion, as they promise to shake up African economies in a massive and devastating way.<sup>10</sup> These agreements are basically FTAs between the EU and four different African regions crudely defined by Brussels for negotiation purposes: West Africa, Central Africa, East and Southern Africa and the Southern African Development Community (SADC).<sup>11</sup> The EPAs were supposed to be agreed to by the end of 2007 and will give the EU entire FTA coverage of Africa.<sup>12</sup> They aim to replace the current preferential trade relationship between Europe and Africa (where Africa gets duty-free access to the European market) with a reciprocal regime of full-scale liberalisation (where Europe will get duty-free access to Africa): investment, services, agriculture, IPR, fisheries, the works. If the EPAs are pushed through, Africa will be flooded with European products and companies coming in and taking over. African states will lose their chief sources of income and whatever capacity they have to compete.

The sheer threat of the EPAs has pushed many African governments into taking the possibility of strengthening their own regional trade blocs more seriously. Africa is covered by a patchwork of sub-regional formations – SADC, SACU, COMESA, ECOWAS, CEMAC, COMESA, WAEMU,<sup>13</sup> etc. – which are in various stages of integration, including through FTAs. SADC and SACU supposedly have free markets, COMESA is about to implement one and ECOWAS is on the path (through which it will



Doing the rounds: Almost no country is not involved in some FTA, or FTA talks, today.

merge with WAEMU). The question people are wrestling with is whether and how to build further regional integration through these weak economic communities in the face of the EU's EPAs.

The US has not been very successful in making FTA deals in Africa. It tried for many years with SACU (Botswana, Lesotho, Namibia, South Africa, Swaziland), to match the EU's foothold in South Africa, but this backfired, mainly due to Washington's excessive IPR demands. (EFTA, by contrast, toned down its IPR demands on SACU and won an FTA.) The US is relying on its unilateral African Growth and Opportunities Act (AGOA) to win over the hearts and minds of African governments while it tries to sort out the potential for bilateral FTAs – in the meantime negotiating TIFAs (Trade and Investment Framework

Agreements – a prerequisite for an FTA with the US) and BITs – with individual countries.<sup>14</sup>

Apart from the EU and US, most countries trying to get FTA deals with African nations head straight for the regional powerhouse, South Africa, and its customs union formation, SACU. China and Singapore are negotiating FTAs with SACU right now. EFTA and Mercosur have already signed one. India is preparing to offer something. China's and India's FTAs with SACU are important because both countries are investing heavily in Africa now. China is mostly securing oil and mineral supplies, while India is getting into mining, automobiles and textiles. While the EU may be Africa's historical trading partner, China and to some extent India are capturing a larger part of the pie. The formalisation of these relationships through FTAs – and the accompanying politics – seems the obvious next step.

### *Latin America and Caribbean*

Latin America is a very different scene compared to Asia and Africa when it comes to FTAs. The region has been hit hard by the excessive US push toward neoliberalism. A lot of that has been pursued historically through the World Bank and IMF and more recently through FTAs and other bilateral deals. Besides NAFTA, the US has also reached FTAs with Chile, Peru, Colombia, Costa Rica, Guatemala, Honduras, Nicaragua, the Dominican Republic, El Salvador and Panama. Talks collapsed with Ecuador after Quito insisted on Occidental Petroleum paying its taxes. The US is now trying to break the cohesion of Mercosur, where trade giants Argentina and Brazil reign, by luring Uruguay into Washington's sphere. Many of these bilateral deals were put together because the US failed to achieve a region-wide Free Trade Area of the Americas (FTAA), which would encompass all of North, South and Central America except Cuba.

<sup>10</sup> For an overview, see the UN Economic and Social Commission for Africa, "The economic and welfare implications of the EU-Africa Economic Partnership Agreements", ATPC Briefing No. 6, May 2005, at [http://www.uneca.org/atpc/Briefing\\_papers/6.pdf](http://www.uneca.org/atpc/Briefing_papers/6.pdf)

<sup>11</sup> The actual makeup of these groups conflicts a lot with local regional economic integration bodies. For instance, Zambia is part of the ESA group for the EU talks even though in Africa it is formally a member of SADC.

<sup>12</sup> Previously, the EU had an FTA only with South Africa.

<sup>13</sup> The Southern African Development Community, Southern African Customs Union, Common Market of Eastern and Southern Africa,

Economic Community of West African States, Economic and Monetary Union of Central Africa, Community of Sahel-Saharan States, and West African Economic and Monetary Union.

<sup>14</sup> According to International Trade Daily, Washington is trying to develop a "template" for negotiating FTAs in the region, especially since, apart from the SACU countries, Mozambique and Ghana have expressed interest in negotiating US FTAs. (See Gary Yerkey, "US, Five African nations set new talks on free trade accord for February, April", ITD, Washington DC, 18 January 2006.) Since then, the US has signed a TIFA with Mozambique.

## BUSH'S LEGACY ON BILATERAL TRADE & INVESTMENT DEALS

### FTAs signed:

- Chile (2002)
- Singapore (2003)
- Australia (2004)
- Bahrain (2004)
- Morocco (2004)
- Laos (2004)
- Costa Rica (2005)
- Dominican Republic (2005)
- El Salvador (2005)
- Honduras (2005)
- Guatemala (2005)
- Nicaragua (2005)
- Oman (2006)
- Colombia (2006)
- Peru (2006)
- Panama (2007)
- Korea (2007)

### FTA talks started/ongoing:

- SACU (since 2003)
- Thailand (since 2004)
- Ecuador (since 2004)
- UAE (since 2005)
- Malaysia (since 2006)

### BITs signed:

- Azerbaijan (2001)
- Croatia (2001)
- Uruguay (2005)

### TIFAs signed:

- Algeria (2001)
- COMESA (2001)
- Bahrain (2002)
- Brunei (2002)
- Sri Lanka (2002)
- Thailand (2002)
- WAEMU (2002)
- Saudi Arabia (2003)
- Central Asia (2004)
- Kuwait (2004)
- Malaysia (2004)
- Qatar (2004)
- UAE (2004)
- Yemen (2004)
- Mozambique (2005)
- ASEAN (2006)
- Cambodia (2006)
- Liberia (2007)
- Uruguay (2007)

### Other pursuits:

- Algeria FTA
- APEC FTA
- ASEAN FTA
- Bangladesh TIFA
- CARICOM (Caribbean) FTA
- Egypt FTA
- Free Trade Area of the Americas
- Georgia FTA
- Ghana FTA
- India FTA
- Middle East FTA
- New Zealand FTA
- Switzerland FTA
- Tunisia FTA
- Uruguay FTA



The Bush administration will end with a heavy legacy on the bilateral trade and investment deal-making front. (Source: GRAIN)

The EU has followed the US along its FTA path in the region. After NAFTA was signed, the EU negotiated its own deal with Mexico. The same happened in Chile, Central America and the Andean region. The one difference is that the EU has been negotiating an FTA with Mercosur, something politically impossible for the US.

EFTA, like the US and EU, has a trade agreement with Mexico and Chile, and is preparing to start talks with Colombia and Peru. Japan has an FTA with Mexico and Chile, but nothing else in the pipeline for now. Australia is moving in on Chile and possibly Mexico, while Canada has a treaty with Chile and Costa Rica and hopes to string together something larger with Central America.

New Zealand, Chile, Singapore and Brunei have together signed an FTA called P4 – the Trans-Pacific Strategic Economic Partnership Agreement.

Apart from possibly Uruguay and the Caribbean, it is unlikely that the US will advance further on the FTA front in Latin America for now. The trend among governments is much more to strengthen regional trade and investment, be it through the Andean Community, Mercosur, the Caribbean Economic Community (CARICOM) or ALBA (the Bolivarian Alternative for Latin America, Chávez' anti-FTAA programme). The Democratic majority on Capitol Hill and the non-renewal of Bush's fast-track authority leave the White House less free to play hardball with its trade agenda.



# Changing South–South trade and investment dynamics

Most people think of international trade politics in terms of typical North–South dynamics: the rich imperialist North bullies the poor and downtrodden South. Yet, while North–South FTAs and investment treaties continue to be the most potent vehicles to make the world a better place for the North’s TNCs, South–South FTAs and the rise of Southern TNCs constitute important new realities forcing us to change the way we look at global economic and power relations, especially when viewed from the South.

## The new South–South axis

Globally, South–South trade represents only about 6% of all trade in goods and 10% of all trade in services. But it is growing relatively fast, at 11% per year, from a low starting point not long ago.<sup>1</sup> Of Africa’s exports, 27% now go to Asia, almost on a par with its exports to the EU (32%) or the US (29%).<sup>2</sup> Half of all trade of Asia’s developing countries is conducted between themselves.<sup>3</sup> So we cannot look at everything through a North–South prism.

South–South investment, on the other hand, is where things are really jumping.<sup>4</sup> Hardly a day goes by without the local papers in Mumbai or São Paulo reporting on new investment deals being struck by developing country TNCs, or governments on their behalf, in other developing countries. Often these are big infrastructure, extraction, manufacturing or processing projects: Argentina’s soybean king developing plantations in Venezuela, China signing a mega-loan with the Democratic Republic of Congo to be paid back in cobalt, the Malaysians clearing fields for palm oil production in Mindanao (Philippines), Zambia’s state-run Electric Supply Corporation signing a US\$150m deal with India’s Tata empire to build a new power plant, and so on. Sometimes these ventures concentrate purely on restructuring finance, like the creation of the all-new Bank of the South in Latin America or China’s recent cancellation of US\$1.3 billion in African debt. But finance aside, the production-oriented South–South business deals are multiplying for simple reasons: they provide easier access to credit; the technology is not so complicated to transfer; the companies understand the working conditions in other developing countries; and they provide at least some veneer of domestic sovereignty or control. Most of all, there is clearly a strong political motivation on the side of the national elites to make such ventures work. With more and more money concen-

trated in the hands of Southern capitalists – whether private consortia, family dynasties or state-owned firms – this overall momentum towards increased South–South wheeling and dealing is starting to change the shape of the world economy.

## The rise of Southern TNCs (and not a few state capitalists)

Drawing from UNCTAD’s latest statistics (2006):<sup>5</sup>

- A quarter of all TNCs in the world are from developing and transition countries. In 1990, 19 appeared in the Fortune 500 list of the world’s most important corporations. In 2006, there were 57 on the list.
- Leaving out the transition economies like Russia and Turkey, developing countries with the most home-grown TNCs today are Mexico, Brazil, South Africa, China, India, Thailand and Malaysia. In fact, Mexico is home to the third richest person in the world, Carlos Slim Helu, who has made a fortune buying up telecommunication companies in Latin America.
- Eighty of the top 100 TNCs from developing countries today are Asian. Many of them have their roots in the Chinese diaspora.

Most operations of these new Southern corporations are conducted within their respective regions. Chilean TNCs mostly invest in Latin America while Thai TNCs try to build their own fiefdoms in neighbouring Asian countries. In some cases, this is stoking perceptions of regional hegemony, particularly as the biggest powerhouse economies like India, China, Brazil and South Africa make substantial inroads into nearby countries, setting up businesses, getting access to land and taking an increasing share in sensitive local industries like infrastructure development. Tensions develop when issues of sovereignty over natural resources, pollution, labour complaints and political string-pulling emerge from these deals. The recent public outcry in the Philippines over various Philippine–China agreements, from telecommunications to farming, is a good example of this.



A United Arab Emirates investment fund has become one of Citigroup’s biggest shareholders (Photo: AFP)

<sup>1</sup> Organisation for Economic Cooperation and Development, “South–South trade: vital for development”, OECD, Paris, 2006. <https://www.oecd.org/dataoecd/30/50/37400725.pdf>

<sup>2</sup> Harry G. Broadman, “Africa’s Silk Road: China and India’s New Economic Frontier”, World Bank, Washington DC, 2007. As Broadman points out, the EU’s share of Africa’s exports has actually been sliced in half in recent years. <http://go.worldbank.org/PKNA9OP5EO>

<sup>3</sup> United Nations Conference on Trade and Development, *Trade and Development Report 2007*, UNCTAD, Geneva, 2007. <http://www.unctad.org/Templates/WebFlyer.asp?intItemID=4330&lang=>. The figure is 20% for Latin America and 10% for Africa.

<sup>4</sup> See United Nations Conference on Trade and Development, *World Investment Report 2006*, UNCTAD, Geneva, 2006. [http://www.unctad.org/en/docs/wir2006\\_en.pdf](http://www.unctad.org/en/docs/wir2006_en.pdf)

<sup>5</sup> United Nations Conference on Trade and Development, *World Investment Report 2006*, UNCTAD, Geneva, 2006. [http://www.unctad.org/en/docs/wir2006\\_en.pdf](http://www.unctad.org/en/docs/wir2006_en.pdf)

So how many South-South corporate deals are inked each year? It's hard to say.<sup>6</sup> Worldwide, the number of cross-border mergers and acquisitions concluded doubled between 1990 and 2004. (There were roughly 2,500 deals signed in 1990 and 5,000 in 2004.) The share of developing countries in this investment spree went up sixfold. (On the buying side, they represented 5% of all foreign business acquisitions in 1990 and 16% in 2004. On the selling side, they accounted for 7% of all cross-border deals in 1990 and 20% by 2004.) The problem is that this data doesn't speak for Southern-owned capital alone. A lot of these deals are conducted by local affiliates of Northern transnationals. The data also doesn't distinguish between public and private operations. A lot of major transnational corporations in the South are still, despite privatisation drives, state-owned.

All told, according to the OECD, the biggest investor in South-South mergers and acquisitions is Singapore, followed by China, Malaysia and South Africa.<sup>7</sup>

### The China factor ...

China alone stands out very visibly in today's boom in South-South trade and investment deals. It is now the second largest investor in Africa, just behind the USA, and is building a larger presence for herself in many countries of Asia and Latin America. This is not just about flooding markets with plastic toys or flimsy T-shirts, at prices many countries cannot compete against because of low labour costs. The big push behind China's outward expansion is its huge need to import energy and other so-called raw materials to fuel its economic growth. China's thirst for oil and gas, followed by minerals, is the main reason why it is investing so much in Africa right now – and pouring vast sums of money to build the infrastructure to physically move the stuff, especially across neighbouring countries in Central and South-east Asia.<sup>8</sup> China is also investing heavily in growing food crops in neighbouring countries as a source of agrofuel for its own energy production. The Chinese have signed deals to produce sugar cane and cassava for this purpose in Indonesia,<sup>9</sup> hybrid rice, cassava, maize and sugar cane in the Philippines,<sup>10</sup> and are starting to explore opportunities to develop agricultural production – along with five export processing zones – in Africa.<sup>11</sup> The signing of the China-Thailand FTA brought a huge leap of Chinese investment in northern Thailand, with

100 Chinese firms now operating there,<sup>12</sup> engaging US\$277 million in capital in this otherwise quiet region.<sup>13</sup> Chinese banks, especially the China Development Bank (CDB) and other Chinese players, have also invested in a number of foreign banks and financial companies. Many Chinese TNCs emerged from state companies and/or expanded through the acquisition of state companies.

China, which has long been the number one destination for foreign investment going to the South, is now becoming a major foreign investor, especially in other developing countries. This is due not only to the dramatic growth of capital accumulation in China but to equally dramatic shifts in state policy, with the Communist Party announcing in 2002 its "Go Out" programme to rely no longer on export-led growth, and to promote Chinese foreign investment.<sup>14</sup> It is very hard to get reliable and uncontradictory figures, but according to the Ministry of Commerce in Beijing, Chinese companies invested US\$21 billion abroad in 2006 alone, of which US\$17 billion was in the non-financial sector.<sup>15</sup> This adds up to 5,000 Chinese companies running 10,000 business operations in 172 countries, with an accumulated outward investment stock of some US\$50–70 billion.

As to the future, a 2006 survey conducted for the World Bank<sup>16</sup> shows that 60% of consulted Chinese companies planned to make new investments abroad in the years ahead, with South Asia, East Asia and Africa topping the list of preferred destinations. Their main motivations? Access to markets, access to "strategic assets" and global competitive strategies.

### ... but also the Gulf and others

The Gulf Arab states, which have their own regional integration project through the Gulf Cooperation Council (GCC) and strong commitments to the development of both the Arab League and the Organisation of the Islamic Conference, are another central spot in the fast strengthening South-South trade and investment map. For one, everyone these days seems to want to do business with, or in, the GCC member states.<sup>17</sup> For many, there is huge money to be made in the Gulf, especially if you can get privileged investment access under an FTA. The queue for GCC FTAs is growing daily. But the

<sup>6</sup> The following data come from UNCTAD's "Beyond 20/20" WDS database: <http://stats.unctad.org/FDI/>

<sup>7</sup> Hans Christiansen et al., "Trends and recent developments in foreign direct investment", OECD, Paris, June 2007, p. 15. <http://www.oecd.org/dataoecd/62/43/38818788.pdf>

<sup>8</sup> See, for example, Marwaan Macan-Markar, "China turns Mekong into oil-shipping route", IPS, Bangkok, 5 January 2007, <http://ipsnews.net/news.asp?idnews=36074> and Raphael Minder and Isabel Gorst, "Historic Asia trade route to be rebuilt", *Financial Times*, London, 18 September 2007, <http://www.ft.com/cms/s/0/8c7b80e8-6604-11dc-9fbb-0000779fd2ac.html>

<sup>9</sup> "China's Bright Food ties with Salim to grow abroad", Reuters, 18 January 2008. [http://www.flexnews.com/pages/10258/China/Dairy/chinas\\_bright\\_food\\_ties\\_salim\\_grow\\_abroad.html](http://www.flexnews.com/pages/10258/China/Dairy/chinas_bright_food_ties_salim_grow_abroad.html)

<sup>10</sup> GRAIN, "Hybrid rice and China's expanding empire", 6 February 2007, <http://www.grain.org/hybridrice/?lid=176>.

<sup>11</sup> Cole Mallard, "China continues gaining economic equity in Africa through agricultural investment", Voice of America, Washington DC, 23 August 2007, <http://www.voanews.com/english/Africa/2007-08-23-voa26.cfm>.

<sup>12</sup> Stephen Frost, "Chinese outward direct investment in Southeast Asia: How much and what are the regional implications?", Southeast Asia Research Centre, City University of Hong Kong, Working Papers

Series No. 67, July 2004, [http://www.cityu.edu.hk/searc/ WP67\\_04\\_Frost.pdf](http://www.cityu.edu.hk/searc/ WP67_04_Frost.pdf)

<sup>13</sup> Thai Board of Investments, quoted by Lorine Schaefer, "Outward direct investment: China in Africa, Southeast Asia, and Brazil", Global Interdependence Center, <http://www.interdependence.org/Outward%20Direct%20Investment-China%20in%20Africa,%20Southeast%20Asia,%20and%20Brazil.doc>

<sup>14</sup> Yuen Pau Woo and Kenny Zhang, "China goes global: the implications of outward direct investment", Asia Pacific Foundation of Canada, 2006, <http://economics.ca/2006/papers/0892.pdf>. According to the US consultancy group Accenture, part of Beijing's "Go Out" policy is to nurture 10–20 "national champions" – key state-owned firms that will be propped and padded – in China's outward economic drive. See "China spreads its wings", Accenture, 2005 at <http://www.accenture.com/NR/rdonlyres/6A4C9C07-8C84-4287-9417-203DF3E6A3D1/0/Chinaspreadsitwings.pdf>

<sup>15</sup> "China invests billions abroad", Manufacturing.net, 17 September 2007, <http://www.manufacturing.net/China-Invests-Billions-Abroad.aspx>

<sup>16</sup> Joe Battat, "China's outward investment", 13 April 2006, at [http://psdblog.worldbank.org/psdblog/2006/04/chinas\\_outward.html](http://psdblog.worldbank.org/psdblog/2006/04/chinas_outward.html)

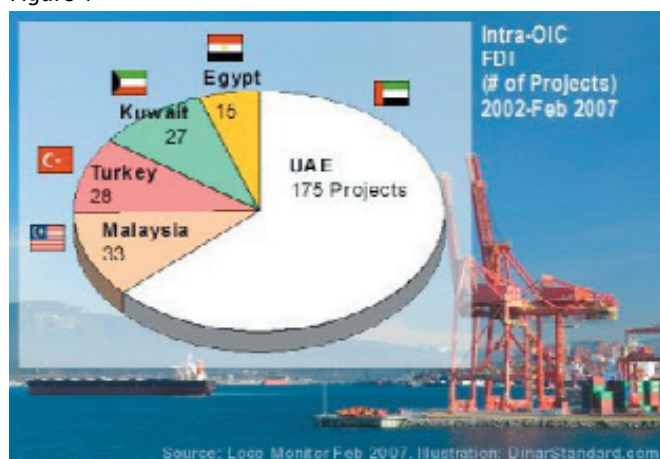
<sup>17</sup> Halliburton, the Houston-based US defence contractor, opened a second headquarters in March 2007 in Dubai.

Gulf States are also becoming expansive outward investors – mostly buying bits and pieces of major operators in developed country markets but also injecting money into developing countries. In 2006, the Gulf states invested US\$30.8 billion abroad. As for 2007, by September they had already doubled the 2006 figure and spent US\$64 billion in foreign investment.<sup>18</sup> The top outward Gulf investors in dollar terms are the UAE, Kuwait, Saudi Arabia and Bahrain.

Some snapshots give an idea of what's going on:

- Dubai's top property developers – Emaar, Dubai Holding and Dubai World, all predominantly owned by the Maktoum family – are building on a massive scale for high-end markets in Syria, Pakistan, Jordan, Egypt, Lebanon, Libya, Morocco and half a dozen other developing countries around the world.<sup>19</sup>
- Cross-border investment between countries of the OIC is growing. The United Arab Emirates are by far the biggest investor in fellow OIC states (see Figure 1), while the top recipients of intra-OIC investment are Saudi Arabia, Jordan, Syria, Indonesia and Lebanon, each getting about 25 projects from other OIC states between 2002 and 2007.<sup>20</sup> The OIC is important because it is a community of mostly developing countries united around a common political agenda, with a strong capacity for solidarity.
- As Gulf states try to capitalise on record oil prices and at the same time address the need to diversify away from oil revenues, there is a great amount of cross-border investment going on in sectors like banking and telecommunications, both among themselves and reaching out to Middle East neighbours such as Egypt and Syria.

Figure 1



But there's plenty more. According to a March 2007 study by the Associated Chambers of Commerce and Industry of India (ASSOCHAM), India's investment outflows were expected to hit US\$15 billion in (calendar) 2007, outstripping investment flows going into India.<sup>21</sup>

<sup>18</sup> Andrew Ross Sorkin, "The Mideast money flows", *New York Times*, 27 September 2007.

<sup>19</sup> Emily Flynn Vencat, "Dubai's glitz goes global", *Newsweek*, 30 October 2006 at <http://www.msnbc.msn.com/id/15359298/site/newsweek>

<sup>20</sup> Sajjad Chowdhry, "Foreign direct investment (FDI) on the rise in OIC economies", *DinarStandard*, 10 April 2007 at [http://www.dinarstandard.com/current/OIC\\_FDI040907.htm](http://www.dinarstandard.com/current/OIC_FDI040907.htm)

<sup>21</sup> "FDI outflow of \$15 billion likely in 2007", *News behind the news*, 19 March 2007. <http://www.news.indiamart.com/news-analysis/fdi-out-flow-of-15-bi-15100.html>

The Federation of Indian Chambers of Commerce and Industry (FICCI) and Ernst & Young put out another report in June 2007 claiming the figure will hit US\$35 billion for fiscal 2007-8.<sup>22</sup> Most of India's outward investment – concentrated in the IT, automobile and pharmaceuticals sectors – goes to the USA or Europe. But Africa comes in third place and the pace of change is fast. While sub-prime loans may rock the USA, there is clearly no credit crunch in India!

In Latin America, outgoing investment from TNCs and state enterprises in the region jumped by 115% to US\$41 billion in 2006. Most of this is attributed to the rapid internationalisation of a few major corporations in Brazil and Mexico<sup>23</sup> – much of it being pumped into neighbouring Latin American and Caribbean states.

The table below summarises the top echelon of South-South investment activity over the past 17 years, by source country.

#### Most active South-South corporate investors, in mergers & acquisitions only, by home country (1990-May 2007)

Home country	Value of deals (US\$ billion)
Singapore	35.8
China	18.3
Malaysia	12.7
South Africa	11.6
United Arab Emirates	7.2
Brazil	6.7
Chile	6.1
India	4.7
Qatar	4.7

Source: Adapted from OECD, Recent trends in foreign direct investment, June 2007

#### New partners or new rivals?

With more and more money flowing between developing countries, two things are bound to happen. First, the role of Northern capital – whether it comes from the IMF or development cooperation agencies like USAID or ministries of foreign affairs – is bound to shrink a bit. In many cases, this is deliberate. The Bank of the South in Latin America is meant to replace both the Inter-American Development Bank and the IMF in providing loans and other forms of working capital in the region. And China has a strong political agenda to provide not only investment but soft credit arrangements with very different strings attached than those coming from Northern sources, to build its political alliance base.<sup>24</sup>

<sup>22</sup> "FDI outflow may touch \$35 bn: study", *Financial Express*, 18 June 2007. [http://www.ficci.com/news/viewnews1.asp?news\\_id=1195](http://www.ficci.com/news/viewnews1.asp?news_id=1195)

<sup>23</sup> "Latam and Caribbean show huge FDI outflow increase", *Foreign Direct Investment Magazine*, 6 August 2007. [http://www.fdimagazine.com/news/fullstory.php/aid/2007/Latam\\_and\\_Caribbean\\_show\\_huge\\_FDI\\_outflow\\_increase.html](http://www.fdimagazine.com/news/fullstory.php/aid/2007/Latam_and_Caribbean_show_huge_FDI_outflow_increase.html)

<sup>24</sup> For instance, adherence to the "one China" policy – including no formal relations with Taiwan – is expected of countries on the receiving end of Beijing's neoliberal largesse. Given the history of the Cold War period, China's network of investment and loan recipients may also be expected to support the PRC in its political leanings at the UN Security Council. Further, China's investments in Africa have generated a wave of Presidential Investment Advisory Councils which are high-level national fora through which Beijing can interact directly with local captains of industry, whether domestic or TNC affiliates, to discuss and potentially advise changes in the local business environment, including national policies. (See Broadman, *Africa's Silk Road*, World Bank, Washington DC, 2007, pp. 146-7.)



For the most part, this is a good thing. But it would be foolish to think that because it is South-South it is inherently better. How much developing country governments push and further entrench neoliberalism in their cross-border trade and investment dealings is the key issue. Chávez aside (and maybe not!), they might turn out as bad any Northern government.

Secondly, rivalries and resentments are sure to emerge. This is already clear in Latin America, where ideological differences and competing business interests are behind various tensions in cross-border trade and investment endeavours (*see* Zibechi, “Integration or free trade?”, on page 88). In Asia, India and China have significant competing and conflicting interests, even though this is often played down in diplomatic spheres. Both Pakistan and Bangladesh are important theatres of this rivalry, and as Chinese investments in these countries grow, the political tension with Delhi may also increase. In Africa, there are many social, and even governmental, problems with China’s growing economic role in the region, particularly since China tends to bring its own labour force to implement its funded projects. While China is trying

to address this, its strategic emphasis on setting up export processing zones – which come with their own intrinsic set of problems – may outweigh some of the palliative efforts to cut back on the importation of a Chinese workforce.

The shape of global economic forces is changing rapidly today, with South-South trade and investment starting to grow rapidly just as developing country governments turn to bilateral FTAs and regional economic integration efforts with more zeal. Where this will take us remains to be seen. For certain, though, the growth in wealth and power of Southern TNCs and the aggressive teaming up of developing country governments to reshape finance and investment flows between them will change domestic Southern economies in the years ahead. Further examination is warranted of the dynamics of Southern stock market flows, the implications of Southern companies selling public shares, and the levels of integration with Northern capital. How much all of this serves to deepen class divisions, to further the dismantling of redistributive models and promote neoliberal paradigms of unbridled privatisation is the real question.



(Photo: jinbo.net)

## Social activism around FTAs

Social movements and people's organisations have been fighting FTAs for decades. Focused activism emerged in Latin America in the 1990s, when Washington began pushing all sorts of bilateral deals on specific governments to expand the powers of US firms in the region: intellectual property agreements, investment treaties and eventually FTAs. Groups in Colombia, Ecuador, Nicaragua and elsewhere quickly understood the power of bilateral deals as emergency votes were sprung on parliaments concerning surprise treaties from finance or commerce ministries which committed their countries to new obligations such as seed patenting or the right of US companies to sue their governments. People saw that the machinery of democracy and public law – congresses, constitutions and courts – was being deliberately subverted to give new powers to US corporations, from Enron to Occidental Petroleum. It was no accident that the Zapatista Army of National Liberation launched its uprising against neoliberalism from Chiapas, southern Mexico, on the day that NAFTA came into force, 1 January 1994.

Latin America has been the scene of very important social struggles against bilateral trade and investment deals:

- the ongoing struggle against NAFTA, especially by Mexican farmers and indigenous communities, such as the campaign "*El campo no aguanta mas*" (the countryside cannot take any more), not to mention the struggles for justice and dignity waged by *maquiladora* workers in the north of the country, near the US border
- strong community resistance in Buenos Aires, Argentina, against the privatisation of water supply and sewerage systems by Azurix, an Enron subsidiary, under a US–Argentina BIT (1999–2001)

- the popular uprising in Cochabamba, Bolivia, against a Bechtel subsidiary that took over the public water supply system under a Netherlands–Bolivia BIT (2001)
- the continental anti-FTAA (Free Trade Area of the Americas) campaign, which created a strong understanding of Washington's overall bilateral trade and investment agenda in Latin America (particularly during the 2001–2005 period)
- local communities' struggle against the building of Spanish (ENCE) and Finnish (Botnia) pulp mills on the Uruguayan side of the river separating Uruguay and Argentina, under BITs between Montevideo and the firms' European host countries (2003–2006)
- the organising of popular referenda and constituent assemblies where US FTAs were voted down by the people in Colombia and Ecuador (2006)
- new emerging struggles across the Andean Cordillera against the expansion of Argentine mining operations in Chile under a BIT between the two governments
- popular resistance against water privatisation in El Salvador, through a change in national law to conform with CAFTA, which has most recently resulted in 13 people being charged as terrorists under the anti-terrorism law, which people also see as stemming from CAFTA (2006–2007)



"We are a challenge to neoliberalism. We have come to show you that it's possible to rebel – and that it is worth it."

(Image: Zapatista Army of National Liberation)



A Burkina Faso woman farmer says “No to EPAs without food sovereignty” (Photo: ABC Burkina)

## In Africa and the Arab world, several hotspots of FTA struggle have emerged:

- South Africa was an early (2000) victim of an EU FTA, the effects of which percolated over time. While there has been no specific anti-FTA or BIT movement to speak of in the country, the politics of neoliberalism that the EU FTA imposed on South Africa have spawned important urban social struggles, especially against water and electricity privatisation and for access to essential medicines (against patents).
- At the southern Africa level, a broader awareness of bilateral and regional investment treaties has spawned much co-operative labour union research and education work (early 2000s).
- Morocco was the scene of a very important social struggle against the US-Morocco FTA, where mobilising issues included the implications of

the deal for health, cultural diversity, Morocco’s political and economic autonomy and the entire negotiating process (2003–2005).



Korean farmers cross the sea to Jeju island, where the US and Korean FTA negotiators were hiding out for their fourth round of talks in October 2006. Mobilisations in Korea against the free trade deal were massive, with well over 100,000 people in the streets. (Photo: Chamsaesang)

- Most recently, a broad social front of opposition to the EU-Africa EPAs, which were to be signed by 31 December 2007, has built up across sub-Saharan Africa. These deals will totally change Africa’s economic relations with Europe, and the implications have many different sectors fighting to stop or at least delay the deals, partly in conjunction with European NGOs (2005–2007).

## In Asia and the Pacific, social struggle against FTAs has been patchy up to now:

- There was relatively early contestation of FTAs in New Zealand, where a number of groups and unions had opposed an FTA with Singapore, and helped to stop New Zealand-Hong Kong FTA talks.
- The Koreans have led the strongest national movements against FTAs, starting with the Korea-Chile deal which farmers and workers strongly opposed



(2001–2003). This was followed by a massive popular resistance against the US–Korea FTA (2005–2007) – the largest organised movement in Korea since the student uprising of 1987. Now they are trying to stop the EU–Korean FTA.

- Australian society went through a tumultuous struggle against the US–Australia FTA (2003). From early debates over the implications for Australia’s health care and food systems, the FTA became a major electoral issue about Australia’s sovereignty.
- A strong Thai movement against FTAs emerged with the negotiations of the Australia–Thailand and US–Thailand deals (2005–2006). This led to the formation of a national anti-FTA coalition that has also been fighting the Japan–Thailand, China–Thailand, New Zealand–Thailand and now the EU–ASEAN FTA. The issues of concern have been different under the various deals, but farmers’ livelihoods, access to medicine and the question of who benefits from these deals have been key mobilising questions.
- A small social front of opposition to the US–Malaysia FTA has grown in Malaysia (2006–2007).
- In the Philippines, various sectors have been working to stop the Japan–Philippines Economic Partnership Agreement (2005–2007).
- Regional solidarity and networking is starting to build up now around the EU–ASEAN FTA negotiations (2007).



People living with HIV/AIDS have been one of the most active opposition forces against the US FTA in Malaysia because of the life-threatening implications of Washington’s demands on drug patenting. (Photo: courtesy Third World Network)

Labour groups, farmers, immigrants, environmentalists, native Americans, anti-war activists and others have also been mobilising against FTAs on the US side. Here, a Pennsylvania steelworker protests CAFTA at a demonstration in Washington DC, in May 2005. (Photo: H. Darr Beiser)



# Two Impacts and fightbacks

## Asia and Pacific

### Australia-US free trade agreement – fair trade or foul?

Jemma Bailey (September 2007)

A lasting image from the campaign against the Australia-US Free Trade Agreement (AUSFTA) is a cartoon that appeared on the cover of a book about the negotiations called *How to Kill a Country*.

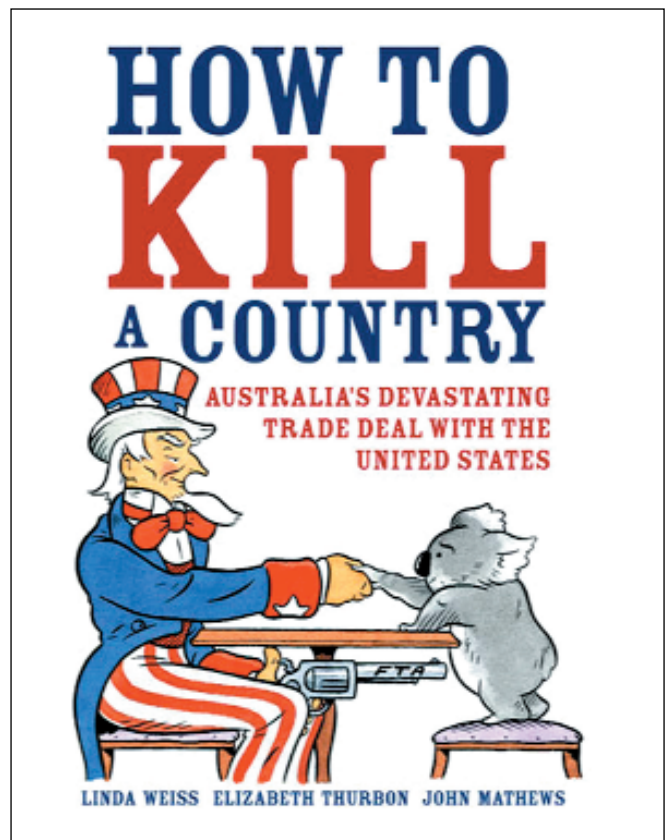
The cartoon showed a koala (representing Australia) standing on a chair and craning its neck to see over the table. On the other side of the table sat Uncle Sam (the US), dressed in red, white and blue. Over the table, the koala and Uncle Sam are smiling and shaking hands. Under the table, Uncle Sam is holding a gun firmly against the koala's belly.

In truth, the story of AUSFTA is not as simple as this. The political party in power in Australia during the negotiations – the conservative Liberal party – was very committed to free trade and very keen on cosying up to the US. But as in most trade negotiations with the US, the Australian government was far from an equal bargaining partner. Ultimately a very bad deal for the Australian public was signed.

#### The AUSFTA campaign journey

AUSFTA negotiations began in March 2003. By February 2004, the deal was agreed and the final text – all 800 pages of it – brought out from behind closed doors.

The power imbalance in the negotiations was clear – the Australian economy is the size of only 4% of the US economy. Nevertheless, the Australian government went into negotiations with little more than a heartfelt commitment to free trade and neoliberalism, a false apprehension that the US would open up its agriculture markets and a misguided belief that the US was a “mate” who would look after it in the negotiations.



The famous book cover of *How to Kill a Country*  
(Allen & Unwin, Sydney, 2004)





The US–Australia FTA was widely seen by the Australian people as a sell-out to the US and its powerful corporate sector.

The Australian government, with the help of business lobbyists and the Rupert Murdoch media, furiously spun the worth of the agreement. Prime Minister John Howard described AUSFTA as “a coming together of the planets ... which won’t again happen in a generation or more”. For Parliamentary Secretary to the Trade Minister DeAnne Kelly, AUSFTA was the “world cup of trade”.

A strong community campaign opposed the undemocratic nature of the negotiations and demanded that health, social and environmental policies be excluded from AUSFTA. The final stages of the campaign mainly targeted the more progressive opposition party, the Australian Labor Party (ALP), in the hope that the ALP would block any changes to Australian law in parliament.

The deal went through parliament in August 2004. It passed after the more conservative faction within the ALP used its majority to force support for the agreement – albeit with amendments to penalise abuse of patents by drug companies and to maintain protections for current media forms.

The final deal was lopsided, to say the least. Australia’s most competitive exports, including fast ferries, stone fruit and wine, continue to be barred from entry into the USA or are very restricted. Sugar is entirely excluded from the agreement, and beef and dairy tariff reductions will be phased in over 18 years.

### Lining up the targets – impacts of AUSFTA

In 2002, former US Trade Representative Robert Zoellick wrote to US Congress with a list of key social policies in Australia that the US had identified as burdensome “barriers to trade”. This letter was an important document that identified the key areas of the AUSFTA campaign.

- **Affordable medicines – Pharmaceutical Benefits Scheme**

US negotiators had identified Australia’s Pharmaceutical Benefits Scheme (PBS) as a barrier to trade. Under the PBS, the Australian government bulk-buys approved medicines at wholesale prices to ensure that medicines remain affordable in Australia. Medicines in Australia are 3–10 times cheaper than in the US. Not surprisingly, big US pharmaceutical interests wanted AUSFTA to deliver greater rights for drug companies ... and of course, more expensive drugs. Community campaigning saved most of the PBS. Small changes however, such as allowing the extension

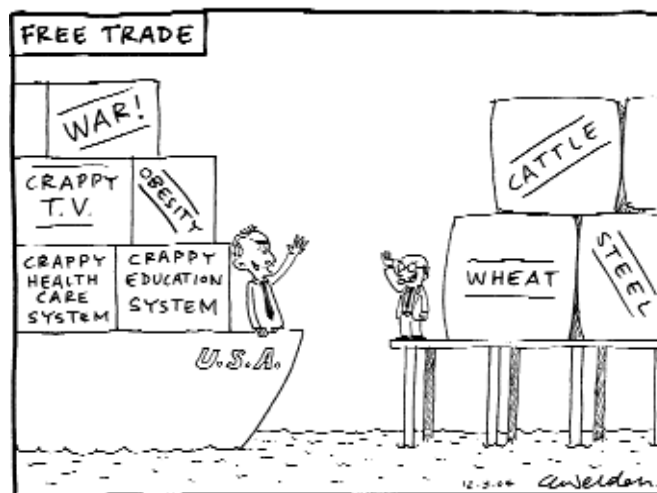
of patent periods for medicines, are likely to undermine the PBS and delay the availability of cheaper generic medicines.

- **Labelling of genetically modified foods**

As a result of consumer campaigns about the environmental and health impacts of genetically modified (GM) foods, Australian law requires them to be labelled. US negotiators wanted to weaken Australia’s laws, bringing them in line with the lax US labelling requirements. A strong campaign by farmers and environment groups in Australia blocked US attempts to scrap the labelling system.

- **Adopting US copyright law**

The US sought to replace Australia’s copyright laws with US copyright law. The intellectual property chapter in AUSFTA is basically a cut-and-paste of US laws. Among other things, AUSFTA extends the lifetime of copyright from 50 to 70 years. Libraries and public education bodies campaigned strongly on this point, as it will mean higher costs for copying materials, even for educational purposes.



The trade-off involved in the US–Australia FTA  
(Image Andrew Weldon)

- **Local content rules in media**

Australian local content laws require a minimum number of hours to be reserved for Australian-made material in film, television and radio. Local content laws support the local media industry and ensure that diverse Australian voices are heard. US media companies already dominate the local market, and without this requirement for local content the Australian media industry would struggle to survive. The community campaign succeeded in keeping local content rules for existing forms of media but not for emerging or new media. This means that the Australian industry will lose its protection as technology in film, television and radio advances.

- **Quarantine**

Australia has fairly stringent quarantine laws, which the US identified as a barrier to trade. Australian wine, pork and chicken producers claimed that weakening quarantine laws would leave them vulnerable to outbreaks of US diseases, viruses and pests not found in Australia. After a strong public campaign, Australian quarantine laws were largely maintained.



- **Limits on foreign investment**

The Australian Foreign Investment Review Board reviews proposed investments by foreign companies in Australia. The US wanted to remove these controls to get access to our strategic industries, such as media, telecommunications, airlines and banking. The US succeeded in raising the threshold for review for investments from A\$50 million to A\$800 million.

- **Regulation of services and investment**

The US sought to change Australia's laws such that US companies could not be treated any differently from Australian companies. The campaign focused on essential services. Some key public services, such as health, education and public broadcasting were specifically excluded from AUSFTA. Water, energy and public transport remain in the agreement, however.

- **Tariffs in key manufacturing industries**

Australia has maintained high tariffs in the textile, clothing and footwear industry and the car industry. The Australian Manufacturing Workers' Union argued that cutting tariffs through AUSFTA would effectively close down those sectors and mean over 130,000 job losses, mainly in regional communities.

- **Investor-state disputes mechanism**

The US wanted an investor-state disputes mechanism in AUSFTA. This would have allowed US companies to challenge some Australian laws on the basis that they were inconsistent with AUSFTA and harmful to company profits. This would have effectively tied the Australian government's hands behind its back when it comes to making laws that could affect US companies. Under an investor-state disputes process, complaints would be heard by a panel of experts in an international tribunal, closed to the public.

A strong campaign against AUSFTA used examples

from the North American Free Trade Agreement (NAFTA) of companies challenging local laws. The campaign succeeded in keeping an investor-state disputes mechanism out of AUSFTA.

### The campaign

The campaign against AUSFTA brought together a diverse range of organisations and movements in Australia, including trade unions, faith-based groups, environmental groups, public health and education advocates, librarians, pensioners and students. Many of these groups had not worked together before – nor worked on trade issues before – and alliances were formed that have lasted beyond AUSFTA.

These groups came together mainly through the Australian Fair Trade and Investment Network (AFTINET). AFTINET coordinated many joint actions during the campaign. So what did the campaign look like...?

- **Community education** – A large focus for the campaign. At the start of the campaign, many people still didn't understand what an FTA was, let alone why they should care about FTAs. There were public forums, public meetings and community stalls in all capital cities and many smaller towns. A number of popular education publications were produced, as well as cartoons and animations, highlighting different aspects of AUSFTA. Check out the animation on local media content produced by the Screen Producers Association of Australia <http://www.spaa.org.au/freetrade.html>
- **Mobilisation and movement-building** – Stepping beyond education, the campaign sought to involve and activate people. Public rallies were held in most capital cities. Organisations held campaign and

## Pulling strings – THE FORCES BEHIND AUSFTA

AUSFTA was a blatantly bad deal for Australia – opposed by the majority of people in Australia and questioned by mainstream economists. It is rumoured that even the government's own trade bureaucrats recommended against signing the deal. So what compelled the Australian government to sign on the dotted line?

**Ideology.** The conservative Howard government was ideologically committed to neoliberalism. It seems that AUSFTA was a good means to lock in their agenda of deregulation and privatisation.

**Corporate lobbyists.** A number of well-funded business lobby

groups played a key role in pushing for AUSFTA. In particular:

AUSTA – Business coalition run by Alan Oxley. And including Australian Chamber of Commerce and Industry and the American Chamber of Commerce in Australia.

Business Council of Australia – Made up of so-called "Australian" companies yet many of Australia's biggest companies are foreign-owned.

Medicines Australia – Represents pharmaceutical businesses in Australia, including local subsidiaries of US pharmaceutical companies

The Australian government was also careful to compensate some

of the important industries that lost out in AUSFTA. For example, sugar farmers received an adjustment package of A\$444m. Buying silence, perhaps?

**The war.** AUSFTA was negotiated in the shadow of the so-called war on terror and the Australian government's support – without the mandate of the Australian people – for the invasion of Afghanistan and Iraq. AUSFTA became increasingly linked with Australia's military interests. Having hitched Australia's wagon so closely to the US in the Coalition of the Willing, Australia's Prime Minister seemed unable to walk away from AUSFTA.

letter-writing workshops. There were day long teach-ins in Sydney and Melbourne and train-the-trainer education sessions on AUSFTA.

- **Lobbying** – AUSFTA was negotiated in the lead-up to a federal election in Australia, so the campaign also focused on lobbying politicians, especially politicians from the ALP and sympathetic minor parties. Thousands of letters and emails were sent to politicians during the campaign, and AFTINET coordinated people to visit and lobby their local politicians. The campaign forced two parliamentary inquiries, which received over 700 public submissions. At the local council level, motions were tabled against the AUSFTA.
- **Media** – The campaign attracted a lot of mainstream and community media attention. Media unions brought in high-profile actors (and struggling singers) such as Toni Collette and Russell Crowe to raise the profile of the campaign.

There was some joint campaigning between activists in the US and Australia. For example, the Australian Council of Trade Unions and the American Federation of Labor and Congress of Industrial Organisations (AFL-CIO) issued a joint media statement, as did environment organisations. Unfortunately, most of this joint campaigning was through larger organisations, and not very sustained.

An important aspect of the campaign was research to debunk the government's rhetoric that the AUSFTA would be great for the Australian economy. The government relied on research produced by the Centre for International Economics to claim that the FTA would generate US\$2 billion in economic benefits after 10 years. The devil in the detail was that these studies assumed totally free trade in agriculture – which was never going to happen. Groups within the campaign commissioned their own studies which projected losses and undermined the government's claims.

### **From little things big things grow – measuring success in the campaign**

Despite the strength of the campaign, AUSFTA was signed. Some could say that we snatched defeat from the jaws of victory. But the campaign did succeed in creating a genuine shift in the public debate about free trade. In Australian politics, free trade had become a sacred cow that could not be challenged. The accepted wisdom was that free trade would lead to greater wealth and prosperity for all. And the ALP sang from the same songsheet as the conservative Liberal Government on this point.

The AUSFTA campaign sparked the biggest debate that Australia had seen on a trade agreement. The debate in the community – and even in the mainstream media – questioned whether free trade agreements were about making trade more open or whether they were about securing rights for large corporations and undermining public control in social policy.

The campaign shifted public opinion. At the start of the campaign, support for AUSFTA stood at 65%; by the time AUSFTA was signed, support had dropped to 35%. Even though AUSFTA was signed, it is universally acknowl-

edged in Australia as a bad deal. The campaign also succeeded in making a bad deal less bad than it would have otherwise been. There was no investor-state disputes process, and Australia's quarantine laws remained relatively intact, as did laws on the labelling of genetically engineered foods. Local content rules for current forms of media were maintained and existing limits of foreign investment in Qantas, Telstra and media ownership maintained.

In the key area of medicines, the campaign pushed the ALP to force an amendment to safeguard Australia's medicines policy against the practice of "evergreening" by drug companies. Evergreening describes the practice of drug companies lodging bogus patent claims to delay the marketing of cheaper generic drugs after patents have expired.

The sting in the tail is that in areas where the US did not achieve its goals, the US moved to set up joint Australia-US committees to allow for ongoing and unaccountable input into Australia's policy making. AUSFTA set up joint committees in medicines, quarantine and technical standards including food labelling. Three years on, we are still not able to find out who sits on these committees, when they meet and what they discuss.

### **The campaign continues ...**

AUSFTA came into effect on 1 January 2005.

Almost three years into its operation, the impacts are becoming evident. Despite promises of economic riches, Australia's trade balance with the US has declined by 32% – a deterioration of \$3.3 billion. The Australian Manufacturing Workers' Union estimates that over 10,000 jobs have been lost as a result of the agreement.

Not surprisingly, the Australian government has refused to conduct any public review of AUSFTA. Instead the government trots out a handful of individual success stories. Apparently an Australian pie company is doing well. Community groups and academics continue to monitor and highlight the impacts of AUSFTA and there have been some small wins along the way. For example, AUSFTA opened the door for US firms to tender for blood supply contracts. In 2007, community campaigning pushed state governments to reject the federal government's attempt to push this through.

AUSFTA allows for either country to pull out of the agreement with only 6 months notice. The campaign against AUSFTA continues.

### **The koala and the gun in perspective**

It is important to put AUSFTA in the context of other Australian trade negotiations. The Australian government, despite being the koala with the gun to its belly in AUSFTA, is far from innocent. A quick look at Australia's trade negotiations with Thailand and Pacific countries show that the Australian government is itself quite adept at holding the gun under the table and negotiating its own trade agreements that push harmful neoliberal policies.

The challenge that remains for the movement in Australia is to harness the momentum of the AUSFTA campaign to hold the Australian government accountable for playing the role of the bully with other countries.

## Resources

Australian Fair Trade and Investment Network [www.aftinet.org.au](http://www.aftinet.org.au).

AFTINET brought together over 80 organisations during the AUSFTA campaign. This site has a great archive of campaign bulletins. For more detail about the impacts of AUSFTA, check out the AFTINET "10 devils in the detail" leaflet.

Global Trade Watch Australia <http://tradewatchoz.org/> This site has a comprehensive record of media from AUSFTA campaign.

Australian Manufacturing Workers' Union, Say No to USFTA campaign  
<http://www.amwu.asn.au/default.asp?Action=Category&id=68>

Friends of the Earth AUSFTA campaign page

<http://www.foe.org.au/trade/learning-resources/australia-2013-united-states-free-trade-agreement/>

Pat Ranald, "The Australia-US Free Trade Agreement: a contest of interests", *Journal of Australian Political Economy*, No. 57, June 2006.  
[www.jape.org](http://www.jape.org) Good discussion of social and corporate forces for and against AUSFTA.

*An Environmental Impact Assessment (EIA) of the US Free Trade Agreement* <http://www.OzProspect.org>

ABC radio interview on impact of AUSFTA 2 years on with John Matthews, co-author of the book *How to Kill a Country*  
[http://bilaterals.org/article.php?id\\_article=7828](http://bilaterals.org/article.php?id_article=7828)

Joint statement from Australian groups calling on the Australian Senate to block the AUSFTA legislation  
[http://aftinet.org.au/campaigns/US\\_FTA/usftasignonstatement.html](http://aftinet.org.au/campaigns/US_FTA/usftasignonstatement.html)





The people's movement against FTAs has opened important political space in Thailand.

## Fighting FTAs: the experience in Thailand

BIOTHAI (October 2007)

On 11 January 2006, some 15–20,000 people laid siege to the Sheraton Hotel by the Ping River in Chiang Mai province, the venue for the sixth round of negotiations on the USA–Thailand Free Trade Agreement.

Many differences between negotiating positions had been resolved in previous rounds, but not the issues of intellectual property and investment. Most demonstrators were drawn from the ranks of people living with HIV/AIDS (PLWHA) and farmers' groups. About 50 of them, with black cloth tied around their necks, swam across the torrential river in an attempt to enter the hotel through the back. At the front gate, throngs of people tried to push the iron barricades set up and now pushed back by 1,000 police officers. As demonstrators outnumbered police, the obstacle was eventually removed, and the protesters advanced to the front gate of the hotel building. We besieged the hotel all night and the Thai–US negotiators, including Barbara Weisen, leader of the US negotiation team, had to sneak out in the middle of the night. That became the last round of FTA negotiations thus far.

Attempts by the Thaksin Shinawatra government to suppress press coverage of the anti-FTA campaign failed. State TV reported this event colourfully, shifting media coverage from an inch of space in business sections to newspaper headlines devoted to the anti-FTA movement. The Minister of the Interior, a close ally of the (former Prime Minister [PM]) Shinawatra family, and even the protesters of the "Eleven People's Networks against FTA" led by FTA Watch, were surprised that more people came to join us on the second and third days of the demonstration. Chiang Mai was Thaksin's hometown, and a stronghold for his party, which had just gained a landslide victory in the previous election. Yet along the roads leading to the Hotel, many people cheered us on, even inviting us into their houses for food and refreshments.

Put under heavy pressure, Nittaya Piboonsongkram, the chief Thai negotiator, quit his job one week later.

The anti-FTA movement grew along with anti-government feeling among the middle class and, building on this, FTA Watch joined the campaign to topple the government together with the "People's Alliance for Democracy" (PAD). From early to mid 2006, hundreds of thousands of people rallied daily to demand the ousting of the government at Sanamluang and various Bangkok business neighbourhoods. Even though the protests were ended by the military coup on 11 September 2006, the campaign by the people's sector, particularly the movement against the FTA and other trade deals, opened up important political space and will have significant weight in trade liberalisation policy in the future.

### The start of the FTA campaign

The people's movement against the FTA began when Thaksin and US President Bush declared during the October 2003 Asia-Pacific Economic Cooperation (APEC) leaders' meeting in Bangkok that their governments would begin negotiations for a bilateral FTA. This followed the conclusion of a US–Singapore FTA.

Thaksin and his Thai Rak Thai (TRT) party had just won a landslide victory in the general election, and he became PM for a second term, with more than two-thirds of the MPs in the Lower House. Thaksin became the most powerful PM in Thai democratic history. His government used subtle tactics to contain and undermine



Thai police repressing the people's movement in Chiang Mai, January 2006.  
(Photo: courtesy BIOTHAI)

dissent. On the one hand, they attempted to gain popularity among the rural poor by setting up village funds to disburse money directly to them and helping the poor gain better access to public health services. On the other hand, they attempted to control, and interfered with, media and independent regulatory organisations such as the National Human Rights Commission (NHRC), and even the majority of the senators.

The government announced plans for FTAs with over 10 countries, including China, Australia, New Zealand, Bahrain, Peru, Chile, Japan, the US, and a couple of countries in the BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation – comprising Bangladesh, Bhutan, Burma, Sri Lanka, India, Nepal and Thailand), and EFTA (European Free Trade Association – comprising Switzerland, Norway, Liechtenstein, and Iceland). They also announced the partial unilateral liberalisation of the agricultural market to countries in Indochina under the ACMECS (Ayeyawady-Chao Phraya-Mekong Economic Partnership Strategy – which includes Thailand, Cambodia, Burma, Laos and Vietnam). Thaksin's logic behind these FTAs was to throw open the country's market as Thailand was about to sign a deal with the two most populous countries in the world, namely China and India, with a combined citizenry of more than 2 billion, one third of the world's population. We were about to broker deals with countries that had the highest purchasing power in the world and the planet's biggest and second biggest economies, the USA and Japan. Thaksin touted grand dreams and made many empty promises. People were led to believe that no other national leader could compare with him, and that he would lead the country on a development path to stand side by side with other major developed countries such as South Korea, Taiwan and Singapore.

While the Thai government hosted a grand reception for the APEC meeting and greeted guests with a spectacular royal barge procession, the newly founded FTA Watch issued a statement to protest against the beginning of trade negotiations with the USA. Very few media paid attention to our campaign during APEC. Our rather small

gatherings for the campaign against globalisation and war could not attract many people. An independent poll stated that over 90% of people surveyed did not agree with conducting any campaign during the time the country was hosting APEC.

#### FTA Watch

Amidst Thaksin's growing popularity, the people's sector slowly began to campaign on FTA issues with many difficulties and much caution, hoping to gain mass support. After discussion and analysis during December 2003, FTA Watch was founded, comprising NGOs, Peoples Organisations (POs), academics active on the issues of biological resources, intellectual property, public health and consumer protection, groups opposing the World Trade Organisation (WTO) and globalisation, farmers' networks working on sustainable agriculture, and networks of people living with HIV/AIDS. Our members also came from officers and members of independent regulatory organisations such as the NHRC and the National Economic and Social Advisory Council (NESAC).

FTA Watch aims to help coordinate analysis and advocacy on international trade issues among the people's sector and various alliances with no permanent office. The 30–40 core members came from about 20 organisations. We communicated and reported developments through an email listserve, and reached many decisions via electronic communications. Sensitive issues and important decisions have been sorted out in regular meetings hosted alternately among various member organisations.

FTA Watch developed a website [www.ftawatch.org](http://www.ftawatch.org) to be an official online mouthpiece and to disseminate information. Reports on FTA issues from various Thai newspapers have been compiled, together with related articles, analysis of impacts from liberalisation in various fields and investigative reports concerning debates between representatives from civil society and the government led by the negotiation team. Over 20,000

news items have been featured in the website, mostly in Thai. The website has reached over three million hits. We also ran live internet broadcasts during special events such as academic public discussions – which could draw over 500 participants – and the demonstrations in Chiang Mai, for example.

To disseminate analysis of FTA impacts, the group publishes books written by academics and activists, such as *Sovereignty Not for Sale: An Analysis of Impacts of Thailand-USA FTA and Exposing the Hidden Agenda in the Thailand-Japan FTA Agreement*, besides small publications and handouts created for various audiences. We started with small public discussions attended by 30–40 people, and expanded to national seminars with 300–700 participants. Discussion topics include impacts on farmers and patients, an analysis of agreements concerning intellectual property provisions, investment clauses, and an overall analysis of FTA issues such as the lack of transparency in the negotiation process, conflicts of interest and the roles played by transnational companies.

Once the group had become better known, and media and public were increasingly informed about the analysis and impacts, FTA Watch developed into a coordinating centre among activists campaigning on relevant issues. We started with a demonstration against the signing of the Thailand-Australia FTA in 2003 in front of Government House with around 1,000 demonstrators, then a demonstration against the third round of US-Thai FTA negotiations in Pattaya, on 4–8 April 2005, and the massive protest in Chiang Mai. We also joined the PAD to protest against the FTA and the privatisation of state enterprises, and to oust the Thaksin government. This campaign drew hundreds of thousand protesters. (However, several months prior to the coup that toppled Thaksin, FTA Watch gradually retreated from being part of the movement to campaign in the national political arena, and restored its mission to serve the political purpose of the people's sector.)

FTA Watch members also gave equal importance to lobbying as it did to undertaking analysis of impacts and mass mobilisation. Some of our members sit in various committees under the House of Senate, such as the Standing Committee on Foreign Affairs and the Standing Committee on Social Development and Human Security. Other members sit in subcommittees appointed by independent regulatory organisations such as NESAC, NHRC, and so on. We also sent representatives to meet officially with the PM, Deputy PM, and leaders of all opposition political parties, sending our briefings to various committees in the House of Representatives.

After the coup, our members remained active in lobbying for our proposals with members of the National Legislative Assembly (NLA) and pushed for clauses in the new Constitution that guarantee transparency and democracy in the process to develop international trade agreements, making the process more accountable to the people.

### **An analysis of FTA issues**

FTA Watch deems that the push for FTAs has been chiefly driven by vested interests among the major powers in the world, particularly the USA, and the Thai government and its cronies who stand to gain from trade liberalisation.

The government realises that the push for trade and investment liberalisation through WTO has met with more difficulties, particularly after several major developing countries, including China, India and Brazil, united with other, smaller developing countries. Meanwhile, the world sees a growing movement against globalisation. Therefore, the US government has come up with the push for bilateral FTAs with major economies in lieu of WTO negotiations. In South-east Asia, they started with Singapore, then moved on to Thailand, Malaysia, the Philippines and Indonesia, in that order.

In Thailand the major drive for the FTA came from Thaksin, the Charoen Pokphand (CP) group, one of the largest agro-industries in the region, headquartered in Thailand, and other interest groups related to members of the cabinet, including the automobile parts industry.

Signing the FTA deal with China spelled disaster for Thai farmers who grow temperate-climate vegetables and fruit in the north of the country. Vegetables and fruit such as garlic, broccoli, kale, apples and peaches flooded into Thailand at half or even a quarter of the price of locally grown produce. A hundred thousand families went bankrupt as a result.

Meanwhile, the Thailand-Australia FTA signed in July 2004 caused serious problems for dairy farmers. Cheaper dairy products, especially milk powder, flooded into Thailand. The 100,000 families of the small-scale Thai dairy sector cannot compete with Australian farms, because the production cost in Australia is only half that in Thailand. One third of Thai dairy farms collapsed within a year of implementation of the agreement.

Various Thai business interests stand to gain from the FTAs, including capitalists within the government, such as the telecommunication business owned by Thaksin's family, which will benefit from the FTAs with China, Australia and New Zealand. Shrimp and seafood exporters such as the CP Group enjoyed a 50% increase in exports in the first year of the FTA with Australia. Automobile industries, one of them owned by transport minister Suriya Jungrungruangkit, benefited from a 75% increase in exports of auto parts to Australia.

Apart from this conflict of interest, the FTA negotiation process is shrouded in secrecy with no transparency and democracy. The contents and stance are subject to the exclusive manipulation of big business and government officials. Negotiation contents and related documents have been hidden from public access, and see the light only after the deal has been signed. The Thai people were able to see the FTAs with Australia and Japan only after the signing ceremonies. The government refused to table FTA texts for deliberation and approval by the House of Parliament, even though they have a broad impact on the public. Thaksin explained that such an action was unwarranted, as "members of the House of Parliament do not have enough knowledge to deliberate on the issue" (even though two thirds of the MPs came from his TRT party).

An FTA with the USA would have even wider and deeper impact than the China and Australia deals, since the framework of negotiation was quite comprehensive, covering many issues, including intellectual property and investment liberalisation. The Chiang Mai mobilisation against the US FTA had a big public impact and also unnerved government officials. By the time of the





(Photo: courtesy  
BIOTHAI)

military coup, the attitude of many Thais had turned against Thaksin and his pet projects, including FTAs. Effectively, therefore, the people's movement against the FTA with the US have stopped it – so far.

The Alternative Agriculture Network, a network of academics and NGOs working on the issues of biological resources and intellectual property, concluded that the inclusion of life patenting clauses and liberalisation of genetically modified (GM) products paves the way for the domination of biological resources and monopoly control of the plant varieties used by farmers and their local communities around the country. Similarly, by accepting drug patenting in line with US standards, Thai patients and consumers will have to buy drugs at prices between thirty and several hundred per cent higher. The impacts will be felt most acutely by those who rely on regular medication, such as people living with HIV/AIDS.

Farmers, the poor and the destitute, who make up the majority of the population, will bear the brunt of the impact of FTAs, which will thereby more broadly undermine national sovereignty.

### Mobilisation strategy

During Thaksin's rule, mobilisation among the people's sector faced many difficulties. Apart from tossing money around, mainly to rural folk, the PM also had by his side former social activists, NGO workers, academics, and some community leaders as his advisers. They were quite skilled and subtle in interfering with media and independent regulatory organisations. In the first four years of his first term and during the first year of his second term, therefore, we hardly saw any of the substantial mass mobilisation that there had been in the past.

Formerly, people's movements, such as the demonstrations by the "Assembly of the Poor" in 1997 could draw as many as 30,000 people, and protests could last for three months. Such mobilisations led to many movement objectives and demands, addressing immediate needs

and seeking policy change, being met. But under Thaksin there was hardly any major demonstration. If one happened, it would soon dissolve, as Thaksin used his personal marketing skills and relied on the experience of his close aides. A case in point was the mass demonstration by the Electricity Generating Authority of Thailand (EGAT) Labour Union to protest against privatisation of major utilities. In the beginning, over 30,000 people joined them. But after the government came up with a proposal to give away free shares in the new EGAT PLC, many EGAT workers changed their position, and the opposition to privatisation crumbled.

Thaksin was not pleased with the people's movements, which he could not control. He strived to make all the grassroots groups succumb to his power. Therefore, any move made by the people's sector led by intellectuals and NGOs became virtually bogged down and those leaders were discredited as "agents who exploit poverty". Reproduction of this discourse in the media has sunk the image of NGO movements to the lowest ever; the discrediting also happened with other social institutions, including the media. As a result, the Thaksin government could easily ink the FTA contract with Australia, even though it was to have a disastrous impact on hundreds of thousands of dairy farmers and over a million beef-cattle farmers. Many farmers were pleased with short-term gains, such as being given free cows to raise under the government's "One Million Cows" project.

The demonstration against the sixth round of FTA negotiations in Chiang Mai was a remobilisation of a people's sector which had dissipated. Prior to the protest, public and media had been informed about the impacts from FTAs to some extent, particularly as effects of the Thailand-China FTA started to be felt deeply among farmers who grew onion, garlic and vegetables in the north of Thailand. Also, impacts on dairy and beef farmers were being felt after the FTA deal with Australia. Despite this leverage, we knew that the demonstration strategies had to be carefully planned, as Chiang Mai was the PM's hometown and his party had won a land-



In Chiang Mai, the Thai and US negotiators were literally under siege in the Sheraton Hotel.

slide election victory. In addition, media, particularly state-owned press and television stations, were under tight government control.

The Chiang Mai demonstrations aimed to attack multinational drug companies and agro-businesses that had been pushing for clauses on intellectual property. This would worsen patient access to necessary medication and undermine farmers' food sovereignty. Investment clauses would affect small-scale investors and entrepreneurs as well as local businesses. Although the process of FTA negotiations obviously lacked transparency and involved conflicts of interest among members of the cabinet, we decided to make this a secondary concern to that of the impacts.

This strategy and the sheer number of protesters in Chiang Mai made media, including those which were state-owned, devote more space to cover our actions. The three days of protest were the first time that FTA Watch and allied academics had a chance to explain the problems and impacts of FTAs to Thailand's 65 million people, and to make clear our opposition stance.

The uprising in Chiang Mai took place at the same time as the middle class in Bangkok and major cities started to feel upset with the government's management. Thaksin's popularity reached the lowest point ever, exacerbated by his decision to sell his family's satellite, mobile phone, television and airline businesses to the Temasek Group from Singapore, untaxed.

According to an independent poll (ABAC) concerning the FTA deals signed with various countries, there were five times as many people opposed to the trade deals as those who were not.

### The Eleven People's Networks against FTA

Normally, FTA Watch functions as a co-ordinating centre for people's movements on activities related to FTA and international trade. But during the mass mobilisation, we needed a stronger and more cohesive organisation, so the "Network of Eleven People's Networks against FTA" was formed a little before the sixth round of FTA negotiations.

In the Network were the Thai network of PLWHA or



People living with HIV/AIDS on the frontline of the FTA struggle in Chiang Mai. (Photo: courtesy BIOTHA1)

TNP+, the Alternative Agriculture Network (AAN), the Confederation of Consumer Organisations, the Northern Peasant Federation, Four Region Slum Network, the Council of Networks of People's Organisations in Thailand, the Assembly of the Poor (AOP), the Student Federation of Thailand, Land Reform Action Network for the Poor, the Southern Community Forest Network, the Federation of Labour Unions and Alliances of Labour Movements, and FTA Watch. TNP+ and AAN members constituted the majority of demonstrators at Chiang Mai.

A strong people's organisation, TNP+ draws its members come from over 1,000 organisations – more than 100,000 individuals. The total PLWHA population in Thailand is around 900,000. The network was founded in 1997 and has been very active in advocating access to treatment and drugs as well as other rights of the PLWHAs. They work closely with AIDS NGOs in Thailand. A Thailand-USA FTA would impact most acutely and concretely on PLWHA. Under the deal, it was likely that the monthly medical expenses for each PLWHA would increase from 2,500–5,000 baht to 20,000 baht, the rise being due to the extension of drug patent protection and clauses providing for data exclusivity as well as compulsory licensing. Around 3,000 members from TNP+ joined us during the demonstrations in Chiang Mai.

The AAN was founded in 1989 and has more than 50,000 households countrywide as members. About 2,000 AAN members joined us during the protest in Chiang Mai. The Network has had the experience in advocating policy issues concerning sustainable agriculture and food security. Their previous major accomplishments included the advocacy for the government to change the target of agricultural transformation to reach the 25% goal of sustainable agriculture as the minimum in 1997. They also successfully campaigned with various NGOs working on biodiversity to pressure the government until they had to issue a ban on field trials of GM crops, which has held since 2001. The AAN stands firm on opposing plant variety protection and life patenting laws which would exacerbate access and exchange of biological resources which provide the foundation of food security and sovereignty. Opening up the agriculture commodity market would lead to a rapid increase of imports and dumping of highly subsidised, cheap produce from USA.



Other people's networks, including the Confederation of Consumer Organisations, Northern Peasant Federation, Four Region Slum Network and AOP, had had much experience in advocating at the national level and shared similar political positions. They had also worked together in various uprisings.

Decisions concerning moves on the street were collectively made by representatives from all groups. FTA Watch simply provided information and helped with the overall analysis as well as public relations. AOP members played a big role in the logistics of the demonstration. They were more skilled in situations where we had to confront state authorities.

Taking to the street moved the movement from debate on international trade in the business section of newspapers to public and political debate. It opened media space for people's networks and made it difficult for the government to control media. Success for the campaign would chiefly rely on public reaction, since winning broader support was vital for future mobilisation.

### **Accomplishments of the people's sector for FTA advocacy work in Thailand**

#### *1) Advocating changes in agreements' provisions*

When the FTA deal with China was signed, FTA Watch had not been founded. We were only just starting when the Thailand-Australia FTA was signed in 2003. There was not much we could do to press for changes in the details.

But during the negotiation for the Japan-Thailand FTA (JTEPA), the people's movement had learnt some lessons from previous FTA advocacy. We have made some moves to press for more access to contents of the deal, for example. (The Thai negotiation team allowed our representative to view the contract in a particular place

and during limited time.) It was useful for our analysis of the impacts of the draft contract, especially on two topics including toxic waste and patenting of naturally occurring micro-organisms. FTA Watch disseminated the information we obtained widely through the National Legislative Assembly mechanisms, NESAC, NHRC, etc. We marched to the ITV station to pressure them to broadcast information from the people's sector, and later brought a lawsuit to the Administrative Court concerning flaws in the public hearing of the JTEPA.

The campaigns have made the government issue a side letter, and representatives from Japan had to sign the letter to affirm that clauses on toxic waste and patenting of naturally occurring micro-organisms shall not be interpreted in a manner that would damage Thailand. Although there is a suggestion that this side letter has weak legal status if the main text has not changed, this is the first time that the people have realised that they can possibly change the trade agreement.

#### *2) Reforming legislative process*

After Thaksin Shinawatra was ousted as PM by the middle class and the military, FTA Watch, the progressive academic network and people's organisations launched a campaign for a constitutional amendment concerning the process for concluding international trade deals. Section 190 in the new Constitution states various details pushed forward by the people's sector to provide for transparency in the process as follows:

- 1 Parliament must be informed about the process for development and negotiation on international trade deals*
- 2 Prior to the negotiation, a public hearing must be held*
- 3 In case the trade deals will have impacts on people, there must be remedy and compensation measures in place*



(Photo: courtesy BIOTHAI)

- 4 *Contents of the contracts must be disclosed to the public beforehand*
- 5 *The deals must be approved by Parliament*
- 6 *A law must be issued to provide for procedure and details of how to proceed with the development of such an international trade deal.*

We have succeeded in having these clauses included in the new Constitution by means of various forms of campaign, including policy lobbying, awareness raising, public relations and constant political manoeuvring 3-4 years beforehand.

### 3) *Growth of people's organisations*

Amidst the tense struggle in the name of free trade by transnational corporations to expand their resource exploitation and markets around the world, national political institutions have failed to perform their tasks. Even though one might not agree entirely with the insult that Thaksin Shinawatra hurled at Parliament when he claimed that MPs were not knowledgeable enough to read trade deals, it certainly reflects some realities. Current political institutions are not capable of handling the trend of neoliberal globalisation.

On the one hand, the emergence of FTA Watch pointed to a weakness of political institutions, the bureaucratic system, educational institutions and various major social institutions. On the other hand, it indicates that, in future, the only force that can contain the power of transnational corporations will stem from coalitions of people's movements and the public, who are so disappointed with the roles of major institutions. These organisations will play a major role in setting the course of democratic development in Thailand.

Looking back at the planning of FTA deals with various countries since 2003, we can see a total failure of the government to protect people's interests. They have been unable to prevent the majority of people from being exploited by the world trade system, and have even become part of the problem. The opposition parties were too weak to withstand criticisms and disagreement, as all political parties have gained from support delivered by large capitalist interests such as CP.



"Fly away, FTA!" A traditional Thai balloon is released at a demonstration (Photo: courtesy BIOTHAI)

Despite government claims to have tackled corruption, it still retains very good relationships with such large business groups.

Academic institutions which used to play prominent roles in shedding light on issues for society have now become merely a mouthpiece to promote the virtues of free trade, with no regard to impacts on quality of life, social inequality, impacts on the environment and the deterioration of natural resources as a result of free trade.

## Lessons learned and suggestions

### 1) *Linking of all groups working on FTA issues*

The successes of the Thai anti-FTA movement can be attributed to the linking of people's sector organisations, NGOs, academics from various fields, independent regulatory organisations and some individuals in mainstream political institutions. They have performed their roles, sometimes together and at other times separately, on certain issues. They worked together on information exchange and strategic planning.

Linking affected people in different sectors, such as farmers and PLWHAs, enables mutual learning and makes the movement stronger than if each just focused on one particular interest. In fact, such consolidation of various groups has been achieved before, by the AOP, which is a coalition of more than 100 groups. One difference is that the movement on free trade addresses a wider issue.

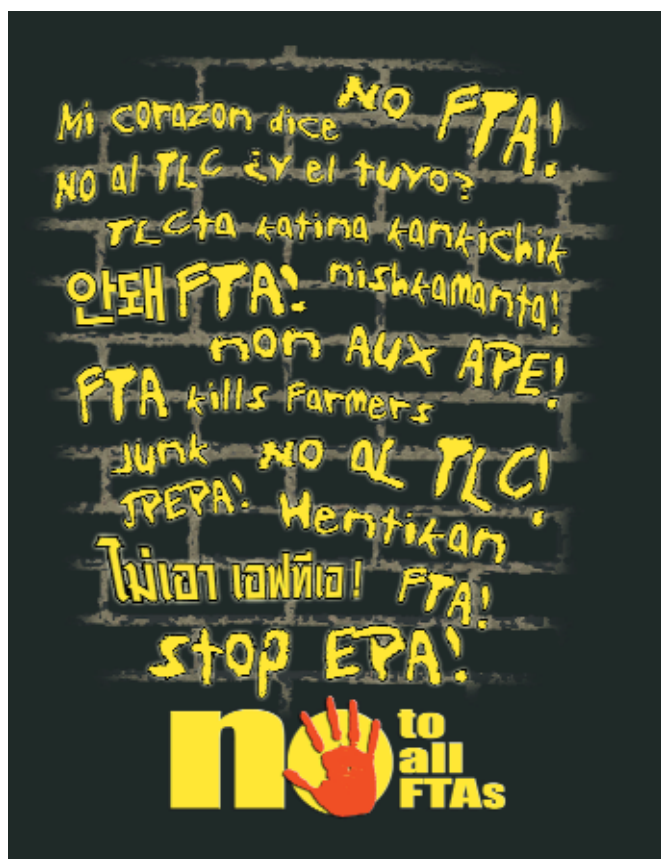
One major weakness for movements against free trade in Thailand is that the people's organisations have mostly worked closely with NGOs. NGOs have some constraints in reaching out to other people's organisations, such as labour unions in various fields and farmers' groups, which are directly affected by the FTA deal (such as the dairy cattle and beef cattle cooperatives).

Many labour movements and farmers' groups have experienced interference, from politicians who seek political backing, and from large corporates such as CP and Monsanto, which are working hard in various countries to organise farmers' groups that will support corporate interests. Some interference also came from the AFL-CIO's American Center for International Labor Solidarity, which works closely with the US Embassy in Thailand. They tried to make workers believe that the FTA means cheaper food and improved workers' rights and a quality of life comparable to that of American workers. It is important that people's organisations are free from such political interference.

### 2) *Alternatives to FTAs and Free Trade*

The government, large companies and academics in Thailand have become the proponents of FTAs. To fight against FTAs, we have to confront the government and all these interest groups as well as to contend with forces from outside the country. This is not an easy task. Meanwhile, development ideology influenced by free trade and led by the WTO and other mainstream economic and political institutions has become a major discourse dominating other social and political ideas. This makes our task even more difficult, as we have to struggle against free trade doctrines peddled by the WTO as well.





(T-shirt design: Paulo Angelo Veluz)

Since the 1997 economic crisis, His Majesty the King of Thailand has promoted the idea of a “sufficiency economy”, which is interpreted as an economic model that stands against neoliberalism. (“Sufficiency Economy” stresses the middle path as the overriding principle for appropriate conduct by the populace at all levels. This applies to conduct at the levels of the individual, the family, and the community, as well as to the choice of a

balanced development strategy for the nation, so as to modernise in line with the forces of globalisation while shielding against its inevitable shocks and excesses. “Sufficiency” means moderation and due consideration in all modes of conduct, as well as the need for sufficient protection from internal and external shocks (1999 TDR Year-end Conference Distribution Material). But the concept has been subject to various interpretations. Coca Cola – a major symbol of capitalism – uses this “sufficiency economy” concept to promote their soft drinks!

People’s organisations in Thailand have grown from movements that attempted to explore alternative development, such as the alternative agriculture network, community forest network, herbal and alternative medicine, community and health-oriented development, and so on. But at present, the linkage of solutions at community and policy levels has not generated a “new imagination” or “new social ideology” for the majority of people in the country in the short term.

### 3) Linking with international anti-FTA groups

In recent years, people’s sectors around the world have joined hands to oppose trade liberalisation through the WTO. Currently, the movements against bilateral trade negotiation have gained more prominence. But other forms of trade relations, such as FTAs, Economic Partnership Agreements (EPAs) or other investment agreements, as well as unilateral trade liberalisation schemes such as ACMECS, have gained less attention. We need to push these issues on a par with the campaigning against WTO and make them better known to the public. The Thai people’s sector has to forge relationships for information exchange, analysis and mutual learning to develop strategies for the struggle against FTAs in various contexts, together with similar movements in South-east Asia, North-east Asia and Latin America. The most likely option is to establish an Asian anti-FTA movement.



"Junk JPEPA" is a rallying cry for many social movements fighting the Japan-Philippines Economic Partnership Agreement.

## Sealing JPEPA: through stealth and by force

Sandra Nicolas\* (October 2007)

It is easy to come up with a straightforward storyline for the Japan-Philippines Economic Partnership Agreement (JPEPA) so far that, at first glance, seems plausible. Such a narrative says that the JPEPA talks have dragged on for six years because of the vigorous opposition, and that even its proponents concede the difficulties and are on the defensive.

The narrative is optimistic but unfortunately inaccurate. It also gets in the way of drawing potentially important lessons from this particular Philippine experience with opposing free trade agreements (FTAs).

Resistance to the JPEPA has certainly been picking up and is a major factor holding up the deal for which negotiations have dragged on for almost as long as those of the Doha Round of talks at the World Trade Organisation (WTO). But the opposition only really started to gain momentum after the latter part of 2006, some four years after the deal started to take shape. Government proponents of JPEPA also recently seem to be losing the debate in parliamentary hearings on the deal. But while opposition arguments have been sharp, it is also sheer luck that the government side has been complacent and surprisingly inept and unprepared in arguing for the deal.

While the JPEPA threatens to overhaul Philippine economic policy-making in a way that the WTO could only try but was eventually forced to backtrack from, it has in general attracted much less public attention than that globally maligned multilateral institution. Outside the occasional news article and sporadic protests in the national capital, the general public would find it hard to tell that the country is poised to enter into one of the most far-reaching economic agreements in its post-colonial history.

None of this is to belittle the importance and critical role of the vibrant anti-JPEPA opposition. It is indeed to its credit that its analysis is sharp enough that even the belated response has been so effective. Yet there remains much to be done in terms of the JPEPA and other trade agreements that the Filipino people face. Even if the anti-JPEPA struggle to date remains unresolved one way or the other, the experience with it already highlights some of the difficulties in organising against FTAs – and underscores how the preparedness and determination of social movements is in the end the most important.

### Demobilising protests

An important part of the reason for the belated reaction has to do with the JPEPA process and then with how the deal impacts on the country. The contents of the agreement were kept secret until after the deal was signed, so anti-JPEPA groups for a long time did not have anything with which to draw up concrete campaign positions. And then, as it turns out, the Philippine economy is so backward and already subordinated to Japan's that, notwithstanding the deal's vast strategic damage, there are relatively few immediately affected sectors.

The idea for the deal surfaced as early as January 2002 as part of Japanese Prime Minister Junichiro Koizumi's proposal for an "Initiative for Japan-ASEAN Comprehensive Economic Partnership". Philippine President Gloria Macapagal-Arroyo, an economist, gave full sup-

\* Sandra Nicolas is a freelance journalist writing on political and economic issues in the Philippines. Among other publications, she has written for the weekly on-line newspaper *Bulatlat* and the magazine *Philippine Graphic*.

port to this, even if its details had yet to be drawn up, and pitched for a working group to study the JPEPA a few months later. A series of consultations, joint committee and working group meetings from the end of 2002 paved the way for the launch of formal talks in December 2003 and their actual start in February the following year. Negotiations lasted until July 2005, followed by a legal review until October 2005.

The JPEPA was finally signed by the countries' respective heads of state in September 2006 during the sidelines of the Asia-Europe Meeting (ASEM) summit in Helsinki. It was quickly ratified by the Japanese Diet the following December, and only needs ratification by the Philippine Senate for it to become effective.

The JPEPA's contents were virtually unknown outside the negotiating parties until the actual signing in 2006. While the broad strokes were revealed early on, the substantial details from which its effects could be assessed were never disclosed. The Philippine government claims a handful of "public consultations" in October 2002, August 2004 and September 2004, as well as attendance at a few hearings of the Special Committee on Globalisation in the House of Representatives (HOR). (The Philippines has a bicameral legislature composed of the Senate and the HOR.) However, the negotiators consistently refused to make drafts of the proposed JPEPA public and maintained that to do so would upset their negotiating position. Periodic press statements of breakthroughs or major points of agreement were made but, again, without providing any real details.

The only real source of political pressure on JPEPA then was coming from a handful of left-leaning groups in parliament that, for instance, were active in the Special Committee on Globalisation. These precious few critical voices against "free market" policies of "globalisation" included the party-list representatives from Bayan Muna, Anakpawis, Gabriela Women's Party and Akbayan. These lawmakers work closely with people's organisations (POs) and non-governmental organisations (NGOs). Formal requests for copies of the draft JPEPA were made to the Department of Trade and Industry (DTI) as early as 2004 and then during the HOR hearings, but were all either ignored or outright denied. Alliance work within parliament was also limited and was not enough to have the Speaker of the House, a close ally of the president, give the requests more complete parliamentary weight.

Frustrated, Akbayan party-list lawmakers and some NGOs went to the Supreme Court in December 2005 to seek a restraining order preventing the government from signing the deal without full disclosure of its provisions to the public. The Solicitor General in turn argued that the Court had no jurisdiction to issue a ruling on the petition. To be sure, the Court's record on numerous occasions is that it decides not just on strictly legal grounds but also on the basis of political realities. The unfortunate political reality in this case, however, was the absence of widespread public protest against the JPEPA (which might also have been used to sway parliamentarians). But all this became moot upon the eventual signing and disclosure of the agreement.

The entire pre-signing period, then, had government pro-JPEPA negotiators easily keeping the upper hand, and the talks were protracted despite the lack of strong opposition and not really because of this. Grassroots communities and mass-based organisations were virtu-

ally invisible on the JPEPA issue. The government's success in keeping the agreement's contents secret very effectively shackled the anti-JPEPA opposition, which was deprived of any concrete issue pegs for campaigning. There was little opposition, and groups like the Fair Trade Alliance (FTA), among a few others, ended up being diverted to defensive and tangential battles on the lack of transparency and access to information. While these are legitimate issues, which justifiably agitate some intellectuals, parliamentarians and NGOs, they are regrettably distant concerns for the country's basic sectors, and weak issues on which to mobilise them.

The deal's signing in September 2006 and the disclosure of the agreement enabled the anti-JPEPA opposition steadily to gain momentum. More definite projections on impacts could be made, affected groups could be identified, and advocacy groups mobilised. Filipino activists participating in the Asia-Europe People's Forum (AEPF) immediately reacted to the signing on the standing issue of the secrecy of negotiations. On the JPEPA's impact, among the first to react in the weeks after the signing were labor groups such as the Kilusang Mayo Uno (KMU), concerned about retrenchment in the automotive and steel sectors, the Kilusang Magbubukid ng Pilipinas (KMP), which feared peasant displacement and land conversion to dumpsites, and the Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya), which opposed Japanese fishers catching local tuna.

It also helped that there was now a definite venue to focus attention on – the Philippine Senate, which only needed to ratify the JPEPA for the deal finally to take effect. Protest actions mainly at the Philippine Senate and also at the Japanese Embassy have grown from a few dozen to many hundreds, and are likely to continue to grow not just in novelty but in size. The Magkaisa Junk JPEPA Coalition was the first broad JPEPA-specific multi-sectoral formation to coalesce. It launched a series of protests with a particular focus on the toxic and hazardous waste issue. Among the most active in the grouping are the Initiatives for Dialogue & Empowerment through Alternative Legal Services Inc. (IDEALS), Lawyers for the Environment, Green Initiatives, Ecowaste Coalition and the Philippine Nurses Association (PNA). The coalition also linked up with some government officials and parliamentarians.

The multi-sectoral network Bayan also took up the toxic waste issue, but from the beginning also highlighted Japanese plunder of Philippine resources. The think-tank IBON Foundation in turn highlighted the deal's unequal terms and the loss of economic policy sovereignty – where the Philippines liberalises more than Japan and is even prevented from using vital trade and investment policy tools for national development. In parliament, the leftist party-list groups in the HOR again registered their opposition, but the arena of the battle had shifted to the Senate and the streets.

Environmentalists opposed Japan disposing of its toxic wastes in the country; fisherfolk opposed giving Japanese commercial fishers greater access to local fish resources; farmers protested resulting pressures for displacement by big agri-business; manufacturing workers from the auto, iron and steel industries protested likely bankruptcies or lay-offs; nurses and caregivers challenged the deal's claimed gains for them. But all this came in fits and starts, for a combination of reasons.



Fisherfolk burn incense during a rally on 3 October 2007 in Manila to drive away bad spirits working for the ratification of JPEPA. The protest pounded the message home that if JPEPA goes through, Japanese companies will be fishing in Philippine waters for tuna through the entry of big fishing vessels that will deplete the fishing grounds for small Filipino fisher communities.

(Photo: Pat Roque/AP)



Finally having the complete text and details of the deal enabled more substantive analysis of its adverse impacts. This provided a clearer basis for identifying specific affected sectors and other interest groups to mobilise, which resulted in the increasing mass actions – typically pickets, small rallies or photo-opportunities for media. Advocacy groups posted analysis on websites and circulated soft copies through listserves and e-groups. Print and broadcast media outlets were given a steady stream of short media releases on specific points of attention. Research publications, both detailed and in more popular form, were distributed, and public forums were held. An electronic signature campaign with an on-line petition was launched. Lobbying senators was particularly important.

However, there were also factors unrelated to the deal per se that delayed the process. The Philippine electoral cycle was significant and much time and resources on both sides of the JPEPA divide were taken up by the 2007 mid-term elections. The Senate, for instance, took up the JPEPA as part of its ratification process in late 2006, but it was quickly put on the back burner as the election season approached. The issue remained dormant from the start of 2007, through the early campaign period, until during and after the elections in May. The deal returned as a national level issue only upon being sent to the new Senate soon after the opening of Congress in July 2007.

The secrecy with which the JPEPA was negotiated thus went far to pre-empt opposition and undercut protest. Yet still, already more than a year after its complete disclosure, mass-based opposition to the JPEPA is still in the process of fully forming. There is perhaps one particular objective condition underlying this that is useful to highlight: the Philippine economy has already been so emaciated after nearly three decades of “globalisation” that the JPEPA, almost paradoxically, has little left to destroy. The economy has also already been progressively subordinated particularly to Japan’s since the late 1980s.

The most reliable and widest base for opposition to FTAs such as the JPEPA cannot but come from the ranks of countries’ poor and majority populations: farmers, workers, small businesses, low-paid professionals and

the like. Among these, the most important to mobilise are those whose lives and livelihood are directly affected by the implementation of an FTA. The JPEPA, however, comes at a very specific time in the country’s economic history.

Since the start of the “globalisation” era in the 1980s, successive Philippine governments have forced wide-ranging “free market” policies on Filipinos. The country is now among South-east Asia’s most open economies, and it has the lowest tariffs and least restrictions on foreign investment, next only to Singapore. These have gradually eroded the country’s productive sectors, and the cumulative devastation is severe. Manufacturing is a smaller share of the economy than it was in the 1960s, and more foreign-dominated than in its entire history. Agriculture is at historically low levels, agricultural trade deficits have been rising since the mid-1990s, and the country is more dependent than it has ever been on imported food. Joblessness is reaching record levels.

The JPEPA’s liberalisation measures are then going to be imposed on an economic policy regime that has already given up so much because of recent decades of rabid “globalisation”. This also explains why the Philippines liberalises far more with JPEPA than Malaysia, Indonesia or Thailand do with their equivalent deals with Japan – it is coming from an already greatly liberalised base.

In terms of immediate impact, then, the country has scant industries to speak of that will be adversely affected. Barely 9% of the labour force is in manufacturing; this even includes those working in Japanese firms located in the country’s export zones within a region-wide production chain. Also, Japan is unlike its fellow big powers of the United States (US) and the European Union (EU) and does not for now have major subsidised agricultural exports that will threaten domestic farm production. If there is any sector that will face immediate injury it is likely to be the smaller domestic fishers, who could face encroachment and takeover by heavily subsidised big Japanese commercial fishers.

The JPEPA is, moreover, the country’s first full-blown bilateral economic treaty since the American colonial era over half a century ago. Being the first such deal means



The No Deal! Movement of the Philippines in struggle against JPEPA

that the anti-JPEPA opposition does not have the benefit of negative experience of a prior FTA with which to refute the government's proclaimed gains. On the other hand, the pro-JPEPA lobby, which has benefited from the country's "globalisation", trumpets glowing numbers of foreign investment and exports. The most vocal include the country's biggest business groups: the Semi-conductors and Electronics Industries of the Philippines, Inc. (SEIPI), Philippine Chamber of Commerce and Industry (PCCI), and the Philippine Exporters Confederation.

Yet these are by no means insurmountable constraints, especially since the JPEPA does cause both immediate and serious long-term strategic damage. The precedent-setting deal effectively closes the door to Philippine development by preventing it from using economic policy tools of protection and support that virtually all advanced nations, including Japan, needed to use in their early stages of development. The country's ideologically driven social and mass movements have been around long enough that they no longer completely rely on provocation from merely clear and present dangers. The anti-WTO campaigns since the mid-1990s, for instance, were a significant breakthrough in mobilising the basic sectors on what were otherwise seen as abstract and technical trade and investment issues.

Nonetheless that constraint has had an influence. Even after the JPEPA's details were made public, and over a year later, a significant part of the anti-JPEPA opposition still opts to play up the issue of liberalisation of toxic waste imports. The matter is a valid concern and tactically significant: its digestibility makes it a point of entry for senators who might otherwise be unconcerned with a technical bilateral deal, and also for the mass media, which incline towards more easily grasped issues. But for all the delay it causes it is still unlikely to be a deal-killer and is probably a deal-modifier at best. The choice of issue in part also reflects the nature of political forces that had been able to campaign; a more farmer-, worker- or community-based campaign may have given more emphasis to a less narrow concern. While a multi-sectoral coalition was formed that quite effectively raised the media visibility of the JPEPA, its banner issue remains toxic wastes, which is not likely to strike a

public nerve, either among the middle classes or – much less – among the basic sectors.

The recently formed multi-sectoral "No Deal: Movement Against Unequal Free Trade Agreements" approaches the JPEPA issue from a different angle. It aims to broaden the social debate on the deal to include its more far-reaching aspects, such as the locking-in of Philippine underdevelopment, the long-term interest of Filipinos in an economy that gives them sufficient livelihoods, the exploitation of the country's labor and natural resources by Japanese corporations, and Japanese hegemonic ambitions for East Asia. Defeating ratification of the JPEPA is a central objective, but the movement also means to do this in a way which draws in the greatest number of the basic sectors, explains the most important and concrete issues for them, and meaningfully contributes to the general anti-"globalisation" struggle. Or, put another way, that the perspective is of building not just anti-JPEPA advocacy groups but rather social and mass movements opposing "globalisation" and asserting national sovereignty.

### Stifling the opposition

The trajectory of the anti-JPEPA opposition has been influenced by a host of things. But since any anti-FTA campaign faces a range of unpredictable and difficult situations, in the end it is the state of the organisational machinery with which to initiate, mobilise and sustain mass-based protest that is most decisive. This is where the potential anti-JPEPA opposition in the Philippines has faced the greatest challenges.

The government's campaign of political repression is the single biggest factor that has slowed development of wider mass-based protest to the JPEPA. That campaign has included attacks on progressive opposition political forces and groups which, as part of their struggles for democracy and development, would have otherwise been at the forefront of the JPEPA issue. The crackdown on the mainstream left opposition – singled out by the government while leaving out most other civil society groups – has been particularly severe. The ranks of organised farmer, worker, human rights, church and

other groups have suffered some 1,500 assassinations, attempted assassinations and enforced disappearances since 2001. The matter is serious enough to have been reported to the United Nations (UN) General Assembly.

The anti-JPEPA campaigning was among the many issues unavoidably affected. Finite research, legal, organising, alliance and mobilisation resources were diverted to more urgent efforts at organisational survival. A political counter-offensive was waged to avoid a purely defensive posture that might prove crippling; campaigns on human rights, against political killings and against a draconian “anti-terrorism” law were prioritised.

Aside from this diversion of resources, there have been disruptions in normal work methods. Organisations began to take numerous small security measures – such as changing offices, more careful communications, varying travel routes, and moving away from accustomed venues – which inevitably disrupted routines. Vilification and black propaganda also scared off some allies, while dispersals and physical harassment made mass actions and gatherings more difficult. Nevertheless the movement tried to continue with its organising and campaign work as the situation allowed.

Political repression continues, but the counter-efforts have dispelled the climate of fear and enabled the affected network to pursue, albeit somewhat belatedly, efforts at building a broad and substantially multi-issue coalition. These include developing alliances with the remaining small manufacturing industry players such as in auto parts, iron and steel, and electronics and electrical goods, whose demise would be hastened with Japanese imports under JPEPA, and also with small and medium tuna fishers, who still do not see access to the Japanese market and at the same time fear the incursion of big Japanese fishers.

A grassroots education campaign has also been started in the National Capital Region (NCR) with the distribution of popular issue primers in Filipino, educational discussions for leaders of community and people’s organisations, and small community forums. The JPEPA issue is consciously handled in a way that links it with previous anti-“globalisation” campaigns, to sustain the continuous challenge to neoliberalism, and focuses on concrete issues of joblessness and working conditions.

There is a weakness, however, in terms of more comprehensive and detailed research material appropriate for parliamentarians, government officials, academics and professionals. These would be useful not just for general alliance-building but particularly in the critical Senate, where the JPEPA is up for ratification. The hearings there have shown that the senators in general lack capacity and interest on technical economic matters, and are strongly reliant on inputs from invited resource persons. This means that the hearings open up the possibility of swaying individual senators or, at the very least, of using the public hearings as a highly visible platform for elaborating positions. The surprising unpreparedness of government negotiators – possibly lulled into complacency by having been able to negotiate the JPEPA in secrecy – underscores such opportunities.

Yet pro-JPEPA interests are regrouping to sway the Senate. After the debacle at the initial Senate hearings, President Arroyo created an inter-agency task force, with members from 16 government agencies, including the departments of foreign affairs, trade and industry, agriculture, energy, environment and natural resources, budget and management, finance and others. The country’s elite big business groups with the closest links to foreign capital also came out with a joint manifesto urging the Senate to ratify the deal. The influence of these should not be underestimated, especially with a number of senators harbouring presidential ambitions in 2010 – since big business is always a rich source of campaign war-chests.

The initial round of Senate hearings appeared to go the way of the anti-JPEPA opposition. Government panels failed to present convincing arguments as to the deal’s benefits. The opposition, on the other hand, gave lucid arguments about its adverse effects on specific matters such as toxic waste imports and belying the supposed gains for nurses and careworkers. A strong case was also made that the JPEPA gives undue privileges to Japanese investors and violates various nationalist economic provisions in the 1987 Philippine Constitution.

Notwithstanding all of this, there is conspicuously still no substantial and clearly anti-JPEPA bloc in the Senate sufficient to block the treaty’s ratification; much less is there an anti-“globalisation” bloc. Senators pressed for comments were careful, and the general tone was that they could still be convinced and that the hearings, even after the presentation of both sides, were inconclusive. Even the potentially decisive question on the JPEPA’s unconstitutionality, by being a mainly legalistic matter, actually skirts the central issue of “free market” policies of “globalisation” being destructive to the economy, the environment and people’s welfare. The danger is that perhaps more has to be done to overcome the inertia of elite interests as well as political and judicial conservatism, and that the JPEPA or its kind will still be pushed through in one form or the other.

The trajectory of the opposition to the JPEPA is a story of struggling on a complex issue under less than ideal political and economic conditions. Philippine social and mass movements have many decades of experience in struggling on the most urgent economic and political issues facing the Filipino people. Directly relevant to the current FTA struggle, these included wide and vigorous resistance since the 1990s to the extremely technical agreements of the WTO. In a way it is these successes that have prompted the recent counter-campaign of suppression against them that has made equally broad opposition to the JPEPA difficult to get off the ground.

The JPEPA is facing some delays but may yet be consummated; the commitment of government economic managers to their “free market” ideology and of big business elites to their profits is hardly rattled by concerns about poverty or underdevelopment. Nevertheless, opposition to the JPEPA is growing, with increasing efforts especially at the grassroots. This is what augurs best for resistance not just to JPEPA but to other similar deals and neoliberal aggression against the people in all its forms.



February 2007



## The struggle against neoliberalism in South Korea: history and lessons

(July 2007) Korea Alliance against the Korea-US FTA (KoA)

### The transformation of South Korean society by neoliberalism and resistance

#### *The 1980s military government*

The Chun Doo Hwan administration, which came to power through the massacre of South Korean citizens in Gwangju in May 1980, pursued a policy of market opening and economic liberalisation. This marked a radical turn away from the economic model of the previous president, Park Chung Hee, which had been based on a closed capital market, protection of the domestic market and government control of interest rates and finance. Chun instead emphasised opening the economy to foreign capital, and free operation of the market without government control.

From 1986 to 1989 the military governments of Chun and Roh Tae-woo were able to implement successful economic policies owing to the background created by the “three prosperous conditions”. These refer to three important advantageous conditions in the South Korean economy at the time – the devaluation of the won, low interest rates and the low price of oil – which led to an economic boom on a previously unseen scale. If the previous export economy had been based on low wages and exploitation, the three prosperous conditions made possible the first four-year period of trade surplus in the 45-year history of the South Korean economy. In this process, large capitalist players such as Hyundai Motors and Samsung Electronics sprang up, and the fruits of the export boom began to return to the country in the form of rising wages, creating a positive cycle: expansion of exports – the domestic return of profits – investment and domestic growth – economic boom.

At roughly the same time, an intense democratisation movement was also growing. This arose in the context

of a workers’ strike movement. Many labour unions were founded during the struggle that took place in July and August 1987 (in 1987 the number of labour unions increased from 2,675 to 4,103 and the unionisation rate increased from 12.3% to 13.8%); 1989 saw the most animated period of labour union activity (7,883 unions, 1,932,000 union members and 18.7% unionisation rate). The government-sponsored Federation of Korean Trade Unions, which had been the sole national labour organisation, was rejected, and the basis for the development of an independent, democratic union alliance formed. Unions comprising women and manufacturing workers, as well as large factories and white-collar unions, were formed and the social status of workers as a class elevated.

However, at the end of many phases of struggle a compromise was reached, including the partial retreat of the military government and the participation of conservative civilian politicians in state affairs. The central role of the military authorities and conservative civilian forces in the moderate democratic reform clearly showed its limitations in being based on a free democratic/capitalist order. In fact, as was confirmed in the process of the anti-FTA struggle, this reform resulted in the eventual undermining of democracy.

The open-market policy pursued by the military government resulted in two consequences. First came the farmers’ resistance. In the 1970s, Park Chung Hee had pursued a policy of green revolution and increasing agricultural production based on the principle of self-sufficiency. Although his policy of balanced development between city and country was, in fact, anti-farmer, favouring the city and capital, his restraint in relation to opening the agricultural market did help to increase agricultural production. However, the military government’s agricultural policy had a plainly anti-farmer



(Photo: Chamsaesang)

character. It sacrificed agricultural products to secure export markets for the big capitalists through the opening of the domestic agricultural market. Farmers resisted through protests of every size carried out in every farming region, battling fluctuations in the price of beef and peppers. The farmers' protests advanced gradually and came to constitute one important leg of the democratisation movement, developing into a full-scale struggle against the government and leading to national protests in downtown Seoul in 1987-88. The fruits of this struggle created the conditions for an independent mass-based farmers' organisation - the Korean Peasants' League (KPL)

Another important element was the friction created by US demands for opening the imports market. The market liberalisation policy of the military administrations did expand liberalisation in the import of industrial products. However, the Reagan administration, which saw unprecedented twin deficits, applied pressure for an open market for industrial products, in which the US had competitive strength. Commercial friction related to opening the market between the two countries therefore became more severe.

### The post-Cold War period and the advent of the Kim Young Sam administration

Two important changes took place in South Korean society at the start of the 1990s. The first was the fall of socialism after the collapse of the Soviet Union, which led to a weakening of progressive ideological struggle. The second was the weakening of the democratisation movement with the advent of the Kim Young Sam administration. The result of these changes was the weakening of the movement for progressive national development and the emergence of a pro-US, pro-capitalist tendency packaged as if it were the only alternative. This is the background of the Kim Young Sam administration's drive towards neoliberalism under the slogan of globalisation beginning in 1993.

At the same time as Kim Young Sam rose to power, the conclusion of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and the advent of the World Trade Organisation (WTO) brought demands to open South Korea's financial and capital market to

the world economy. The Kim Young Sam administration tirelessly pursued Korea's membership in the WTO and the Organisation for Economic Co-operation and Development (OECD). It also developed the discourse of globalisation. Korea's big business sector enthusiastically accepted this discourse and issued slogans such as "world humankind" (Samsung) and "world management" (Daewoo) as mechanisms for inducing labour concessions.

### The advent of the WTO and opening of the financial market

Throughout 1994, with the launch of the WTO approaching in January 1995, widespread protests against the Uruguay Round negotiations were held in South Korea. In the period after the launch of the WTO, the fundamental core of the overall policy of market opening was the opening of the financial market. While under Park Chung Hee's model the capital market was closed, Kim Young Sam's policy of market opening brought broad-based relaxation of the regulations on the financial sector, such as permitting companies and banks to attract foreign loans. This led, by the mid-to-late 1990s, to the influx of US\$100 billion in foreign loans. A chain reaction occurred in which the sudden influx of transnational capital led first to an overheated economy and property bubble, then rapid capital flight, and finally an exchange crisis. The basis of the South Korean economic crisis was similar to situations faced in many other East Asian countries. In this process, the US blocked South Korea from obtaining assistance and loans from Japan and forced the intervention of the International Monetary Fund (IMF) in order to achieve the rapid restructuring of the South Korean economy.

Although the unjust intervention of the US and the IMF led to the hasty incorporation of the underlying framework of neoliberalism into the South Korean economy, mass-based resistance did not appear, owing to a lack of awareness about neoliberalism.

In particular, the Korean Confederation of Trade Unions, which had staged the largest protest in the history of the labour movement against the worsening labour laws at the end of 1996 and the beginning of 1997, did not rise up en masse when the IMF management system was

Activist hurling the shoe of an anti-riot policeman during the anti-FTA mobilisation in Seoul on 11 November 2007. (Photo: Ahn Young-joon, AP)







Anti-FTA rally in Seoul, during the 6th round of US-Korean government talks. (Photo: Chamsaesang)

introduced less than a year later. This clearly demonstrates the weak state of the labour movement and progressive forces.

The strongest, most impressive actors in the mid-1990s were the farmers. Throughout 1994, Korean farmers carried out mass mobilisations against the opening of the agricultural market. At that time, students, who were also able to maintain a very high level of mobilising power, assisted the farmers' struggle. Many progressive intellectuals also participated. At the heart of the farmers' struggle was the question of the opening of the rice market. Rice, a symbol of Korean society for several thousand years, is also the centre of Korean farming. The scale of the struggle to protect the rice market matched the strength of rice's symbolic meaning. However, in the face of lack of assistance from large cities and the sense among the general public that market opening was inevitable, the farmers' movement could not prevail, and in the end weakened.

### **The development of a fully fledged anti-neoliberalism movement**

The 1997 Asian crisis, which threw South Korean society into confusion and setbacks, is a dramatic expression of the powerful influence globalisation can exert over the nation-state. The IMF management system introduced into South Korea as a result of the foreign currency exchange crisis had a direct and absolute influence on the economy, and indirectly greatly affected other areas of society. The struggle against neoliberalism became fully fledged as the IMF system was incorporated in 1997, and gradually impacted upon the whole society.

#### *Diverse people's resistance against neoliberalism*

##### **(1) The workers' struggle.**

The IMF system necessarily brought about liberalisation of the agricultural market, financial market and the whole of society, privatisation of public corporations and structural adjustment accompanied by mass lay-offs. The result of these transformations in the economy was obvious: the deterioration of the lives of workers and farmers, driving them gradually towards destruction.

As companies were sold off and structural adjustment took place, a great number of workers became unemployed. This led to a resistance movement. Representative of this movement was the struggle to block the sale of Daewoo Autos to foreign capital. In the wake of the IMF crisis, the Daewoo Group faced an insolvency crisis and needed cash in order to save itself. It sought to earn the cash through sale of its unreliable property. However, a buyer could not be easily found, and Daewoo ended up being sold to the US company General Motors for far less than its value. In order to weaken the activities of Daewoo Auto's labour union, which was known for its strength, and at the same time to increase productivity through downsizing, GM demanded massive lay-offs before it bought Daewoo. The result was that one morning some 1,740 workers woke up to find themselves unemployed, then came together to mount a large-scale struggle.

The struggle to stop the sale of Daewoo Auto, which blazed up in 2001, ended with a great many people imprisoned, but also led to the awakening of Korean workers to the severities of neoliberal globalisation. At the same time, it served to motivate workers' active involvement in the struggle against neoliberalism. The beginning of a fully fledged struggle to stop the privatisation of public corporations can be dated to the government's announcement of its intention to privatise public corporations in 2002. In the wake of the IMF crisis, the South Korean government sought to break up the public Korea Electric Power Corporation, and sell the parts once this break-up was complete. It also announced a plan to divide the rail industry into a facilities sector and management sector and privatise it, and a plan to privatise the public Korea Gas Corporation.

In response to this, the labour unions of Korea Railroad Corporation, Korea Electric Power Corporation and Korea Gas Corporation went on strike simultaneously to stop the privatisations, and carried out a historic struggle in February 2002.

The Power Plant Union sustained its strike for 37 days. This struggle became an important opportunity to make the negative effects of privatisation known widely in South Korean society. If this struggle had not taken



place, almost all public corporations in South Korea would now be privatised.

Yet another effect of neoliberalism on workers is the increase in precarious work; protest also spread against this problem. In the period before the IMF programme, “irregular work” had been an unfamiliar phrase, but in 2007 as many as 8.6 million out of 13 million workers are irregular. These irregular workers earn around half the salary of regular workers and suffer long work hours. The percentage of the labour market occupied by irregular workers is rapidly increasing, yet the percentage of unionised workers is not, and solidarity with regular workers is not widespread. But the struggle of irregular workers has taken off rapidly.

This workers’ struggle started not as an offensive critique of the whole of neoliberal globalisation, but as a defensive protest against the threat posed to workers’ right to live. In the course of struggle, however, awareness grew that the fight against the privatisation of public corporations, the struggle to stop the expansion of irregular and other forms of precarious work, the struggle against foreign takeovers of Korean corporations and the fight against mass lay-offs are not separate issues, but instead all part of the movement against neoliberalism.

#### (2) The struggle of film workers and intellectuals

Since the beginning of the 1990s, film workers have resisted the opening up of the film industry and carried out popular protest against the reduction of the screen quota, which had required that cinema owners screen Korean films in the theatre for 146 days of the year. This struggle marks a revival of the Korean film industry, and the mass popularity of these film workers has resulted in the development of considerable mobilising power and increased social influence. Intellectuals have also concretised their resistance to neoliberalism. After the IMF crisis, with citizens’ increasing antipathy to the immoral profit-seeking behaviour of transnational capital, came theoretical and material forms of resistance to speculative capital. The expansion of the influence of groups of intellectuals exposed the conditions of withering investment in the Korean economy and the normalisation of structural adjustment, pointing out a direction of struggle.

#### (3) The farmers’ struggle grew greatly in scale

Owing to the government’s agricultural support policy in the wake of the IMF crisis, the stagnated farmers’ movement started gaining momentum in 2000, and the farmers’ struggle started to erupt among the masses once again. In 2000, they fought to cancel farmer family debt, and in 2002, setting their sights on the presidential election, they gathered together 130,000 people in Seoul to oppose the opening of the rice market. An extensive movement arose to protect the farmers’ existence and Korean agriculture, imperilled under neoliberal globalisation.

#### (4) Joint solidarity struggles against neoliberal globalisation grew strong

Starting with the KCTU and the KPL, all the progressive social movements came together to form “Korean People’s Solidarity”, which held joint protests on diverse issues, and joint events in opposition to international organisations that enforce neoliberalism, such as the WTO ministerial meeting, Asia-Pacific Economic Cooperation (APEC), WTO Doha Development Agenda



Farmer mobilisation in Jeju, October 2006. (Photo: Chamsaesang)

(DDA), and so on. These solidarity struggles against neoliberalism, such as the one carried out under the slogans “anti-WTO rice liberalisation/service market liberalisation! anti-Korea-Japan FTA/Korea-US BIT! anti-neoliberal globalisation! Increase the public character of society!”, were brought together as the activities of the collective struggle against neoliberalism.

#### (5) Resistance to global economic organisations has spread nationally and increased international solidarity activities

In addition to resistance towards the national neoliberal policy and regime within South Korea, a popular opposition movement against the headquarters of institutions of the world economic system has begun. There has been organised participation by mass-based social organisations in the protests against the WTO ministerial meetings in Cancún (2003) and Hong Kong (2005). Moreover, the mass-based social organisations’ opposition struggle against the World Economic Forum (WEF) and APEC held in South Korea demonstrates the growth of political consciousness that connects the interest of Korean people to global issues.

The experience of this series of mass-based protests became the motivating force and power behind the struggle against bilateral trade agreements, in particular the vigorous, nearly two-year-long fight against the Korea-US FTA. Opposition to neoliberal globalisation, WTO/DDA/IMF and other world organisational meetings, and bilateral FTAs is being carried out in Korean society within the same context.

#### *The anti-FTA struggle*

After the 1997 IMF management programme, the Korean public could tangibly feel the impact upon Korean society of the fundamental principles of neoliberal globalisation. In the midst of public opposition, the Noh Moo-hyun government began pushing bilateral FTAs in earnest in February 2003, in the name of making South Korea an advanced nation in commerce. Thus the anti-FTA struggle continues to be essentially linked to the broader struggle against neoliberal globalisation. The Korean government’s drive towards FTAs has resulted in the coming into effect of deals with Chile (April 2004), Singapore (March 2006), EFTA (September 2006), ASEAN (June 2007) and concluding a deal with the US (April

2007). South Korea is currently carrying out negotiations with 41 countries, including the EU, ASEAN (on services and investment), Canada, India, Mexico, and Japan.

### *The struggle against the Korea–Chile FTA*

The Korea–Chile FTA marked the beginning of anti-FTA struggles. This FTA was predicted to strike a much larger blow to the agricultural industry than it did to industrial or service sectors. Therefore the confrontation between farmers and the Korean government, which pushed forth a less burdensome FTA before seriously striking FTAs with advanced countries, ensued. Just before the Noh Moo-hyun government came into office in January 2003, President Kim Dae-Jung suddenly concluded the Korea–Chile FTA, the negotiations for which had been dragging on for several years. From then until it was ratified by the National Assembly on 16 February 2004, 114 days of demonstrations based in Seoul, including the Han River Bridge demonstration and the highway occupation of 20 June, delayed the ratification of the FTA three times. Since this was during the period directly before the 2004 general elections, the farmers' struggle was able to inspire opposition from more than half of the National Assembly members. In January 2004, however, the Chilean press reported that South Korea was striving to conclude an FTA with Chile because the US had recently done so. At that time the Korean Ambassador to the US, Han Seung-Joo, alerted the Chairman of the Grand National Party (GNP), a far-right conservative and majority party, that the US requested the immediate implementation of the Korea–Chile FTA. The Chairman of the GNP then proceeded to call every GNP member in the National Assembly and threatened to withhold their nominations for the general election if they did not adopt a unanimous party platform in support of the FTA. Due to the overwhelming approval of GNP members, the Korea–Chile FTA was ratified by the National Assembly on 16 February.

In 2004 the WTO rice re-negotiations brought an 8% increase in rice imports and an agreement to bring about the complete opening of the Korean rice market by 2015. Organised by farmer activists, 230,000 people took part in the farmer's vote against opening the rice market in 2004, and on 10 September a national protest took place in 100 city districts involving 170,000 people. Despite the strong resistance of farmers, the result of the 2005 rice negotiations was forced through the National Assembly. In addition, the martyr Jun Yong-Chul was beaten to death by police on 15 November. Also, a delegation of 2,000 people, including 1,500 farmers, travelled to Hong Kong to protest at the 5th WTO ministerial meeting. This delegation won high praise from the international community for its *samboil-bae* (three steps, one bow protest) and efforts to disrupt the ministerial meeting. However, in the end the rice agreement was ratified by the National Assembly.

### *The Struggle to Stop the Korea–US FTA*

In February 2006, the Korean government announced that it would push forward with an FTA with the US. The Korea–US FTA was rushed not only for economic reasons, but also in an attempt to take advantage of the US political-military strategy of blocking China. The Noh Moo-hyun government claims that one of the reasons why it proceeded with the Korea–US FTA was in order to check the growth of China by aligning Korea with the US.



In 2007, Korean farmers went to Paris to express their defiance before the World Organisation for Animal Health (OIE), which sets rules for food safety in meat trade. Koreans have been trying to keep US beef out of their country owing to concerns about mad cow disease, but the US FTA is aggressively intent upon prising this market open.

This shows that there was a strong political motive for pushing for an FTA with the US. The unexpected push for the Korea–US FTA has been denounced as a hasty and shameful negotiation. Not only did the negotiations begin without enough preparation, but from the beginning they were rushed in order to be completed by the end of June to meet the deadline for the US Congress' Trade Promotion Authority Act. For this reason, eight rounds of negotiations were held and the FTA signed in just 11 months.

The Korean government accommodated four US preconditions for beginning FTA negotiations, including the reduction of the screen quota, restarting beef imports, changes to reforms in the drug pricing system, and relaxation of exhaust emissions standards in order to make possible the import of more US cars. This was not a normal negotiation between states but a symbolic display of the Korean government's humiliating position in the face of coercive demands by the US. These main elements of the FTA were greeted with major opposition by the anti-FTA movement.

The Korea–US FTA unified the movement against neoliberal globalisation that had been proceeding in a dispersed fashion since the IMF crisis. On 28 March, workers, farmers, intellectuals, film professionals, and progressive social movements who have been steadfastly struggling in solidarity against neoliberal globalisation came together to form the Korean Alliance Against the Korea–US FTA (KoA). True to its name, KoA became a frame for collective struggles against neoliberalism. It includes subcommittees for various sectors





Repression against the movement, including imprisonment of leaders like Oh Jong-ryul, has been strong.

such as consumers and finance and healthcare. It has transcended political factions and class status to become an umbrella organisation for Korean progressive social and mass movements. KoA has organised protest expeditions to coincide with the FTA negotiations in the US and held large-scale demonstrations in Korea. At the same time, KoA has held a variety of activities such as publicity events and public lectures, which have garnered mass participation.

The government moved rapidly, opening the first negotiating round on 5 June 2006 while the anti-FTA forces were gathering strength. By the beginning of July, when the second round of talks were held, a critical view of the FTA had become mainstream. Following this, the government created the Korea-US FTA Support Committee and strengthened both its control of public opinion and repression against the anti-FTA movement. The repression grew stronger, such that when the third round of talks were held on Jeju Island, more than 10,000 police were dispatched, putting the island under de facto martial law. In addition, from autumn 2006 until spring 2007, the government blockaded Seoul against farmers from rural areas from coming to participate in protests, refused permits to all types of demonstrations and censored advertisements against the FTA. These preposterous acts demonstrate the fascist nature of the Roh Moo-hyun administration, which has pretensions to represent the forces of democracy. The government also arrested and imprisoned Oh Jong-ryul and Jung Gwang-hoon, two of the symbolic leaders of KoA, and arrested many farmers and workers struggling against the FTA in every region.

After many ups and downs, the Korea-US FTA was concluded on 2 April 2007. After this, public opinion in favour of the agreement overtook public opinion against it. This was a large increase in the percentage of people in favour of the agreement compared to 2006, when opinion for and against had been roughly balanced. This change reflects the fact that the key platform of the anti-FTA struggle had been to criticise the negotiations as hasty – once the deal was concluded there was a general sense of resignation. One of the things that had stopped the development of the anti-FTA movement before the



Candlelight vigil, 11 May 2007 (Photo courtesy of KoA)

agreement was concluded was the particular ideological configuration of South Korean society. After Kim Young Sam professed the official adoption of globalisation, a general tendency to see market opening and globalisation as a foregone conclusion became grounded in mainstream thought. This is partly the result of the influence of living under Park Chung Hee's export-oriented economy from 1961 to 1979. This has resulted in a strong current of belief which says that even if the Korea-US FTA has problems, it must be signed. Another reason is South Korean society's particular attitude with relation to the US. The majority of Korean citizens believe that the Korea-US FTA involves some damage to South Korea and that the US has the upper hand. However, of these people, the great majority believe that because it is an agreement with the US, the FTA must be signed. This is because of the great influence that the US has on South Korean society and the formation of a US-friendly ideology under that influence. It can be said that the power of the US in South Korea is absolute. The reason that the FTA could be concluded despite provisions which are unparalleled in their toxicity is because of belief in the supremacy of the US and resignation that it is inevitable for the sake of the South Korean-US alliance. It makes the situation even more difficult that the most influential groups in society are those with the strongest tendency towards these beliefs.

## Conclusion

The Korea-US FTA is the consummation of the forward march of neoliberal globalisation since 1980. This Korea-US FTA, and other FTAs, are at the heart of neoliberal policy. This becomes even more the case as common people continue to face greater hardships ensuing from neoliberal globalisation. The consequences of the Korea-US FTA will henceforth have a decisive impact on the path of the Korean economy. At present, the Korea-US FTA needs only to be ratified by the National Assembly. Now it is vitally important to focus effectively and build the strength of the mass movement which has gone on now for over a year, and to use the presidential and general elections as a new opportunity, to move the political topography in a more progressive direction.



US and China both want a bigger share of India's fruit market. (Photo: Thomas Wahl)

## “Free” trade killing farmers in India

(November 2007) Devinda Sharma

“If you want to turn the world into a global village, you will have to remove all the existing villages” goes a Punjabi refrain.

The process of removing the existing villages – the life-line of the developing economies – has already begun. With farmers already disappearing from the US, and with the EU fast keeping pace, it is now the turn of developing countries. No wonder, then, that developing economies face an unprecedented assault from all directions. After all, the world has to be turned into a global village. The social, economic and political upheaval that accompanies the rapid transformation of the villages to integrate globally will determine the future of India – with some 600,000 villages – probably the largest cluster of villages in the world. India lives in its villages.

Underlying the stark economic realities, and perhaps the most debasing and demeaning of all the world's inequalities, is the manner in which cattle in the rich countries are pampered at the cost of several hundred million farmers in India. When I first compared the life of the Western cow with that of an Indian farmer, I didn't realise that this would hit the sensibilities of at least some mainstream economists and policy makers. The EU provides a daily subsidy of US\$2.7 per cow, and Japan provides three times more at US\$8, whereas 77 per cent of India survives on less than half-a-dollar a day.<sup>1</sup>

The path to growth, bridging these stark inequalities, is being charted through economic freedom. For the rich countries' Organisation for Economic Cooperation and Development (OECD), freedom means “free” markets and “free” trade and investment. Freedom actually provides unrestricted global access to US capital to do what

it likes, where it likes and whenever it likes. Freedom means dwarfing democracy, usurping natural resources and trampling the rights of the people in the majority world in order to ensure that the rich stay rich.

The corporate world's survival hinges on the success of “free” trade and investment. Nowhere has it hit the world more than in agriculture. Strange that from 1995 onwards – the year that the World Trade Organisation (WTO) came into existence – farmers all over the world have been a harried lot. They are unsure of what fellow farmers from across their national borders would dump at artificially low prices. These farmers have fallen victim to “free” markets that unleash unfair trade liberalisation, which in the process destroys livelihoods.

The free trade paradigm has very cleverly pitted farming communities of one country against those of another. Jamaican farmers worry about cheaper dairy imports from the UK; Filipino farmers worry about cheaper rice imports from the US; Indonesian farmers worry about cheaper rice from US and Vietnam; US apple growers worry about the import of cheaper apples from China; and Indian farmers worry about cheaper edible oils from Indonesia, Malaysia, Brazil and Argentina and cheaper tea from Sri Lanka; the list is endless.

### Food self-sufficiency somersaults

Forty years ago, the late Indian prime minister Mrs Indira Gandhi released a postage stamp to mark a record wheat harvest of 17 million tonnes – an increase of five million tonnes on the best previously achieved and an amazing leap from the acute food shortage of 1965–66 – laying the foundation of the “Green Revolution”. It

<sup>1</sup> Report of the National Commission on Enterprises in the Unorganised Sector, 2007



ushered in an era of food self-sufficiency, and by virtue of being food secure, brought true national sovereignty.

The Green Revolution saga is now part of history. What made the country emerge out of a perpetual “ship-to-mouth” existence after Independence was a combination of factors: a strong political will to turn the country food self-reliant, an active scientific community, a series of protective policy planning measures and, above all, a valiant farming community.

Today, 60 years after India’s independence, a complete somersault in national farm policies is taking the country back to the days of “ship-to-mouth” existence. Sacrificing agriculture at the altar of economic liberalisation, the market is the new agricultural mantra. Hence imports of agricultural commodities have multiplied over the years. In the post-globalisation period, between 1996–7 and 2003–4, imports have increased 270% by volume and 300% in value terms.<sup>2</sup> For an agrarian economy, importing food is like importing unemployment.

India imported 5.5 million tonnes of wheat in 2006 and is expected to import another five million tonnes of wheat in 2007–8, in what appears to be an effort to integrate Indian agriculture with the global economy. Through no apparent fault of farmers, and without any shortfall in production, this has turned the country into the world’s biggest wheat importer. The decision to import wheat is preposterous: the government allows private agribusiness companies to purchase domestic wheat at a low price (probably the lowest in the world), and then imports foreign wheat at a much higher price. Free trade and the accompanying policies are thereby forcing the country into dependency.

Such large-scale import of wheat is reminiscent of the Great Bengal Famine of 1943, the world’s worst recorded food disaster. An estimated four million people succumbed to hunger and starvation at a time when there was no shortfall in food production. Some 65 years later, driven by global free trade policies, India seems to

be following the same path. At a time when there is no shortfall in production, the private sector is stockpiling food. The embarrassing story of wheat is now likely to be replicated in rice.

Ever since the beginning of economic liberalisation in 1991, a plethora of new industrialisation policies have been unveiled. Having laid the policy framework that allows private control over community resources – water, biodiversity, forests, seeds, agriculture markets, and mineral resources – successive governments have laid the foundations of an “exit policy” for farmers. Exacerbating the crisis are initiatives that promote privatisation of natural resources, takeovers of farmland, integrating Indian agriculture with the global economy, and moving farmers out of agriculture – in essence the hallmark of the neoliberal model. In 2000, the government introduced a policy to set up Special Economic Zones (SEZ) as a kind of extraterritorial space with regard to domestic regulations, tariffs, duties and trade operations. The aim is to enhance domestic investment, attract foreign direct investment (FDI) and promote export production as an engine for economic growth. As of June 2007, more than 500 SEZs have been proposed requiring about 41,700 hectares of land, much of it prime cultivated land.<sup>3</sup>

In agriculture, FDI is also coming in the name of technology. The Indo-US Knowledge Initiative in Agricultural Research, Education and Marketing, formally launched by President Bush at Hyderabad on 3 March 2006, is for all practical purposes the soft launch of a second Green Revolution. It is being put in place without first ascertaining the reasons behind the terrible agrarian crisis. Two of the US TNCs which sit on the governing board of the Indo-US Knowledge Initiative, Monsanto and Wal-Mart, have already said that they are not interested in research and development but in selling their products.

Tailored to the objective of transferring the unwanted and risky technology of genetic engineering of plants and animals, which is not finding many takers world-



Cotton farmers organise and protest against free trade in Pandharkawada, Maharashtra, May 2007

(Photo: Vidarbha Janandolan Samiti)

<sup>2</sup> T.N. Prakash, Paper presented at a regional consultation on “Small-scale agriculture in an era of globalisation”, Dhaka, Bangladesh, 17–18 January 2005.

<sup>3</sup> Economic growth without social justice: EU-India trade negotiations

and their implications for social development and gender justice (2007); Christa Wichterich *et al.*, [www.wide-network.org](http://www.wide-network.org). For a more detailed analysis of the SEZ policy: The New Maharajas, <http://www.indiatogether.org/2006/dec/dsh-mahasez.htm>

wide, the US finds India an easy dumping ground. Seen in the light of contract farming, corporate agriculture, SEZs, FDI in commodities and farm retail and the thrust on agri-business, the entire policy emphasis is clearly geared to allow private control over the food chain.

Armed with stronger intellectual property laws and environmentally harmful technologies like genetically modified crops, these TNCs have already launched an international operation to take over global agriculture. The entire food chain has slowly and steadily moved into the hands of three kinds of global conglomerates – Monsanto/Syngenta as technology companies, Cargill/ADM as food traders and Wal-Mart/Tesco as food retailers – under the logic that small-scale agriculture has become a burden on the nation and the sooner the country offloads the farming class the better it will be for economic growth. Trade and investment rules come in handy to strengthen TNC control over the food chain.

Agricultural reforms are being introduced in the name of increasing food production and minimising the price risks that face farmers. But these are destroying the production capacity of the farmlands and pushing farmers out of agriculture. The reforms include encouraging contract farming, futures trading in agriculture commodities, land leasing, forming land-sharing companies, and direct procurement of farm commodities by amending the Agricultural Produce and Market Committee (APMC) Act. At present, 16 states have amended the APMC Act, some wholly and others partially, and the government seeks to dismantle the food procurement and public distribution system in the near future. By amending the APMC Act, it is encouraging development of linkages to markets through a variety of instruments, including contract farming and corporate agriculture. Such a system has already played havoc with wheat procurement, forcing the country to become the world's biggest wheat importer. It will drive the majority of farmers out of agriculture.

Farmers need to be left at the mercy of market forces, the mantra goes. Since they are "inefficient" producers, they need to be replaced by the agribusiness industry. The world will therefore soon have two kinds of agricultural systems: the rich countries will produce staple foods for the world's 6 billion-plus people, and developing countries will grow cash crops like tomato, cut flowers, peas, sunflowers, strawberries and vegetables. The dollars that developing countries earn from exporting these crops will eventually be used to buy food grains from developed nations. In reality, we're right back to the days of "ship-to-mouth" existence.

## Opposing the WTO

Even before the WTO came into existence on 1 January 1995, Indian farmers were in the forefront of the global campaign against the unjust trade rules being framed, as the mobilisations against the Dunkel Draft attest. (Arthur Dunkel was the chairman of the Trade Negotiating Committee of GATT.) What essentially began as protests against the entry of large TNCs into India's seed sector, to prevent corporate control over seeds through the Trade-related Intellectual Property Rights (TRIPS) Agreement, later flared up into one of the biggest oppositions to the free trade paradigm.

As early as December 1992, the Karnataka Rajya Rayota



In the 1990s, Indians launched a direct action movement to get Cargill out of their country. (Photo: Thomas Schlijper)

Sangha, led by the late Professor M.D. Nanjudaswamy, had led farmers to storm the office of Cargill in Karnataka state, throwing away all documents and seeds that they could lay their hands upon. The ransacking of the Cargill Seeds office evoked strong protests from the US Embassy, prompting Prime Minister P V Narasimha Rao to tender an unqualified apology.

In March 1993, over 50,000 farmers held a massive demonstration against the Dunkel Draft in New Delhi. Few of the protesting farmers may have understood the intricacies of the Dunkel Draft at that time, but they were sufficiently aware that the proposals would hurt them. The leaders of the "seed satyagrah", as the agitation was called, warned the government against taking any step that might transfer control of seeds to TNCs.

The movement against agriculture in the WTO has continued. Following the farmers' example, labour unions, NGOs, and various other civil society groups took to the streets. Gradually the political parties understood the complexities and stakes involved in the ongoing negotiations, as a result of which "WTO" soon turned into a household acronym. The movement against the WTO has spread to every corner of the country, bringing into its folds political parties of all hues.

Opposition leaders have repeatedly accused the government of insensitivity to public opinion and making commitments without taking Parliament into its confidence. The WTO has emerged as one of the most contentious international trade issues to engage the country's attention. Gradually the heat at the grassroots began to sweep into the political system. Former Prime Ministers, eminent personalities, literary figures and several mass movements have subsequently put their weight behind the national movement.

Primarily because of this heat generated within the country, India's stand at the WTO has hardened over the years. Knowing that each move at the WTO headquarters in Geneva or the WTO Ministerials is being watched, minutely scrutinised and analysed, India's negotiators have so far kept national interests in mind while negotiating. But over the years, the fatigue that has crept in among the mass-based organisations is providing the negotiators with ample space to make concessions. Opposition to the WTO has also galvanised newer protests against SEZs, land acquisitions and FDI in food retail. Such has been the intensity of these protests that

the government has had to bring in a new rehabilitation policy for those displaced through land acquisitions, and has constituted an expert group to oversee the policy of land distribution.

However, the path to economic liberalisation continues. After the suspension of the Doha round negotiations in mid-2006, New Delhi has been under pressure to drop its hard-line opposition. WTO chief Pascal Lamy has time and again visited India, using every opportunity to lobby on behalf of the developed countries. Knowing well that Kamal Nath's "tough" posturing is aimed only at the gullible media, Lamy has made it abundantly clear that an agreement on Doha has to be reached as quickly as possible. More importantly, and knowing that the country's entire focus remains glued on the WTO, New Delhi has moved aggressively to sign bilateral and regional free trade agreements (FTAs).

Unlike agriculture in the OECD countries, Indian agriculture is diverse and based on available biodiversity wealth. India grows 260 crops every year, whereas Europe and the US cannot count more than 30 crops, of which 10 or so are commercially important. In India, each of the 260 crops is linked to millions of livelihoods.

For a country which has nearly a quarter of the world's farming population – nearly 650 million farmers – sustainable agriculture is the only means to provide viable livelihoods. While the link between farmers' suicides and the impact of cheap and subsidised imports is now beginning to be ascertained (the government admits that over 150,000 farmers have been driven to commit suicide between 1997 and 2007, and the number is increasing rapidly, with a farmer's suicide being reported every half hour), evidence points to declining import prices leading to depressed domestic prices and eroding farmer incomes.



Men at the wheels: President of the Confederation of Indian Industry Sunil Bharti Mittal, Secretary General of Business Europe Philippe de Buck, European Union Trade Commissioner Peter Mandelson, and Indian Minister for Commerce and Industry Kamal Nath celebrate the launch of the EU-India FTA talks in New Delhi in November 2007. (Photo: AFP/Raveendran)

The continuing WTO deadlock has given India the impetus to reorient trade policies from multilateral to bilateral agreements. India began exploring the possibility of entering into comprehensive economic partnership agreements (EPAs) with 16 East Asian countries, including the 10 Association of South-east Asian Nations (ASEAN) members, China, Japan, Korea, Australia and New Zealand. India had prioritised closer ties to its East Asian neighbours since 1992, the underlying aim being – since developed countries had formed regional trade blocs – that India should build similar partnerships with natural allies in the region.

India is also seeking trans-continental FTAs. A bilateral trade agreement with the EU is on the way, and talks have already begun with South Africa and Mercosur (Brazil, Argentina, Uruguay and Paraguay). India is also gearing up to start preferential trade agreements with the Southern African Customs

Union (South Africa, Botswana, Namibia, Lesotho and Swaziland).

## FTAs killing farmers

Trade liberalisation has already exposed developing country farmers to ruinous competition, driving down prices, undermining rural wages and exacerbating unemployment. Some 20 years ago, with the World Bank/IMF clearly tying up credit under the structural adjustment policies with crop diversification, agricultural policies began to change. In the process, developing countries have been forced to dismantle state support for food procurement, withdraw price supports to farmers, and relax land-ceiling laws, which enables the corporate sector to move into agriculture. The process to shift the production of staple foods and major commercial commodities to the rich and industrialised countries was finally legitimised under the WTO. Crop diversification is the new farming mantra for developing countries. Strengthening the fortress around highly subsidised developed country agriculture, this spells a grim future for developing countries. With cheap agricultural products swamping the developing countries, the world will soon witness the biggest environmental displacement: not from big dams and hydroelectric projects, but in agriculture.

These bilaterals or FTAs aim to eliminate tariff barriers over the next ten years or so, and to remove technical barriers to imports. Explicit guarantees have been provided on treatment to foreign investors and service providers. Current barriers to agricultural biotechnology are being removed. Specific commitments pertaining to national laws and commitments to strong, transparent disciplines on government procurement procedures, rules of origin and effective enforcement of domestic labour and environmental laws are being put in place. In short, all impediments in the march of the TNCs have been cleared.

India's farmers continue to pay the price. For nearly seven years now, Kerala, in south India, has been in the severe grip of an unprecedented agrarian crisis. Prices of almost all cash crops, including rubber, have crashed, due primarily to the export-import policy resulting from economic liberalisation and the conditions imposed as part of FTAs: the India-Sri Lanka FTA, the India-Thailand FTA and South Asian FTA. This is happening at a time when more than 80% of Kerala's agricultural produce is exported.



## India's bilateral trade agreements

India-EU Trade and Investment Agreement  
India-Pakistan Trading Arrangement  
India-Bhutan Trade Agreement  
India-Bangladesh Trade Agreement  
India-Chile PTA  
India-US Trade Policy Forum  
Asia-Pacific Trade Agreement  
India-EU Strategic Partnership Joint Action Plan  
CECA between The Republic of India and the Republic of Singapore  
Framework agreement with Chile  
India-Korea Joint Study Group  
Framework Agreement with GCC States  
India-MERCOSUR PTA  
Framework Agreement with Thailand  
Framework Agreement with ASEAN  
India-Afghanistan PTA  
India-United States Commercial Dialogue  
India-Sri Lanka FTA  
India-Mongolia Trade Agreement  
India-Nepal Trade Treaty  
India-China Trade Agreement  
India-Maldives Trade Agreement  
India-Korea Trade Agreement  
India-DPR Korea Trade Agreement  
India-Ceylon Trade Agreement  
India-Japan Trade Agreement

Source: Ministry of Commerce, Government of India  
(<http://commerce.nic.in>)

In 2006, import tariffs for edible oil were reduced three times. Since then, the market price of copra, coconut oil and fresh coconut has been falling drastically. In 2007, the import tariff on refined palm oil was reduced from 67.5% to 57.5%, and that of crude palm oil from 60% to 50%. As a result, farmers are getting on average only Rs 3.80 for a fresh coconut. In the wholesale market, the price of copra is Rs 3,200 per quintal (100 kilos), and for coconut oil it is Rs 4,750 per quintal.<sup>4</sup> Coconut oil imports, meanwhile, increased from 7,291 tonnes in 2004-5 to 22,307 tonnes in 2005-6. Four million coconut farmers in Kerala are being adversely affected by this import surge.

Similarly, the removal of export subsidy for pepper and the increase in the number of days (from 120 to 180) for holding imported pepper for oleoresin extraction has become another threat for pepper farmers. Pepper imports have increased from 2,186.3 tonnes in 1995-6 to 17,725.3 tonnes in 2004-5. No wonder that the two districts of Kerala with the highest suicide rate grow predominantly pepper and coffee.

Almost all of Kerala's crops – rubber, pepper, cardamom, ginger, turmeric, coffee, tea and vanilla – will face a similar crisis to coconut. As Thomas Varghese says, perhaps the biggest threat to Kerala's cash crops is the India-ASEAN FTA, wherein India will have to reduce tariffs drastically on edible oil, pepper, tea and coffee, bringing them down to zero by 2018.<sup>5</sup>

ASEAN nations are also demanding the inclusion of more agricultural products in the zero-tariff list. They have not conceded to India's offer to bring down tariffs on the above four agricultural commodities by 50% in a phased manner by 2022.

But Kerala is not the only Indian state to have been adversely affected. During the period 1990-2005, the import of cotton lint increased at a compound growth rate of over 75%. Cheaper imports are depressing domestic prices, making cotton growers become economically unviable. The majority of farmer suicides are among cotton growers. Meanwhile, India is the biggest producer of milk in the world. Indian dairy farming is characterised by cooperatives involving millions of women and men. Yet dairy imports showed a 292% increase during 2001 and 2003.<sup>6</sup> From near self-sufficiency in 1994-5, India is now also the world's biggest importer of edible oils, with cheaper imports pushing domestic farmers out of oilseeds cultivation.

India is also one of the world's biggest producers of vegetables. While nearly 40% of the vegetables produced rot because of post-harvest mismanagement, the import of vegetables almost doubled in just one year – from Rs 92.8 million in 2001-2 to Rs 171 million in 2002-3.<sup>7</sup> These imports reached 2.7 million tonnes, valued at Rs 480 million, in 2003-4. Ironically, what is being imported – peas, potato, garlic, cashew, dates, gherkins – are crops in which the country has a surplus and a comparative advantage. While Indian exports are rejected on account of non-tariff barriers, vegetable imports continue to flood the market.

With FTAs, on top of WTO and the World Bank/IMF's structural adjustment programmes, designed to turn developing nations into net food importing countries, it is apparently time for the farmers to quit farming. Dr Ismail Serageldin, former World Bank vice-president and former chairman of the Consultative Group on International Agricultural Research, the bankrollers of the Green Revolution, forewarned some years ago that the number of people estimated to migrate from rural to urban India by 2015 is expected to be equal to twice the combined population of the UK, France and Germany. This means some 400 million people – agricultural refugees – hitting the cities eight years from now. Once revered and respected for feeding the nation, the heroes of India are clearly being abandoned by it.

With the villages deserted, the world is surely turning into a real big global village.

<sup>4</sup> Thomas Varghese (2007): ASEAN trade agreement will hurt Kerala farmers. <http://www.indiatogether.org/2007/jul/agr-tradefarm.htm>

<sup>5</sup> Ibid.

<sup>6</sup> Computed using FAOSTAT.

<sup>7</sup> S. Mishra, "Foreign fruits and vegetables imports at what cost", *Hindustan Times*, 1 July 2003.

# Africa and the Middle East

## Morocco's FTA frenzy

GRAIN (September 2007)

In early 2003, the Bush administration, on the verge of unleashing its war on Iraq, proposed a bilateral free trade agreement to the kingdom of Morocco.

Talks formally started in early 2003 and ended about a year later. In July 2004, the text was approved by the US Congress. In January 2005, it was approved by Morocco's parliament. Despite the US and Moroccan governments having opposing views on whether the FTA applies to Western Sahara, it came into force on 1 January 2006.<sup>1</sup>

The US-Morocco FTA has been controversial and important for several reasons.

First, despite its name, the whole initiative has little to do with trade. The main US objective was political: to pull a friendly North African kingdom deeper into its "sphere of influence" and thus create a wedge vis-à-vis the Arab world. The Morocco deal was proudly advertised by Washington as its second FTA with a Muslim nation and a major step towards a full-scale Middle East Free Trade Agreement (MEFTA), to be achieved by 2013. Any such regional deal would pull together all the major strands of US policy in the Middle East. It would "democratise" governance of Arab countries, open them up to US penetration and eventually neutralise all aggression toward Israel. As the US Administration's 9/11 Commission framed it, what better way to fight "terrorism" – which it insidiously links to Islam – than to push economic and political reform through FTAs. Morocco sells very little to the United States. This FTA was about securing a stronger base for US dominance and control in North Africa.

But North Africa is not just a corner of the Arab world; it is also right opposite Europe's Mediterranean coast. A parallel strategic interest of the US was to position itself better in the region vis-à-vis the European Union. Morocco is a former French colony with strong ties to France. It has special market access to the EU, through a bilateral FTA, that the US doesn't have. French and Spanish transnational corporations are major players there in agribusiness, banking, automobiles and energy. By securing privileged trade and investment conditions through this FTA, the US gained an improved entry point to the EU market as well as an edge against European firms operating across Morocco.

Second, the projected social and economic implications of the deal for Morocco were downright dim. A number of studies showed that the impact of the FTA on Morocco would be marginal at best and detrimental – increased poverty – at worst.<sup>2</sup> A whole range of sensitive



"Are you ready (to take your FTA vows)?" "Not yet!" For the Bush administration, the US-Morocco deal was mainly a political move to gain a foothold in North Africa as it tries to secure a US-Middle East FTA by 2013.

issues were on the table: the opening of Morocco's market to subsidised US wheat, US rules of origin on Morocco's textile exports, the projected increase in local drug prices and so on. While Moroccan negotiators secured some temporary safety nets on the wheat and garment threats, the underlying message from the merely econometric surveys was that without a significant influx of additional US aid, the kingdom would not be able to fulfil its commitments under the deal without major social setbacks.<sup>3</sup> In sum, the cost-benefit ratio was extremely lopsided. And the economic concerns were not misplaced. Between 2004, when the agreement was signed, and 2006, the last year for which there are complete statistics, the US trade surplus with Morocco passed from a modest US\$9 million to US\$354 million.<sup>4</sup> That's an increase of 4,000%. Morocco is simply not making money from this deal.

Third, there was significant opposition to the negotiations at home, which unfortunately a lot of people around the world are not aware of. Various social, political, artistic, farming, scientific and even industrial groups mobilised against a range of problems posed by

<sup>1</sup> The Moroccan government considers Western Sahara as part of Morocco's sovereign territory. The US government does not.

<sup>2</sup> See, for instance, Ahmed Galal and Robert Lawrence, "Egypt-US and Morocco-US Free Trade Agreements", Working Paper No. 87, Egyptian Centre for Economic Studies, Cairo, July 2003, <http://www.cgdev.org/doc/event%20docs/10.23.03%20GDN%20Conf/galal%20-%20Egypt-US%20and%20Morocco->

[US%20Free%20Trade%20Agreements.pdf](http://www.nathaninc.com/NATHAN/files/ccPageContentdocfilename140890705546Morocco_English_(dst).pdf), and Nathan Associates Inc, "Assessment of Morocco's Technical Assistance Needs in Negotiating and Implementing a Free Trade Agreement with the United States", Arlington, 2003, [http://www.nathaninc.com/NATHAN/files/ccPageContentdocfilename140890705546Morocco\\_English\\_\(dst\).pdf](http://www.nathaninc.com/NATHAN/files/ccPageContentdocfilename140890705546Morocco_English_(dst).pdf).

<sup>3</sup> And this at a time when Morocco's repayments on US financial assistance exceed its receipts. (See Galal and Lawrence, *op cit*, p. 21.)

## The fight in Morocco

*Benzekri Abdelkhalek, Moroccan Association for Human Rights (AMDH), July 2006, recorded by Jo Dongwon, MediaCulture Action, Seoul*

People in Morocco have already felt the negative impacts of free trade agreements. How? These agreements push the liberalisation of all services, including education, health, transport, water and electricity. That means that all public services which were previously free now have to be paid for. People in Morocco are poor and don't have the means to pay for these services. What we demand is that these basic services remain free, especially since with these FTAs more and more of them will have to be paid for in the future. People will not be able to pay for them, so people's needs throughout the country will not be met.

We have been leading a campaign in Morocco against these FTAs which go against the Moroccan people's interests. Several movements in Morocco have been working together to fight neoliberalism which the FTAs push. So far, we have managed to stop their implementation. But it's only a stoppage. Those in power seek other ways to apply this liberalisation policy. We fought first at the national level, within Morocco, and then with the support of other organisations who share the same ideals, we have been fighting at the international level against this policy. Neoliberalism destroys everything that the people have won and divides society into two classes: a class of super rich people and a class of extremely poor people. So it's against neoliberalism, the law of the jungle, that we are in the process of fighting in Morocco.

the FTA. A major issue of debate and mobilisation was access to medicines, jeopardised by the treaty's extreme intellectual property rules. Another was what the Moroccans called the loss of cultural pluralism: the impending transfer of control over local media and cultural sectors to Walt Disney, Voice of America and CNN. Another more general problem was the government's flat refusal to heed calls for consultation, debate, questioning, listening and participation — whether it came from the streets (protests by AIDS activists and film producers were violently repressed), the Parliament (opposition parties had to organise their own hearings on the draft treaty with NGOs) or the corporate sector (national pharmaceutical manufacturers were upset that they were excluded from the process). The only people happy about the whole thing, in Morocco, seemed to be a select few in the negotiating team.

Fourth, the US-Morocco FTA ends up breaking Arab unity. The Moroccan government has been a keen player in numerous processes to develop cohesion and solidarity among Arab states. This includes a number of projects to achieve political and economic integration, including a still far-off free trade zone among members of the Arab League. One very concrete step towards this integration was supposed to be the setting up of an ini-

tial free trade area between Morocco, Tunisia, Egypt and Jordan. The Agadir Agreement is an FTA between the four countries. It took years to finalise, and, once signed, it took still more years to come to life. When the Agreement — which lowers tariffs among the four states as a tool to stimulate trade between them instead of relying on the EU or the US — came into force, Moroccan customs officials couldn't implement it. Why? Because they had a copy of the US-Morocco FTA, which Rabat had signed a few years earlier, and they knew what it said. Washington had inserted a clause in its FTA which prevents Morocco from trading agricultural goods at preferential tariff rates with any third party that is not a "net exporter" of those goods (meaning it sells more than it buys).<sup>5</sup> This effectively bars Morocco from buying major foodstuffs, such as couscous, from its Agadir partners at the cheap rate Morocco committed itself to. Which means there is little benefit for them at all, thereby gutting the Agadir Agreement and this long-awaited step towards an integrated Arab market.

The Moroccan government, nevertheless, is bullish about FTAs. Not satisfied with playing into the hands of US and European "benefactors" — Arizona investors who come to build five-star playgrounds for foreign tourists, and development cooperation bureaucrats with fat



On 28 January 2004, the Moroccan police violently broke up a sit-in in Rabat by the National Coalition against the US-Morocco FTA, which was gathered to defend the right to public health threatened by the intellectual property rules of the pending US trade deal. The next day, members of ACT UP-Paris, a group fighting HIV/AIDS, protested at the Moroccan Embassy, denouncing the "death by patent" that the Moroccan government would be accomplice to in signing the FTA.

(Photo: ACT UP-Paris)

<sup>4</sup> In 2007, it will exceed US\$460 million, the level reached as of September for goods alone. (See the US International Trade Commission's Trade DataWeb at <http://dataweb.usitc.gov>.)

<sup>5</sup> Saâd Benmansour, "Télescopes entre les accords de libre-échange du Maroc", *La Vie Eco*, 10 April 2007.

<http://www.yabiladi.com/article-economie-1100.html>

<sup>6</sup> "L'ALE Maroc-USA: Un premier investissement", *L'Economiste*, Morocco, 9 November 2006.

<http://www.leconomiste.com/article.html?a=74127>



chequebooks that lead to next year's defence contracts – Rabat struts its stuff around the African continent.<sup>6</sup> Moroccan operators are moving strategically into the banking and telecommunication sectors in Senegal, and the kingdom has formally proposed an FTA with the West African Economic and Monetary Union (WAEMU), a group of nine French-speaking West African states. Morocco took the lead in trying to get the Agadir Agreement up and running, and hosts the Arab Maghreb Union (AMU), formed by Algeria, Libya, Mauritania, Morocco and Tunisia, which aims to have its own FTA as well as one with WAEMU and the Southern Africa Customs Union. And while the AMU has been called “a paper camel”, because it doesn't get anywhere for political reasons, the CEOs of the five countries have just formed the Arab Union of Employers to push that FTA

project along.<sup>7</sup> Even without an AMU deal, Morocco is pushing Mauritania and others for a bilateral one.

If the neoliberal reforms channelled through the US and EU FTAs are pushed through – and that is largely a question of finding the money to pay for them – and if more foreign capitalists take control of the increasingly privatised Moroccan economy, these groups will ultimately be the ones penetrating other parts of Africa through Morocco's FTA zeal. Who, though, will cover for the social impacts back home?

<sup>7</sup> “Les patrons du Maghreb créent leur union”, *L'Economiste*, Morocco, 19 February 2007, <http://www.kompass.ma/actualite/detail.php?id=10665> <http://www.kompass.ma/&menu=1&src=eco&niveau=1>

The EU EPAs aim to lock African, Caribbean and Pacific island nations into a geopolitically and economically subservient position towards Europe. (Photo: Alexandre Seron, January 2007)



## Asking hard questions about the EU-ACP EPAs

GRAIN (May 2007)\*

*If you do not know what Unilever's investment intentions are for the next three years, drawing up a national plan is just an exercise in fanciful thinking.*  
– J.H. Mensah, former Minister of Finance, Ghana<sup>1</sup>

Debates around the proposed Economic Partnership Agreements (EPAs) between the European Union (EU) and the 77 countries in the ACP group – mostly former European colonies in Africa, the Caribbean and the Pacific – have raised many important issues. These EPAs are different from other European free trade agreements because they emerge from a sequential history of previous conventions, known for the cities they were signed in: Yaoundé (1959–1974), Lomé (1975–1995) and Cotonou (2000–). These treaties established, among other things, special trade regimes for the few commodities that Europe's former colonies had come to specialise in: bananas, sugar, cotton, cacao, tea and so on. As such, they perpetuated a neocolonial relationship through which poor people in the South would continue producing “raw materials” and the rich capitalists in the North would continue buying them up – at a special guaranteed price. It's been a very paternalistic affair. But it has been a useful tool for the old European masters to keep a foot inside the door of their former empires.<sup>2</sup>

Under the new EPAs, 40 years later, nothing is changing. Sure, the language is different and there are many new actors around. But when you scrape through what is on the table and what is being debated, the same structural issues are still there. And they are frightening.

- There is hardly any fundamental discussion about what the relationship with Europe should be. Even though the freedom to move in new directions exists, no one seems to be questioning whether the EPAs are not a new and more ruthless phase of neocolonialism.
- The whole concept of “partnership” is accepted as the common goal, despite the gross inequalities that the EU-ACP relationship is founded on. What is being fought over instead is what level of asymmetry – or imbalances – should be applied within the partnership, given the underlying inequalities. This will perpetuate the inequalities, not change them.
- The argument that the WTO requires the EU and its ACP partners to shift from a unilateral preferences scheme (where Europe alone cuts its tariffs) to a bilateral one (where the ACP countries now cut theirs as well, thereby destroying their economies) is also apparently accepted, despite all the evidence that makes this hard to swallow. There are more than half a dozen similar unilateral preferences schemes in operation, none of which is being contested for WTO compatibility.<sup>3</sup> True, Ecuador and other countries have

\* Starting around September 2007, and particularly after the rush to sign or not sign the EPAs by 31 December 2007, some of the issues raised in this commentary became more prominent in the discussions.

<sup>1</sup> BBC World Service, “Inside the global giants”, no date, but c. January–February 2003, [http://www.bbc.co.uk/worldservice/specials/151\\_globalgiants/page3.shtml](http://www.bbc.co.uk/worldservice/specials/151_globalgiants/page3.shtml)

<sup>2</sup> The French, in particular, have used this relationship greatly to their advantage, especially in West Africa. They retain enormous influence – a two-way game, with African elites playing their part – and even

economic control on the region. To give but one example, Dagris, a French government holding company, bought into most of the former State cotton trading enterprises in the region. In February 2007, Dagris itself was sold off to two French companies: Sofiproteol, a financial group that is a major player in the edible oils industry (e.g. they own Lesieur) as well as animal feeds, seeds and, together with Bunge, biofuels; and IDI, an investment house specialised in developing medium-sized companies.

<sup>3</sup> The Caribbean Basin Initiative between the US and the Caribbean countries; the US' Generalised System of Preferences; the US' African



Women farmers of the Confédération Paysanne du Faso (Peasant Confederation of Burkina Faso) protesting against the EU-ECOWAS EPA in Ouagadougou, mid-2007  
(Photo: ABC Burkina)

won disputes at the WTO against the preferences the EU was giving its ex-colonies for bananas and sugar. But rather than find a suitable arrangement for bananas and sugar, the EU is using this as an excuse to revise the entire trade relationship and to add new features in the process (opening up investment and services). The EU and the ACP countries could also have negotiated an extension of the waiver (to allow their unilateral scheme to go on, as an exception to WTO rules) instead. Further still, neither the EU nor the US do anything most of the time when they lose disputes at the WTO.<sup>4</sup> So why act on this one? Overall, this bowing down to “the WTO excuse” is not necessary and will greatly expand European power in the ACP countries. So it is quite deliberate.

- The EPA debate has been a myopic one about the EU and the ACP. In the case of Africa, for instance, it would seem impossible to negotiate a trade relationship with Europe without factoring in where things are heading with other countries like China, the US, South Africa, India and even Brazil. These are major trade and investment powers, with real and growing interests in the whole of Africa. China’s investment in Africa is exploding, the US is interested in its own FTAs with various African countries, India has a lot at stake in the continent.... But somehow these issues are compartmentalised, thereby delinking the discussion from a crucial “big picture” analysis. Similarly, the strategy of trying to push regional integration as a *sine qua non* to any EPA with Europe suffers from a narrow view. It’s too often focused on internal integration and not considering inter-regional relationships (e.g. between West and North Africa).
- Trying to orient these agreements towards “development” without considering structural corporate realities is a problem. The Cotonou Agreement mandates that the parties pursue a “development” agenda in

Growth and Opportunities Act, which was renewed in 2005; the Andean Trade and Development Preferences Act, renewed in December 2006; the Caribbean-Canada Trade Agreement; and New Zealand and Australia’s South Pacific Regional Trade and Economic Cooperation Agreement.

<sup>4</sup> Hormone beef, Boeing, GMOs, tax shelters, internet gambling.... The

their overall cooperation. Social groups have pushed hard for this agenda to serve as a buffer against the possibly pure neoliberalisation function of the EPAs. This has met flat resistance from Brussels, creating a strong sentiment of betrayal (and therefore crisis) in the talks. But given the role of transnational corporations in the ACP economies – and in the ACP export sectors more specifically, since the whole point is to revise a trade regime – it is hard to put together a demand for development with a reality of foreign corporate control. Which brings us to the second big structural issue.

### The ACP economies are still stuck in an incredible dependency on a few primary exports

For all the talk about agriculture in these deals – which is crucial, since so many people’s livelihoods in these countries revolve around it – farm trade between the ACP countries and the EU is a very narrow affair concentrated on a few countries and a few crops. The entire relationship with Europe all these years has simply not brought much by way of diversification, much less “climbing up the value chain” from producing raw materials.

According to the ACP farmers’ networks, just four of the 77 ACP countries account for more than 66% of all ACP farm trade with the Europe.<sup>5</sup> On the export side, they are mostly selling cocoa (predominantly from Ivory Coast and Ghana), fish (Namibia in the lead), sugar (Mauritius is the biggest source), coffee (Ethiopia, Kenya and Tanzania) and bananas (Cameroon and Dominican Republic most concerned). Hardly any processing is done with these harvests before they leave for Europe, so local incomes from them are restricted.

Worse, thanks to market reforms pushed by the World

number of WTO disputes that either the US or EU have lost and not acted upon is substantial.

<sup>5</sup> EAFF, PROPAC, ROPPA, SACA and WINFA, “Midterm review of the Economic Partnership Agreements: Independent contribution of the regional networks of farmers’ organisations”, Synthesis of regional assessments, Working document, 10 December 2006, p. 17.



Bank and the International Monetary Fund in the 1980s, the market for many of these goods is structurally controlled by very few large transnationals now.

- Four companies – Barry Callebaut from Switzerland, Hosta from Germany, Cargill and Arthur Daniel Midland from the US – dominate the world's cocoa trade. These traders supply a highly concentrated processing sector, where Cargill, ADM and Barry Callebaut control 45% of the grinding. At the end of the line, just six manufacturers account for half the world's chocolate production, consumed mainly in Europe, and they are currently fighting with the retailers over whatever margins can still be squeezed. African cocoa farmers and their governments have virtually no power in setting prices, even if more of the grinding is shifting to their territories.
- Four companies – NK from Germany, Volcafe from Switzerland, the Swiss/Spanish Ecom group and Dreyfus from France – control 40% of the world coffee trade. These firms supply an even more concentrated roasting sector: Nestlé from Switzerland, plus Kraft, Procter & Gamble and Sara Lee from the US, control 45% of the processing.
- Five firms – Dole, Chiquita and Del Monte from the US, Fyffes of Ireland and the Ecuadorian Noboa – control 80% of the world's banana business.
- In the fisheries sector, most of the benefits go to the heavily subsidised European transnationals such as Pescanova.
- Even the vegetable export industry in Kenya, often touted as a local success story, is controlled today by no more than five large companies (including Sunripe Ltd, held by the Shah family, and Homegrown Kenya now owned by Flamingo Holdings in the UK). This means that much of the value generated from agricultural trade is deliberately captured and controlled by a few agribusiness interests, mainly in the US and Europe.

The real problem is this structural one. In terms of agricultural trade, the ACP countries are too dependent on too few products that are controlled by just a few



Africans from different corners of the continent rallied and demonstrated in the streets of Nairobi where they met together to strategise against the EU-African EPAs during the World Social Forum in January 2007.

American and European firms. Farmers are not going to get a better deal from trade agreements – and therefore development is not going to amount to much – until this structure, where large conglomerates control the market, is transformed. While prices and the income captured by different segments of the value chain can go up and down for myriad reasons, the long-term blockage point is that farmers have no negotiating power in this structure. That is why it is so essential to address the structure of these industries, and their ever-deepening concentration, rather than focus on tariffs, technology or competitiveness, most of the profits from which end up in a few companies' pockets.

The need to attack the corporate structure behind ACP farm and fish exports is urgent because the EPAs are essentially about increasing market access for Europe, not for the ACP countries. The ACP countries have had more or less duty-free entry to the European market for 40 years. The EPAs are supposed to create a reciprocal situation now and do away with tariffs on the ACP side. But they will also introduce investment liberalisation, which is the golden key for TNCs to get more out of the ACP markets while locking the countries of Africa, the Caribbean and the Pacific even more tightly into a revised form of colonial exploitation.

# Latin America & the Caribbean

## Fourteen years of NAFTA and the tortilla crisis

Ana de Ita (August 2007)

In January 2008, agricultural trade between Mexico, the US, and Canada will become completely free, with the end of the implementation period of the North American Free Trade Agreement (NAFTA). All US and most Canadian products<sup>1</sup> will be able to enter Mexico without any duties. The same will occur with Mexico's exports to the other two countries.

NAFTA's agricultural agreement (Chapter VII) promotes the total liberalisation of agriculture and forestry in the region. NAFTA commitments related to agriculture between Mexico and the US are the most radical of any trade agreement, since they include the liberalisation of all agricultural and agri-food trade over a maximum period of 14 years. NAFTA is the first treaty to treat two developed countries and an underdeveloped one as equals. But compared to US and Canadian agricultural sectors, Mexico's presents huge asymmetries in terms of economics, technology, production factors, and agricultural policies and supports.

Even before signing NAFTA, 75% of Mexico's agricultural exports went to the US and 69% of its imports came from the US.<sup>2</sup> Because of the much smaller size of the Mexican economy, the US market is much more important to Mexico than vice-versa: Mexico provided only 12% of total agricultural imports going into the US and bought just 7% of US exports. Mexico is also more heavily dependent on Canada than vice-versa: Canada's agricultural exports to Mexico amount to 28% of its total agricultural exports, whereas Mexico's exports to Canada are 8% of Canada's imports.

NAFTA negotiations took place without taking into consideration the views of Mexico's civil society. The inclusion of the agricultural and forestry sectors was one of the most controversial topics, due to profound asymmetries between Mexican agriculture and that of the US and Canada. In 1989, Mexico began an agricultural modernisation process via "kicks and blows from the market." The objectives that drove agricultural policy were the opening of trade, withdrawal of the State from the majority of its economic activities, reduction in subsidies, and the privatisation or elimination of most state-run enterprises. All the neoliberal reforms undertaken meshed with NAFTA, which in 1994 became "the lock that secures the door and blocks the reversal of the

reforms".<sup>3</sup> It is practically impossible to separate the effects of the reforms from those of NAFTA. The US promoted NAFTA as a security measure in its relations with Mexico and Canada, in order to reinforce economic stability in both countries and to guarantee the permanence of policy and trade reforms achieved since the mid-1980s.<sup>4</sup> According to the US Department of Agriculture, one of the main benefits of the treaty was to prevent Mexico from feeling tempted to turn to protectionist policies during the peso crisis of 1995.<sup>5</sup>

NAFTA guaranteed that the drastic structural reforms imposed on agriculture would be maintained for 14 years and become institutionalised agricultural policies, despite the devastating effects on producers, especially rural farmers. Mexico is a historical example of the effects of agricultural liberalisation when it is imposed "by hook or by crook" in an international agricultural market organised around state protection and subsidies: prices are equalised, despite differences in production costs, performances, or agricultural subsidies, and deliver extraordinary profits for those who can produce at the lowest cost.

### Effects of NAFTA's agricultural agreement: 1994-2006

#### *Foreign trade and economic growth*

Designers of neoliberal policies assume that an increase in international trade produces greater economic development and that the opening of trade creates profits for all actors in the areas in which they have comparative advantage.<sup>6</sup> Nevertheless, deep asymmetries between agriculture in Mexico vis-à-vis the US and Canada, in general terms, means that the main productive sectors – basic grains, oilseeds, forestry, and livestock (with the exception of poultry) – enjoy no advantage over the competitors.

<sup>1</sup> NAFTA is composed of three treaties between: (1) the United States and Canada, (2) Mexico and the United States, and (3) Canada and Mexico. Canada excluded from its treaties dairy, poultry, and egg products, for which it retains a supply management system.

<sup>2</sup> Kenneth Shwedel, "El TLC y el cambio estructural" [FTA and Structural Change], in: Alejandro Encinas, Juan de la Fuente and Horacio Mackinlay, coords., *La disputa por los mercados. TLC y el sector agropecuario* (Mexico: Editorial Diana, 1992).

<sup>3</sup> Luis Hernández, "TLC, Corte de caja" [FTA: Stop and Assess], *Cuader-*

*nos del Ceccam*, no. 7 (Mexico, 1996).

<sup>4</sup> Terry Crawford and John Link, coords., *NAFTA International Agriculture and Trade* (Washington, DC: ERS, USDA, September 1997), p. 8.

<sup>5</sup> Crawford and Link, p. 7.

<sup>6</sup> Alejandro Díaz Bautista, "El TLCAN y el crecimiento económico de la frontera norte de México" [NAFTA and the Economic Growth of the Northern Border of Mexico], *Revista Comercio Exterior*, Vol. 53, No. 12 (Mexico, December 2003), p. 1090.



"Maize and beans out of NAFTA – food sovereignty for peasants"

Before 2003 Mexico had special safeguards for the import of live hogs, pork, hams, lard, bacon, fowl, chicken and turkey meat paste, eggs, potato products, fresh apples, coffee extract, and orange juice. The US could apply special safeguards for horticultural products during certain seasons. Safeguards could be triggered when imports exceeded the defined quotas and authorised the application of the tariff in use prior to NAFTA.<sup>7</sup> Most agricultural products were liberalised in 2003, but "sensitive" products, which for Mexico are corn, beans, and non-fat dry milk, enjoyed "extraordinary" protection until 2007. Yet Mexico's government decided to favour importers, and for many years did not take advantage of the protection to which these products were entitled. In January 2008 imports of sugar and high fructose corn syrup are also to be freed: these products, along with chicken legs and thighs, were the subject of a trade dispute at the WTO and obtained special safeguards from 2003 to 2007. At the same time, the US is supposed to allow the import of broccoli, cucumbers, asparagus, melons, watermelons, sugar, and orange juice, which are still protected. Sugar was the subject of a final negotiation through parallel agreements which eliminated the advantages for Mexican exports to the US. The end of the transition period means the end of the period during which it will be possible to establish bilateral safeguards that come into play when one party proves that imports from another party causes damage to the national industry.<sup>8</sup>

Agricultural foreign trade has increased almost three-fold since the trade opening. Because Mexico had begun a unilateral process of opening its agricultural sector from the mid-1980s,<sup>9</sup> between 1993 and 2002 imports grew faster than exports (with an average annual growth rate of 7.3% compared with 4.4%), and it was only after 2003, at the end of the 10-year period of tariff reduction, that Mexican exports increased and closed the gap. Since NAFTA, Mexico has become the third largest market for US agricultural products. The trade balance in agricultural and food products has been negative for every year of NAFTA except 1995, when agriculture gained a positive balance thanks to the devaluation of

the peso and the recession that functioned better than any tariff. Imports dropped from US\$3 billion in 1994 to US\$2.5 billion in 1995. The surplus lasted until inflation caught up with devaluation, and from 1996 the agricultural balance again became negative.

Between 2001 and 2004 the agricultural trade deficit averaged several billion dollars a year. However, in 2005 there was a significant reduction in the deficit (by US\$385 million) and it dropped even further in 2006. Mexico's deficit in food trade, which under NAFTA has averaged around US\$1.3 billion, rose in 2001 to over US\$2 billion. In 2003 it reached US\$2.7 billion. After 2004, at the end of the transition period for most products, the deficit began to shrink as a result of the opening of US and Canadian markets to Mexican exports. The value of exports rose 70%, while imports grew 42.5% between 2003 and 2006. However, growth in agricultural foreign trade has not led to high growth in the sector as a whole, as assumed by neoliberals. Indeed, growth in the agricultural sector, which had averaged 2.5% between 1989 and 1993, fell to 1.9% under NAFTA. In both periods the agricultural sector grew less than the economy at large (3.1% and 2%, respectively), but the gap widened after 1995. The agricultural sector reduced its participation in the overall Gross Domestic Product (GDP) from 5.8% in 1993 to 5% thirteen years later.



(Photo: National Autonomous University of Mexico)

The population working in the primary sector (agriculture, livestock, forestry, hunting, and fishing) fell drastically, from 8.2 million people in 1991 to 6.1 million in 2006. This was intended by the authors of neoliberal policies, who believed that national development depended on a reduction in the size of the population working in the agricultural and forestry sectors. Those working in the primary sector represented 26.8% of the total working population in 1991 but only 14.6% in 2006.<sup>10</sup> According to a study commissioned by the government, the number of agricultural households diminished from 2.3 million in 1992 to 575,000 in 2002, and those with mixed incomes dropped from 1.5 million to 900,000 over the same period.<sup>11</sup> Mexico's inability to compete with the US in the agrifood sector has spurred the recurrent migration of farm workers and threatens to eliminate the future generation of farmers.

<sup>7</sup> SECOFI, *TLCAN, Texto oficial*, Artículo 703 [NAFTA, Official Version, Article 703].

<sup>8</sup> SECOFI, *TLCAN, Texto oficial*, Capítulo VIII [NAFTA, Official Version, Chapter VIII].

<sup>9</sup> Mexico entered the GATT in 1986, after which it drastically revised its policy of protection for national productive sectors.

<sup>10</sup> INEGI, *Anuario Estadístico de los Estados Unidos Mexicanos* [Statistical Yearbook of the United States of Mexico] (2006). To 2004,

the data referred to the population older than 12 years of age, but for 2005, to those older than 14, which makes it difficult to compare recent years.

<sup>11</sup> José Romero and Alicia Puyana, *Diez años con el TLCAN, las experiencias del sector agropecuario mexicano* [Ten Years of NAFTA: Experiences of the Agricultural Sector in Mexico] (Mexico: El Colegio de México), p. 227.



## Agricultural trade exchange and food sovereignty

NAFTA was established to give each of its parties an opportunity to increase international trade in the agricultural products in which it enjoyed “comparative advantages” and thus to reduce its trade deficit. The US and Canada are two of the largest and most efficient exporters of grains in the world, while Mexico is a competitive exporter of horticultural and fruit products. However, this does not imply a complementary relationship between the sectors in the region. For Mexico, the treaty negotiation meant a change in the pattern of its crop selection.

Only 12.3% of Mexico’s land is devoted to arable agriculture, while about 54% is used in cattle ranching and another 26% in forestry. Of the arable land, 71% is used in the cultivation of basic grains and oilseeds. In general terms, Mexico has no comparative advantage over the US in cattle rearing, basic grains, oilseeds, or forestry. Fruit, vegetables, and tropical produce such as pineapples, sugar cane and coffee are the only products in which Mexico might have some advantage, but fruit accounts for only 6% of arable land, and vegetables 3%.

Mexico has 3.1 million producers, of whom 85% are farmers with plots smaller than 5 hectares [12.4 acres], and whose main crops are grains and oilseeds.<sup>12</sup> Only about 500,000 producers cultivate vegetables and fruit. Most of these are medium or large holders, because the heavy investment required puts this activity beyond the reach of smallholders. Mexico’s food trade with the US is based on the import of basic foodstuffs – corn, soya, rice, wheat, milk, oils and fats, beef, pork, and chicken meat – and the export of tomato, pepper, fruit and vegetables, cattle feed, shrimps, and, above all, beer and tequila. In 2006 four products accounted for 73% of Mexico’s agricultural exports: tomato, vegetables, fresh fruit and live beef cattle. And in the same year another four products made up more than half of Mexico’s exports of foodstuffs:

beer, tequila, shrimps, and canned fruit and vegetables. Beer and tequila accounted for 26% and 10%, respectively. By 2006 exports of beer, a relatively new product, had risen to US\$1.138 billion, while sugar and orange juice, considered winners in the NAFTA negotiation, had lost importance, with their share of exports dropping from 11.7% and 5.3%, respectively, to only 2% and 1%. Corn, soya and oilseeds, sorghum, wheat, rice, and cotton accounted for 60% of the country’s agricultural imports. Corn imports rose exponentially under NAFTA. The most imported foodstuffs were: beef, pork, poultry meat, dried milk, oils and fats, cereals, malt, and malt extract. Under NAFTA, US pork producers increased their share of the Mexican market by 130%, and Mexico’s imports of beef and veal quintupled. So while agricultural and food exports from Mexico are concentrated in a small number of lavish products for the US elites, Mexico has lost its ability to feed its population and has increased its dependency on the import of basic goods.

## Integration of markets: concentration and displacements

NAFTA has led to concentration and regional integration. In Mexico, with no state regulations or state protection, many small farming units have gone under, unable to compete with the imports that flooded the domestic market. Larger producers, better off in terms of land, irrigation, resources, and credit, have taken advantage of the opening to modernise and absorb a larger proportion of internal markets.

The Mexican government eliminated state regulatory agencies in the agricultural sector. The vacuum left by the state was filled by TNCs, subsidiaries of US corporations, many of which created links by mergers or stock acquisitions in the strongest Mexican companies. The integration within the US market through the TNCs has occurred on an unprecedented scale. It was carried out in different ways, according to the type of production, but in all cases it involved state mediation of a transfer of income from the farming to the business sector. Producers of tomatoes for export in Sinaloa, one of the few successful sectors under NAFTA, established formal relationships with producers in Florida, USA, collaborating closely with them, but they also displaced small family producers from Mexico’s central states, who formerly supplied the internal market, now controlled by the Sinaloans.

Markets for basic grains such as corn, wheat, rice, and soya are controlled by a very few transnational enterprises, subsidiaries of US companies, that work on both sides of the border. Besides influencing prices for producers and participating in imports, they can act as monopolies, as they did during the 2007 tortilla crisis. After the 1995 economic crisis, which bankrupted most small cattle and poultry farmers, domestic production of beef cattle, pork, and poultry was modernised and concentrated in a handful of large companies, many of them US-based TNCs. The Mexican government decided to support them by dismantling the protection previously given to the producers of basic grains, which is one of the main inputs of the livestock producers. This accelerated the integration of the livestock producers within the integration of the North American regional market.



(Poster, EZLN)

<sup>12</sup> ASERCA, the number of producers according to the Procampo [subsidy program], 2001.

## Foreign direct investment

One of the main commitments in NAFTA was “national treatment” for foreign investors (Chapter XI), which forced Mexico to change its legislation on investment. NAFTA strengthened the rights of foreign investors to retain profits from their initial investments. Neoliberal policymakers made foreign direct investment (FDI) the engine of economic development, but, despite the reforms, little additional foreign investment was made in farming. According to official data, FDI in the agricultural sector totalled US\$10.8 million in 1994, while by 2004 it had reached only US\$16.3 million.<sup>13</sup> At the beginning of NAFTA the sector was absorbing only 0.1% of total investment and, by 2004, even less, 0.09%.

NAFTA has encouraged greater FDI in the area of foods and beverages, half of which comes from the US. In 2005, direct US investment in Mexico’s food processing industries reached US\$2.9 billion, while Mexican investment in similar industries in the US was US\$1 billion.<sup>14</sup> Even more importantly, food sales in Mexico associated with US direct investment rose to US\$6 billion in 2003, more than the value of food exports from the US to Mexico.<sup>15</sup> The main US food brands are sold in Mexico. In intermediate products US investment plays an important role in flour milling, grain trading, and meat processing. A few of the larger Mexican food companies have also strengthened their presence in the US market, such as Gruma in the corn flour and tortilla market. The main US-based TNCs have strengthened their presence in Mexican farming, and their share of the internal market has grown as they have taken over important portions of the markets in corn, soya, wheat, rice, poultry meat, eggs, and pork. The world agricultural and food market is highly concentrated, and processes of vertical and horizontal integration have been of great importance since the 1980s.

### Balance by products: basic grains and oilseeds

For Mexico NAFTA meant sacrificing national production of basic grains in exchange for access to new markets for vegetables and tropical fruit. Producers of basic grains and oilseeds have lost heavily from NAFTA’s agricultural chapter. Between 1991 and 2001, the number of basic grain producers dropped by a million, from 4.1 to 3.1 million.<sup>16</sup> At the same time there was a fall of 852,000 hectares [2.1 million acres] in the amount of land devoted to these crops between 2000 and 2005.<sup>17</sup>

Mexico is a net importer of food. More than 80% of its arable and meat imports are basic grains, oilseeds, and their derivatives. Imports have constantly increased under NAFTA, more than doubling by 2006. Mexico spends an average of US\$4 billion annually on imports of basic grains and oilseeds. Mexico is the main market for the export of cotton and sorghum from the US, the second market for corn, after Japan, and the third market for wheat and soya. The opening of the market meant additional competition on the domestic market, leading prices to fall. Since the 1989 reforms, the domestic prices of grains have dropped by 50%.

<sup>13</sup> Methods for reporting foreign direct investment in Mexico have varied, making comparison of different years difficult; however, and despite substantial variation in the period 1994–2004, foreign direct investment was never greater than US\$93 million, according to the Economic Secretariat’s National Register of Foreign Investment (Secretaría de Economía, Registro Nacional de Inversión Extranjera).

<sup>14</sup> Steven Zahniser, *NAFTA at 13: Implementation Nears Completion*

In NAFTA, the Mexican government agreed to liberalise its basic grains and oilseeds market over a ten-year period, which ended in 2003. An exception was made for corn and beans, which were allowed protection until 2007. For rice, a tariff of only 10% was originally established, to be phased out altogether by 2003. Before the opening, four out of every ten tons of rice produced in Mexico were exported, but by 2006 seven of every ten tons of rice consumed were imported. Production dropped by almost a half, and most of the small producers went bankrupt, as domestic prices fell by 55% between 1989 and 2006. NAFTA negotiated the immediate liberalisation of the seasonal tariff of 15% on sorghum, the main cattle feed. Sorghum production suffered a drastic fall with the elimination of its protection, but after 1997 it began to recover and reached pre-opening levels. The increase in sorghum demand from cattle rearing has been covered by imports. Currently, a third of national consumption comes from imports. As a result, sorghum prices dropped by 57% between 1989 and 2005. By 2006, they began to recover, pushed by the rise in international prices for corn. Wheat was the only product that performed competitively with US production. It enjoyed protection from imports due to a previous permit, which was replaced at the beginning of NAFTA with a tiny tariff of 15%, to be gradually reduced and eliminated by 2003. Wheat imports went from absorbing 9% of national consumption before the 1989 opening of trade to more than half in 2006. Wheat stopped generating income for many producers, and production dropped by 27% as a result of the 48% decline in wheat prices, pressured by imports.

## Corn

The case of corn (maize) under NAFTA is paradigmatic, as it illustrates the behaviour of the government and TNCs that have benefited from liberalisation. Corn is the most important crop in Mexico in terms of the volume of production, cultivated land, production value, and number of producers. During NAFTA negotiations – based on the theory of comparative advantage – corn was one of the main problems, because it could not compete against US and Canadian production. From the viewpoint of the policymakers, the activity of 85% of the producers with less than 5 hectares [12.4 acres] of farmland was not competitive; 4.7 million hectares [11.6 million acres] should be converted to other crops, with a loss of



“Fasting for food self-sufficiency: no to NAFTA, to rising food prices, to agribusiness monopolies and to GM corn”.

(Washington, D.C.: ERS, USDA, March 2007), p. 9.

<sup>15</sup> Zahniser, p. 10.

<sup>16</sup> INEGI, Censo Agrícola y Ganadero [Agricultural and Animal Stock Census], 1991, and ASERCA, Procampo, 2001.

<sup>17</sup> Sagarpa. Land sown in basic grains and oilseeds dropped from 14.2 million ha [34.3 million acres] in 2000 to 13.3 million ha [32.9 million acres] in 2005.



7.1 million tons of corn produced on that acreage. Small-scale corn farming was supposed to disappear, although it constituted half the national production, and half of it was marked for local consumption.

Reality turned out to be different from the theory. From 1989 other grains (apart from corn) and oilseeds had suffered a process of opening and deregulation. As a result, Mexican agriculture underwent a phenomenon of “cornification”, stimulated by the lack of protection for other crops. Corn production between 1989 and 1993 rose by 65%, from 11 million to 18.1 million tons. The main increase occurred in irrigation areas in states of the north-west, mainly Sinaloa, traditionally devoted to commercial crops, mainly for export. The land devoted to corn in non-irrigation areas remained relatively constant. Without the support of civil society, the Mexican government agreed to the liberalisation of corn in NAFTA. According to the assumptions that underpinned NAFTA, the trade opening would force farmers to switch to crops with greater competitiveness on the international market. Under NAFTA, protection for corn was negotiated through tariff-quotas and a long period – 15 years, the longest permitted – was allowed for gradual adaptation. The 15 years, which end at the beginning of 2008, should have allowed producers to adjust to an open economy.<sup>18</sup> But corn production has not fallen during this period; it has increased, and currently stands at over 20 million tons. These indicators suggest that there were no other production alternatives for the new generation of corn farmers in the 1990s.

### Corn imports under NAFTA

Corn is the net loser in the NAFTA negotiations for agriculture. After 14 years in operation, the supposed extraordinary protection for corn has been systematically eliminated since 1996 (with the exception of 1994 and 1997), due to a unilateral decision by the Mexican government. For corn production, there has been no period of transition, because in fact it has already been operating as an open market. Corn imports systematically exceeded the negotiated quota, and the extra imports were not charged the corresponding tariff. As a result, 3.2 million producers, the majority of the small-scale producers in the country, were denied the promised protection. The increase in imports was not due to a lack of production or higher domestic prices than international prices. For several years prices paid for imported corn were higher than Mexican corn. The heart of the matter can be found in the support programmes for agricultural and livestock exports that the US government provided to its producers through the *Commodity Credit Corporation* (CCC).<sup>19</sup> Through this programme corn importers could obtain long-term soft loans. Importing grain became a profitable financial operation.<sup>20</sup>

In just a year, between 1995 and 1996, corn consumption increased by 3 million tons. Up to 1990, farmers

<sup>18</sup> Protection through tariff-quotas consists of determining an import quota that can enter the country free of tariffs, but any amount above the quota is subject to stiff tariffs. For corn, the initial quota stipulated for the US was 2.5 million tons and for Canada 50,000 tons. These quantities would increase by 3% each year. The initial tariff was 215% and would gradually be reduced to zero by 2008.

<sup>19</sup> CCC Export Credit Guarantee Program (GSM-102) and CCC Intermediate Export Credit Guarantee Program (GSM-103).

<sup>20</sup> See Ana de Ita, Schwentesius Ruta, “¿Cuánta liberalización aguanta la agricultura? Impacto del TLC en el sector agroalimentario”, presentation to Chamber of Deputies, LXII Legislature, Comisión de Agricultura, Mexico, 2000.



The price of tortillas has been going up dramatically in Mexico not because of a lack of corn but because of the monopolistic structure of the industry that NAFTA has driven. (Photo: National Autonomous University of Mexico, January 2007)

could not feed corn to livestock, as it was regarded as a staple food for the population, but this ban was lifted in 1996, and the livestock sector became the main destination for imported corn. Grain consumers<sup>21</sup> gained political power needed to influence agricultural and trade policy: they avoided paying the tariffs permitted under NAFTA for corn imports above the quota. The Mexican government effectively practised dumping against its own national corn producers by eliminating the tariffs designed to protect their production. Small farmers were forced to bear a huge burden in order to benefit importers, among them some of the world's largest TNCs.

In 1999 the Mexican government eliminated the state-owned enterprise CONASUPO (National Company of Popular Subsistence), which had the responsibility to regulate the basic grains market in support of producers and consumers. Corn was the one product that after NAFTA was still sold by CONASUPO. CONASUPO's closure left producers in the hands of a very small

<sup>21</sup> Of the total of corn imports in 1996, 46% went to the cattle sector, 20% to CONASUPO, 16% to the cornmeal industry, 11% to the starch industry, and 7% to wholesalers. CONASUPO imported 1,270,000 tons during the year.



number of large TNCs, the only buyers of their harvests: Maseca, Minsa, Cargill, Arancia, and Archer Daniels Midland (ADM). These companies are also the US's main importers and principal exporters; Cargill, ADM and Zen Noh control 81% of corn exports in the US.<sup>22</sup> In recent years they absorbed a good portion of the subsidies that the Mexican government handed out for marketing corn surpluses. The private corn market grew rapidly, as the TNCs strengthened their integration, at the cost of producers. When restrictions were eliminated, exports from the US increased dramatically. The majority of the exports are of yellow corn, used as cattle feed. Exports of white corn for human consumption are not significant and even went down after 2000. The broad access to US corn reduced domestic prices for corn by 59% between 1991 and 2006, to allow for the expansion of the poultry and pork industries. The two largest Mexican companies in the corn flour industry – Maseca and Minsa – have positioned themselves in the domestic and foreign markets.

In 2001 189 companies imported 6.1 million tons of corn, a record amount.<sup>23</sup> The livestock sector absorbed 47.1% of this, of which companies that produce balanced feed for cattle absorbed the highest percentage, while fatteners acquired only 4%. The starch sector absorbed 31.2% of imports, and within that Arancia-Corn Products International led the pack as a corn importer. The flour sector acquired 11% of imports and of these Maseca got the largest portion. Diconsa, all that was left of CONASUPO, absorbed 3.7% of imports instead of fulfilling its social function of supporting direct purchases from national producers. Starting in 2003, owing to the pressure of farm organisations in the "Countryside can't take it any more" movement and public opinion, Diconsa stopped importing corn and bought only from national producers, once it was proved that the company had played a role in the genetic contamination of native corn.<sup>24</sup> Half of the imports in 2001 were bought by nine large Mexican or US companies: Arancia-Corn Products International, Minsa, Maseca, Archer Daniels Midland (ADM), Diconsa, Cargill, Bachoco, Pilgrims Pride and Purina. Several of these are linked to each other through associations or co-investments in a process of concentration and constant integration. Primary distribution and processing of grains are the links of the world food supply chain that are most concentrated.<sup>25</sup> Three of the leading world cartels operating in the commercialisation sector of basic grains operate in Mexico: Cargill-Continental; ADM-Maseca and Minsa-Arancia-Corn Products International. Diconsa imported usually through ADM.

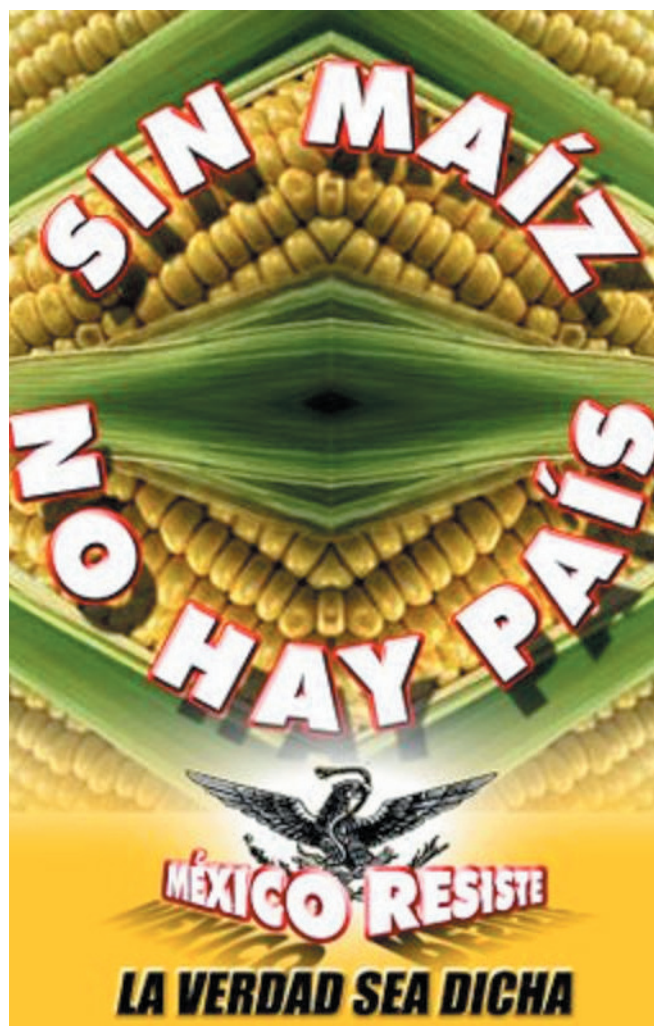
### The neoliberal tortilla crisis

At the beginning of 2007, there was a sharp increase (of between 42% and 67%) in the price of tortillas, which rose from 6 pesos to at least 8.50 pesos. This wreaked havoc on the purchasing power of wages. The tortilla crisis is an instance of the failure of neoliberal agricultural and food policies, championed by successive governments during the past 25 years. When dealing

<sup>22</sup> See Ana de Ita, "El control transnacional del mercado de maíz en México y su responsabilidad en la contaminación transgénica del maíz nativo" [Transnational control of the corn market in Mexico and its responsibility for the transgenic contamination of native corn], in RAPAL, UACH, *Memoria del Foro*, Mexico, August 2002.

<sup>23</sup> According to information from the Comité de Cupos de Importación de Maíz, Aserca, Sagarpa.

<sup>24</sup> See Ana de Ita, "Maíz transgénico en México: apagar el fuego con



"Without corn, there is no Mexico", slogan of the national campaign for food sovereignty and the revitalisation of the Mexican countryside. (Photo: Indymedia Chiapas)

with corn in the import-substitution model, the state had promoted an agricultural policy that was geared to food self-sufficiency. To that end it had built a system of buying from farmers, and of storing, processing, marketing and distributing basic commodities. The CONASUPO system – an institution dating back to the presidency of Lázaro Cárdenas (1936–41), created to prevent monopoly control and speculation around basic commodities – was initially the only, and then later the main, importer and exporter of basic commodities, in a closed economic system, where agriculture was protected by the requirement for prior authorisation for imports. It also had the role of managing a regulated reserve guaranteeing the supply of basic commodities for about three months. CONASUPO functioned as the main supplier to the mills and to the manufacturers of nixtamalised (pre-cooked) grain for making tortillas. The scheme allowed for price controls on tortilla, an important function in a country with very low wages. In this system producers were guaranteed a price for their products and consumers a maximum purchase price, and both prices were supported with subsidies.

gasolina" [Transgenic corn in Mexico: putting out fire with petrol] in Julio Muñoz, *Alimentos transgénicos*, Mexico, Siglo XXI, 2003.

<sup>25</sup> See Ana de Ita, "El control transnacional del mercado de maíz en México y su responsabilidad en la contaminación transgénica del maíz nativo" [Transnational control of the corn market in Mexico and its responsibility for the transgenic contamination of native corn], in RAPAL, UACH, *Memoria del Foro*, Mexico, August 2002.

But the neoliberal policies that NAFTA institutionalises modified the state's core regulatory functions and eliminated the institutions that made regulation possible, starting from the premise that the market regulates itself. As part of NAFTA negotiations, before the treaty was launched, guaranteed prices were eliminated and CONASUPO was liquidated. Also in 1999 poor consumers received a severe blow because tortilla subsidies given to 1.2 million families were eliminated. The shortage of corn during the first months of 2007 was the product of three factors: (1) speculation by the large monopolies that dominate Mexico's corn and tortilla markets; (2) NAFTA commitments to open up the agricultural and livestock sectors totally to imports from the US as of 1 January 2008, which in 2007 have resulted in increased dependence on US food imports; and (3) increase in corn prices in the international market due to the increased demand for corn to produce ethanol, which in an open economy greatly affects the domestic market.

The price rises were not due to a lack of national production, since in 2006 21.9 million tons were produced, a record output. At the same time record volumes of corn were imported – 7.3 million tons of yellow corn and 254,000 tons of white corn. If imports of broken corn are included, the total reaches 10.3 million tons. Bizarrely, in a year of crisis allegedly due to a decrease in the corn supply, corn stocks reached their highest volumes ever. Agribusinesses hoarded the 2006 and early 2007 harvest, claiming that there was a shortage of the grain at a time of rising international prices and low inventories, and they pushed up prices through speculation. These businesses made extraordinary profits because they bought corn at 1,450 pesos from the autumn–winter 2005–2006 harvest, which starts in April for producers in Sinaloa and Tamaulipas, and at 1,760 pesos from the producers of the 2006 spring–summer cycle, which starts in September, but at the end of December they were selling it at between 3,000 and 3,500 pesos, which naturally made the price of tortillas shoot up. They did not even have to pay the financial costs, nor those related to storage, since the subsidy programmes for trade in surplus,<sup>26</sup> operated by the Ministry of Agriculture, are aimed almost exclusively at major firms such as Cargill, Maseca, Minsa and Arancia, and gives them subsidies for guaranteed purchase, storage, handling, freight, shipping and export. Peasant organisations protested at the way businesses used these programmes to “dry out” the market artificially, reporting that Cargill bought and stored 600,000 tons of corn in Sinaloa.<sup>27</sup>

The Ministries of the Economy and of Agriculture and

ASERCA (Support and Services for Agribusiness) provided subsidy so that 1.5 million tons of corn from the autumn–winter harvest in Sinaloa could either be exported to the US, Central and South America, or be used as livestock feed by large companies such as Bachoco in Sonora. All this caused an artificial shortage of white corn for human consumption. In the US, as the result of an increase in demand for yellow corn for ethanol production, the area devoted to cultivating white corn was reduced, and TNCs based in Mexico took advantage of the situation to export white corn to its plants in the US and South America. According to official statistics, only 174,413 tons of corn were exported in 2006,<sup>28</sup> which leaves unanswered the question of where large volumes of corn ended up. During the 2006–2007 autumn–winter cycle, Cargill did not turn to Sinaloa to buy corn as it normally does, which suggests that they might already have had inventories of corn in their possession. The price of corn on the world market rose as a result of the increased demand for it in the production of ethanol, but this increase was not related to the price at which it was sold in Mexico.

The tortilla crisis led to a larger share of the market going to the two major cornflour producing companies, Maseca and Minsa. In Mexico tortillas are produced by two different methods. The traditional nixtamalisation process makes up half of the market (51%), and is performed by about three thousand small mills (many of them are currently Cargill customers). The remaining 49% of the tortillas are made with cornmeal. The cornmeal industry is highly concentrated in Mexico – only four companies dominate the market. The Grupo Industrial Maseca is the main one, with a 73% market share, and Minsa, Agroinsa and Harimasa account for the rest. Corn tortillas are mainly distributed in the large self-service stores like Wal-Mart. The tortilla crisis will expand the market share for cornmeal tortillas, because large companies and retail chains can reduce their profit margins and sell tortillas at a price 30% lower than the maximum price established jointly by the government and industry. Livestock producers who use corn as feed and who have benefited these past 14 years from the removal of protections to farmers, intend to raise the prices of meat, milk, eggs and chicken, all of which are staple foods because of the rising cost of corn.

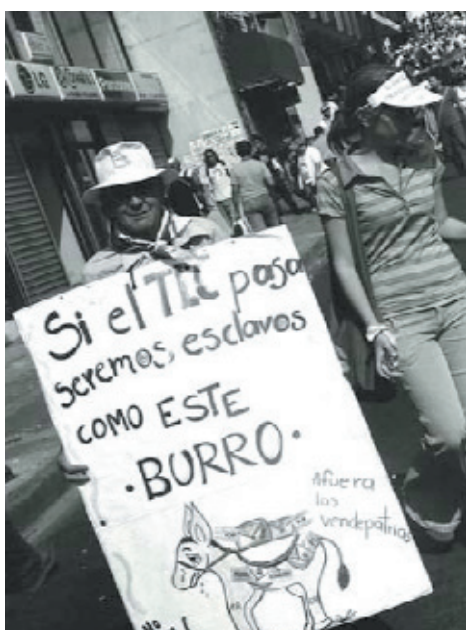
During this last year of NAFTA's transition period, TNCs that control the basic commodities market are showcasing their monopolistic capacities and acting against producer and consumer interests. The tortilla crisis shows that one of the NAFTA's basic assumptions – that it benefits consumers, even if it sacrifices farmers – is a macabre fallacy.

<sup>26</sup> Programme for Direct Subsidies to Producers for Trade Surpluses for Productive Reconversion, Integration of Agrofood Chains and Attention to Critical Factors, which include among their means of support subsidies for: access to forage grains, shipping, guaranteed purchase, export, and land freight.

<sup>27</sup> Luis Hernández, “Cargill ‘El maíz de sus tortillas’”, *La Jornada*, 30 January 2007.

<sup>28</sup> Data from Sagarpa.

"If the FTA is adopted, we will be slaves like this donkey"



Colombian farmers, teachers and others fighting for sovereignty against the FTA (Photo: indymedia, Colombia)

## FTA resistance in Colombia

Interview with Aurelio Suarez (November 2007)

### What is the level of organisation of resistance in Colombia to free trade agreements?

About three years ago, when the 8th round of negotiations for the Free Trade Area of the Americas (FTAA) took place, several hundred Colombian popular organisations, trade unions, environmentalists, farmers and independent research centres created the Colombian Action Network against Free Trade and the FTAA, or RECALCA. This group has become the core of the struggle for Colombian resistance against the US free trade agreement (FTA). Through RECALCA, we have organised research, forums and seminars and supported various mobilisations of different social sectors which, in one way or another, have raised their voices against the US-Colombia FTA. This activism has ranged from direct participation in discussions within the Colombian Congress, in both the Senate and the House of Representatives, support for the public consultations that indigenous communities, farmers, youth and workers have conducted as "people's referenda" on the FTA, which have resulted in a clear rejection of the agreement at the popular level, as well as various days of social mobilisation against the US-Colombia FTA, whether as a coordinated front or through separate groupings.

### What is RECALCA focusing on today?

It is focusing on the new FTAs that the government is negotiating and wants to sign. That means the Chile-Colombia FTA, the Central American Northern Triangle FTA (with Guatemala, Honduras and El Salvador), the Canada-Colombia FTA, the EFTA-Colombia agreement (EFTA being Iceland, Norway, Liechtenstein and Switzerland) and the so-called Association Agreement – which is nothing other than an FTA – between the Andean Community and the European Union.

### How has the Colombian government responded to so much mobilisation?

The Colombian government – which is clearly neoliberal and authoritarian, and of an extremely undemocratic nature – has turned a deaf ear to the people. It is refusing to listen to the opinions of an immense set of organisations, including all the peasant organisations, small and medium producers (including some agribusinesses), the trade unions, environmental organisations and the indigenous and Afro-Colombian communities. The Colombian government has simply replaced these people – Colombia's real civil society – with what the government calls "civil society" – in reality, tiny organisations that it has created and funded to give some kind of façade of social participation in the negotiations. It has also ignored not only social organisations, independent analysts and various universities, but also Senators and Representatives from the opposition. The core of the US FTA – before the additional protocol was negotiated between the Bush administration and the US Democratic Party – got the supporting vote of only 55 out of 102 Senators. It got the deal passed on the grounds that it was the final text – which, in fact, it turned out not to be. This is a treaty approved behind the country's back. Those of us who opposed the agreement in public debates in Congress clearly demonstrated that this negotiation was going to cause serious harm to the territorial, legal, economic and food sovereignty of Colombia. Despite our arguments, the government pushed ahead and used its parliamentary majority to get the FTA approved.

### What is the relationship between the FTA and food sovereignty in Colombia?

The US-Colombia free trade agreement was negotiated on the basis of two criteria. One, Colombia agreed that it would slash tariffs on all US farm products to zero. In





The US FTA in the eyes of a Colombian student.  
(Picture: Rene Elken)

five years, 89% of US imports would enter Colombia tariff-free. Within ten years, an even broader group of items would be covered. And within 18 years, all agricultural produce from the US would face zero tariffs at the Colombian border. But while Colombia negotiated this way, and this is the second element, the United States did not remove its system of agricultural subsidies that enables it to export its surpluses – especially cereals, oilseeds, meat, dairy products, fruit and temperate vegetables – at prices below the cost of production. In other words, dumping. So what the government did was to legalise US agricultural dumping in Colombia. In this sense, our country has opted to increase its dependency on foreign food (which started with the introduction of the neoliberal model and the so-called economic opening). In fact, 51% of our plant-based protein and calories and 33% of our vegetable fats already come from outside. So this is going to increase our food dependency and diminish our self-sufficiency in the production of basic foodstuffs.

#### What are the related implications?

This implies not only a problem of sovereignty, but will also cause the ruin and displacement of millions of rural families and small and medium-sized producers who are involved in production for the domestic market. For example, the capital of Colombia, Bogotá, gets 80% of the food it consumes from farmers producing within a 300-km radius. These regions are going to be directly hit when US food imports flood the market. The big traders, which have an almost oligopolistic control of the food and agricultural market, will prefer to drop their domestic sources and buy US products at lower cost. This will affect our self-sufficiency, our self-determination, household food security and the food sovereignty of the nation.

#### By preventing Colombian farmers from growing food, won't this push them into the cultivation of illegal crops?

Fifteen years ago in the department of Nariño, one of the largest wheat-growing areas of the country, there

were only 100 hectares of coca. Today, there are more than 15,000 hectares of coca. So it's likely that this will happen. The peasant and indigenous communities, and the poorest sectors, will either be displaced or they will be driven to produce crops that are used for illegal purposes, like coca or poppy, because they are the only profitable ones.

#### What is the relationship between the FTA and the environment?

If you read the details, the environment chapter of the US free trade agreement says that environmental considerations cannot block trade, meaning trade takes precedence over environmental standards. The environmental regulations of our countries are increasingly being subjected to the rules set up by these supranational treaties. There is nothing in the FTA which prevents investors from taking control of our water ecosystems, our biodiversity, etc. They are free to engage in profit-making businesses around so-called environmental services at the expense of what we all fight for in terms of having a friendly and sustainable relationship with our environment, in order to enjoy real human development.

#### What are the expectations for the future?

The FTA has not yet been ratified by the United States Congress. So far, they have only ratified the FTA with Peru, in both the House of Representatives and in the Senate. In the case of Colombia, the deal is held up by opposition from the Democratic Party, now the majority in both chambers, given the denunciations pouring in from both the national and the international community against the government of Alvaro Uribe, whose close relationship with paramilitary groups and drug traffickers has contributed to the escalation of violence, especially in rural areas of Colombia. There is a kind of lull in the adoption of this FTA. The main candidate of the Democratic Party for the US presidency, Hillary Clinton, said she is against the FTA with Colombia. It is unlikely now to be approved by the US Congress in 2007. The year 2008 might not be conducive to its passage either, since the US will be in an electoral process and broad sectors of US public opinion are highly



Colombia's horrific record on labour and human rights has been a major sticking point with the US political elite, which has to approve the deal.

sensitive to free trade. So everything is on hold. Meanwhile, our network in Colombia and the organisations we work with have been preparing to wage our last battle – the legal battle at the Constitutional Court, which, before the FTA is finally approved, must decide whether the FTA complies with the standards set out in our national constitution. But let's be clear. When the FTA comes into force, that is when the resistance will increase. When people begin to see the changes in public and private policies, we are sure that their resistance is going to grow. Resistance does not end with the adoption of an FTA. That's when it begins to take shape.

*Aurelio Suárez Montoya is Executive Director of the National Association for the Agricultural Salvation of Colombia (Asociación Nacional por la Salvación Agropecuaria de Colombia), a coalition of more than 100,000 Colombian farmers, and a member of RECALCA (Red Colombiana de Acción frente al Libre Comercio y el ALCA).*

This interview was conducted by  
Silvana Buján for Fighting FTAs  
in November 2007



FTA protester in Colombia (Photo: Global exchange)

**More information:**

<http://www.salvacionagropecuaria.net>

<http://www.recalca.org.co>



"Yes to water conservation, no to water commercialisation – stop the FTA" in Costa Rica  
(Photo: Patricio, notlc.com)

## Legal (un)certainty – over what?

Margarita Flórez, ILSA<sup>1</sup> (August 2007)

Legal (un)certainty is supposedly the cause and ultimate goal of regulatory reforms to protect investor interests. These reforms consist of the adoption of uniform, long-lasting and coercive standards that are supposed to ensure transparency. This is supposed to make laws reliable. In reality it takes them all in one direction.

These processes start with Bilateral Investment Treaties (BITs), extend their coverage through the World Trade Organisation (WTO) agreements and then spread through Free Trade Agreements (FTAs). In one extreme case, they can even guarantee that domestic law shall not submit to any bilateral obligations. US law reigns supreme over its own free trade agreement with Central America – article 102 of the United States' implementing legislation ensures that none of CAFTA's provisions shall override US law. These devices heavily favour the rights of investors at the expense of citizens' rights. Legal instruments developed through the United Nations – human rights, environmental legislation and labour standards – take a back seat. Paradoxically, security for one type of legislation results in insecurity for other types of law.

Multilateral environmental and human rights commitments are being weakened in the process, threatening people's quality of life. The logic follows a spiral, starting with the need to create a suitable climate for investment, which in turn will supposedly result in economic growth and ultimately improve people's welfare. The goals of any non-commercial law are turned upside down. Highly regulated free trade carries with it a full enforcement machinery – including dispute resolution, which is now becoming the ideal of any international law. Without this machinery in the other fields – such as human rights, environmental law and labour rules – it is unfair competition.

### Human rights

National constitutions in Latin America include collective human rights obligations, but the real exercise of these rights has been fragile and is now cut short with the signing of FTAs.

The right to health is infringed when the definition of services in an FTA includes all those, even mandatory ones, that the State is obliged to provide under its human rights obligations. Indeed, the notion that health is a service that only companies can provide, in a logic revolving around profit, prevents or hinders the delivery of basic services, which are already dwindling for the most disadvantaged. With nearly half the population of Latin America below the absolute poverty line, having to pay to receive a minimum of health care translates into a permanent lack of health care for them. FTAs prevent or hinder the ability of governments to grant compulsory licences, effectively denying access to treatments for serious illnesses at low cost. Either the use of generics is allowed, since what gets consolidated is a longer period of patent protection for drugs, or it becomes impossible during the patent period to produce generics, making it impossible to create drugs for deadly diseases like AIDS. Some FTAs make parallel importation of patented drugs illegal.

The same is happening with education. Third World governments must provide a universal basic education to the majority of the people, including adults, students with special needs and other priority sectors. But by accepting the privatisation of educational services, universal coverage gets minimised and educational costs

<sup>1</sup> Instituto Latinoamericano de Servicios Legales Alternativos: <http://www.ilsa.org.co>. Email: [globaliz\\_ilsa@ilsa.org.co](mailto:globaliz_ilsa@ilsa.org.co)





"Let's defend our resources. Let's say no to the FTA." Banner of the National Union of Bank Employees during a mobilisation in Bogotá, October 2005

(Photo: Indymedia Colombia)

soar, making access impossible. Thus, in a precarious economic environment, the recorded number of school dropouts goes up, because parents cannot afford the food and transport costs that students have to incur to continue their studies.

## Environmental rights

The scope of environmental standards is declining because of government decisions to improve conditions to attract foreign direct investment, and pressure from the private sector. In recent years, the number and type of activities for which governments would require environment licences or environmental impact assessments have diminished. This has huge importance in Latin America, particularly Colombia, which has one of the highest rates of adherence to environmental treaties. A large portion of Colombia's laws and policies are geared toward compliance with the provisions of these agreements.<sup>2</sup> Countries that have signed and ratified most multilateral environmental agreements wear two faces when they deal with other states that are not signatories, such as the US: their multilateral face is broad in its nature, while their other face is restrictive. Compliance with obligations from a multilateral agreement results in non-compliance with a bilateral agreement, or vice versa.

After more than 15 years of the UN Convention on Biological Diversity, the intention of developing countries to achieve some benefit through the proper valuation of their genetic resources has been greatly weakened by the primacy of commercial notions such as intellectual property rights (IPR). This is either because trade law – especially FTAs – has redefined bioprospecting as a cross-border service,<sup>3</sup> or because IPR has been extended to naturally occurring life forms. Any so-called

<sup>2</sup> CEPAL, "La sostenibilidad del desarrollo en América Latina y el Caribe" [ECLAC, Sustainability of development in Latin America and the Caribbean], Chapter VII, Marco internacional, 2002, p. 181.

<sup>3</sup> In the annex on scientific and research services (Article 11.5), under obligations regarding local presence, Costa Rica's Law No. 7788 of 30 April 1998, Biodiversity Law, Article 63, is cited. "Description: Cross-Border Services: Foreign nationals or enterprises domiciled abroad that supply scientific research and bioprospecting services with regard to biodiversity in Costa Rica shall designate a legal representative that resides in Costa Rica." See CAFTA, Annex 1, Schedule of Costa Rica.

sovereignty over these resources has been effectively undermined, if not eliminated. A crucial part of the discussion is trade-related aspects of intellectual property rights, and the sovereignty over genetic resources that is expressed in national access regimes. It is asserted that biological and genetic resources in their natural state cannot be protected by IPR, since no innovation is involved. But in the US, biological material that has not been modified, such as a natural gene sequence which has been merely described, can comply with the basic requirements of patent protection.<sup>4</sup> In the Andean countries, this is not allowed. The dilemma is: do you have to repeal your own laws if they are contrary to an FTA? CAFTA makes the situation worse.<sup>5</sup> Now FTAs almost replace parliaments because international treaties and agreements on IPR have to be adopted directly, without the need for national ratification.<sup>6,7,8,9,10</sup>

Another concrete example of the application of concepts from international environmental law which should prevail against FTAs is the precautionary principle: countries should be allowed to pursue national exceptions for environmental reasons without being accused of restricting trade and without being forced to provide full scientific evidence for their concern, as trade rules would have it.<sup>11</sup> Precaution is a fundamental principle of Colombian environmental law. But trade law dictates that either one uses the precautionary principle through its basis in the GATT, which stipulates that absolute certainty is required for it to apply, or one stops using it altogether.

FTAs may state that each party can make its own environmental law and be sovereign and so on, but these agreements redefine the very notion of environ-

<sup>4</sup> According to some legal experts, the patenting of plants can occur through different forms and processes: isolated or purified proteins, isolated DNA sequences, seeds, methods to modify a plant genetically, etc. See Carlos Correa, "Access to plant genetic resources and intellectual property rights", Commission on Plant Genetic Resources for Food and Agriculture, FAO, 1998.

<sup>5</sup> "Reflections on the free trade agreement between the United States and Central America: the case of Costa Rica." Chapter 6: Silvia Rodríguez and Camila Montecinos, GRAIN, February 2004. Documents compiled by Penamiento Solidario.

<sup>6</sup> Art 15.1.2: by the date of entry into force of this Agreement: (a) the WIPO Copyright Treaty (1996); and (b) the WIPO Performances and Phonograms Treaty (1996)

<sup>7</sup> Art 15.1.3: by January 1, 2006: (a) the Patent Cooperation Treaty, as revised and amended (1970); and (b) the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1980).

<sup>8</sup> Art 15.1.4: by January 1, 2008: (a) the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (1974); and (b) the Trademark Law Treaty (1994).

<sup>9</sup> Art. 15.1.5: by January 1, 2006, the International Convention for the Protection of New Varieties of Plants (1991) (UPOV Convention 1991). Costa Rica shall do so by June 1, 2007.

<sup>10</sup> Each Party shall make all reasonable efforts to ratify or accede to the following agreements: (a) the Patent Law Treaty (2000); (b) the Hague Agreement Concerning the International Registration of Industrial Designs (1999); and (c) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (1989).

<sup>11</sup> Notice requesting public comment on proposed United States-Chile free trade agreement, presented on 15 February 2001 by Center for International Environmental Law, Defenders of Wildlife, Friends of the Earth, Humane Society of the United States, Natural Resources Defense Council, Pacific Environment and Resources Center, Public Citizen, Sierra Club, Section 1, Legal and regulatory issues, B. Precautionary principle.

<sup>12</sup> <http://www.ciel.org/Publications/USChileFRcommentsRevised.pdf>  
<sup>12</sup> "Free trade and the environment: the picture gets clearer", document of the Commission for Environmental Cooperation of North America, 2002, page 11. <http://www.cec.org/files/PDF/ECONOMY/FreeTrade-en-fin.pdf>. This publication accompanies and refers to the information contained in: "North American Symposium on Understanding the



Street theatre to educate the people about UPOV, a type of patent law specially designed for seeds that the government now has to adopt because of CAFTA, in Costa Rica, in November 2007. The introduction of this kind of corporate monopoly system means that Costa Rican farmers and indigenous communities will no longer be able to freely save and exchange seeds.

(Photo: Bloque Verde)

mental law.<sup>12</sup> For Colombia, it has been said that “the commercial exploitation of natural resources can be excluded from the definition of environmental legislation”.<sup>13</sup> This would put the use and development of renewable natural resources, and the sustainable use of non-renewable natural resources, including the mining code and the hydrocarbon law, outside the sphere of environmental law.<sup>14</sup> Thus, all sectors in Colombia would be stripped of any mandate to work towards the objective of “sustainable development”.

Other implications emerge, even before signing the FTA, such as the obligation to repeal or amend existing laws or enact new ones. Legislation has been adopted to strengthen protection for investors even without signing the FTA. Even the possibilities of modifying laws have become restricted, since parliament may not change anything that does not display a degree of compliance with the obligations embedded in the FTA.<sup>15</sup> So a law can only be amended if it is not compatible with the FTA, but not the other way around. Any reform in the other direction, according to the theory of “legal certainty”, could be considered a violation of FTA obligations.<sup>16</sup>

### Investors' rights

NAFTA Chapter 11, upon which many FTAs build, endorses the right of investors to go to international arbitration if they consider that any part of the state is ignoring their rights. This replaces the state-state rela-

tionship, which is proper to international law, with an investor-state relationship, which allows an individual to make a claim directly against a state, leaving out the formality of diplomatic notes and other paraphernalia that has accompanied disagreements between countries, and facilitating a hailstorm of lawsuits regarding future obligations, i.e. without harm even being caused. A broad concept of investment – relating to acquisition, ownership and operation – has been established.

These investor-state arbitration proceedings are secret, with no public participation. In so far as the proceedings start from a private business interest and address public laws and policies, the process actually extends the rules of arbitration from private disputes to conflicts that should be processed in the public sphere. Private corporate interests are being placed above national sovereignty and independence.

A 2005 study of cases brought before the NAFTA tribunal argues that of the 45 cases, some lacked information because the proceedings are secret.<sup>17</sup> Governments were forced to pay penalties to the tune of about US\$35 million, in most cases for reasons that would not have been accepted under national law. The outstanding claims amounted to about US\$28 billion, to which should be added the cost of lawyers, which has had to be borne by public funds, i.e. by taxpayers/citizens.

<sup>12</sup> (cont.) Linkages Between Trade and Environment” (October 2000), CEC, 2000, p. 15, [http://www.cec.org/symposium/2000/index\\_2000.cfm?varlan=english&id=1](http://www.cec.org/symposium/2000/index_2000.cfm?varlan=english&id=1)

<sup>13</sup> Text of a communication sent in January 2005 by the Trade Ministry to an email list of which the author is a member.

<sup>14</sup> See: Decree 2811 of 1974 and its regulatory decrees, MAVDT, 2002; Law 99 of 1993, Ministry of Environment, 1994; International treaties signed and ratified by Colombia, Environmental and Sectorial Policies, 1998.

<sup>15</sup> Ibid. (CAFTA Art. 10.3.1 and 11.6.1), Chapter 2: The structure and powers of the social state of law.

<sup>16</sup> Ibid. The impact of this logic on national political processes, carried through WTO Agreements like the GATS has also given rise to strong questions that are equally applicable to the FTA, since “Wherever there is domestic multipartisan consensus, it is conceivable that

country-specific exceptions [for services] will endure. But wherever there are serious ideological divisions on contentious issues, country specific limitations that protect [certain domestic services] are likely to endure on until a single government committed to a market-oriented approach eliminates them, binding all future governments. In this way, GATS interferes with the normal ebb and flow of policy-making in a democratic society.” Citizen’s Network on Essential Services, “Public services at risk: GATS and the privatisation agenda”, Social Watch Report 2003 (emphasis in the original). [http://www.socialwatch.org/en/informelpreso/pdfs/publicservice-satrisk2003\\_eng.pdf](http://www.socialwatch.org/en/informelpreso/pdfs/publicservice-satrisk2003_eng.pdf)

<sup>17</sup> Mary Bottari and Lori Wallach, “NAFTA Chapter 11 Investor-State Disputes: Lessons for the Central America Free Trade Agreement”, Public Citizen, October 2005, [http://www.issuelab.com/browse/browse\\_pub.php?pub\\_id=249](http://www.issuelab.com/browse/browse_pub.php?pub_id=249)

Among the characteristics of the complaints, and the trials, we can see:

- (i) Loss of the sovereign immunity of states, i.e. any private investor can call for arbitration demanding payment of compensation by the mere fact of a state having enacted any law or policy that the investor believes impairs his right. When Canada, acting under the Basel Convention, issued a rule prohibiting the import of a toxic substance, its government was sued by a private investor who, the arbitration panel ruled, “suffered a loss of business opportunity”, i.e. likely and future uncertainty. In another case, Canadian farmers claimed that a US measure to close the border because of mad cow disease could have undermined their investments in Canada because they could no longer sell their cattle.
- (ii) The use of a broader notion of rights as property, related to the possibility of expropriation. In this regard, policies and laws issued by the state can violate this “right” and compensation can be claimed for “risk taking”, “expected gains”, and so on.
- (iii) Another aspect is the greater scope given to expropriation, going beyond what is permitted by national legislation, including in the US. NAFTA’s view is that the impact of a measure described as expropriation must be “substantial” and “significant”. Under US law, an expropriation must affect 100% of a property’s value.
- (iv) There is no protection for environmental standards under the investor-state dispute mechanism. In many cases, even though environmental rules existed and were examined, the rulings finally give in to the investor’s right.

The purported legal certainty being created through FTAs and BITs creates legal insecurity for other types of standards, those of human rights and the environment.

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## The opposition to CAFTA in Costa Rica: institutionalisation of a social movement

María Eugenia Trejos<sup>1</sup> (November 2007)

### The negotiating and decision-making process around CAFTA

The US–Dominican Republic–Central America Free Trade Agreement (CAFTA) was negotiated in 2003 and early 2004. Five Central American countries (Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica) participated at first. Then the Dominican Republic joined in, having first negotiated an FTA with the United States and then joining the other countries.

The negotiation on behalf of Costa Rica was led by a team of professionals from the Ministry of Foreign Trade (COMEX) who were linked to the interests of large transnational corporations and, in several cases, were paid handsome bonuses by the Costa Rica–United States Foundation, heir to the US Agency for International Development (USAID). The country carried out a strategic negotiation through personnel paid by the other side.

The negotiating phase was not at all simple. From the outset, various sectors called for the opportunity to participate in defining the parameters of what would be negotiated, and to be able closely to monitor the process. COMEX established a “consultation” mechanism through which invited organisations were made to appear as participants in the process. Nevertheless, hundreds of recommendations and promises were made without the government committing itself definitively to any of them. The consultation mechanism was purely formal in terms of representation from popular sectors. Announcements were published in some national newspapers, various sectors were called upon to make their views known without being told how their views would be dealt with, information forums to update representatives

of various organisations on the negotiation process were held, and a so-called “side room” was set up, an area where the negotiators could talk to organisations and companies (which could afford to participate) on the course of the negotiations. There was no procedure to make any binding commitments or even try to achieve any form of agreement between negotiators and social organisations.

Popular movements were treated as mere recipients. Their well-substantiated arguments were never taken into account. This became even more evident when the text of CAFTA was published, well after the negotiations had been concluded, since during the talks the texts were declared “confidential” in order to “not disclose the national strategy”, even for members of parliament who demanded access to them. For example, in a meeting with Vice-Minister Gabriela Llobet, who was also in charge of environment issues, two organisations were given copies of the environment chapters of the US–Chile and US–Singapore FTAs – in English – and asked to comment on CAFTA. This was despite the fact that Mrs Llobet’s assistant had already stated that there was a draft environment chapter prepared by the US and that she saw no problem in these organisations having access to it in order to give their opinion.<sup>2</sup>

Even after negotiations ended, it was impossible to get documentation on the process, since it was claimed to have been “lost” with the change of ministers from the previous administration. In fact, the only ones with access to the negotiation process, as advisers to the government, were representatives of the chambers of commerce. So much so that one of their business leaders is presently the Minister of Foreign Trade.

<sup>1</sup> With the collaboration of Eva Carazo, Silvia Rodríguez, Isaac Rojas and Luis Paulino Vargas.

<sup>2</sup> Isaac Rojas, representing FECON, and Manuel López, representing COECOCEIBA–Friends of the Earth Costa Rica, participated in this meeting.

While the negotiation was completed in January 2004 and the FTA was signed by the President that August, the text was not sent to the Legislative Assembly for approval until October 2005, due to the growing popular resistance expressing various kinds of contradictions: between the popular movements and the government; between the government and part of the business community; and within the government. The government's internal conflict ended with the resignation of almost the entire CAFTA negotiating team.

The final impetus to CAFTA came from the current government of Oscar Arias, who took office in May 2006 in the midst of a huge protest march – a first in Costa Rica's electoral history – after an extremely tight election result (barely a 1% lead over the Citizen Action Party) and many questions surrounding the result and the position of the re-elected president. Arias was reinstated by the Constitutional Chamber, overturning a 1969 legislative decision. (Arias had already been president in the years 1986–90.) For this government, CAFTA was from the outset a central issue and it was prepared to secure its approval by any means.

The discussion in Congress began in June 2006 through a procedure that has been described as undemocratic and taken to higher bodies, such as the Constitutional Court. The congressional committee that ruled on the FTA heard some groups opposed to the agreement, but refused to receive more than 60 groups that had requested a hearing. It refused to consult indigenous peoples as recommended by technical legislative counsel on compliance with Convention 169 of the International Labour Organisation (ILO), and it drew up its opinion without having discussed and voted on over 300 pending amendments, and without discussing the contents of the agreement.

Hearings in International Affairs committee	In favour	Against	Neutral or ambiguous	Total
Total	35 (58%)	18 (30%)	7 (12%)	60

Different sectors of the opposition to CAFTA were thwarted in their attempts to be heard. Even those who had access to the committee hearings found that no one



On 21 August 2007, some 800 students and faculty protested against the 12 July resolution of the Supreme Electoral Tribunal which said that university personnel cannot use public funds to campaign against CAFTA. (Photo: Juan Carlos Ulate, Reuters)



Worker with ICE, the state-run power and telecommunications company of Costa Rica, which provides low-rate services to the people. ICE is bound to be dismantled and privatised because of CAFTA.

discussed or had any interest in seriously discussing the treaty's contents. The event was spent signalling who could speak, and lawmakers were restricted in speaking because their time was being measured and each person's slot included time for answers. The discussion was a "democratic" farce, reinforcing the picture that the country was changing direction: a democratic system that had hindered the adoption of the agreement was pushed aside and a continuous stream of rigged and authoritarian procedures took its place.

The growing opposition to CAFTA, despite the multimillion-dollar campaign carried out by its supporters, has led to an increasing polarisation of the country between pro- and anti- forces. However, from the ranks of the opposition movement came a proposal that seems to have been taken up by CAFTA proponents as the way to overcome the stalemate: holding a national referendum, which took place on 7 October 2007.

### Reasons for the resistance in Costa Rica: a broadly developed social state

#### *Wide coverage of social services*

The development of the welfare state in Costa Rica, from the mid-1940s until the mid-1970s, led to a significant expansion of public services, comparatively better than that achieved in other countries of the region. Despite the implementation of neoliberal policies, which began in the mid-1980s,<sup>3</sup> social indicators are still high: the

<sup>3</sup> The application of neoliberal policies began in the 1980s and started modifying this orientation. However, social resistance, the style of government and the "buffer" left by previous social policies explain why, at the level of indicators, neoliberalism has not yet had a big impact on the social situation. Nevertheless, because of these new policies, a clear deterioration in the quality of public services, as well





The “wall of dignity”, where people were free to post their views about CAFTA. (Photo: Julia Ardón)

human development index is 0.838 (Costa Rica ranks 47th in the world), illiteracy is barely 4%, approximately 82% of the population is covered by health insurance, life expectancy at birth is 78 years, the percentage of people with access to safe water is 75%, electricity reaches 97% of the population and there are 31.6 telephone lines for each 100 inhabitants. Moreover, the country has among the highest rates in the continent for electricity, landlines, cell phones and internet.<sup>4</sup> This has been possible thanks to a social project that guarantees that certain strategic services are provided by the State, under a logic of solidarity and comprehensive coverage. This expansion of public services remains a central element of the resistance in Costa Rica: people who have had access to these services clearly know what they can lose and have been demonstrating their determination to defend it.

### *Broad and prestigious intellectual sector*

As part of the social state, Costa Rica developed a university system of high quality and with enough autonomy to allow the emergence of critical thinking in a large group of professionals. This sector took on the task of analysing the FTA in order to facilitate position-taking. This way, opposition to CAFTA not only went well beyond words and based itself on analysis of the text, but as people progressively discovered the content of the agreement, criticism of it grew, as did the concern and commitment of the intellectual sector to get directly involved and block its adoption. From the moment negotiations ended, the production of materials of all kinds began. We have published a lot of books and even more articles, several videos and audio materials, leaflets, flyers, songs, poems, jingles, posters, skits, etc. to share analysis on the FTA's contents. These materials were disseminated through broad distribution and dialogue with communities, from the nearby central plateau to the most remote rural communities and Indigenous Peoples. Different methodologies of popular education made the highly dense and confusing contents of the 3,000-page agreement easy to understand. In this, we had the support of hundreds of activists who were will-

ing to spend their time, money and knowledge on this work.

The people, already worried and suspicious about the enormous pro-CAFTA propaganda blitz, were able to learn about the treaty's contents, understand its implications and take a position against it. A process that later resulted in the spontaneous formation of more than 130 patriotic committees across the country began to take root.

### *Democratic institutionalisation working to a degree*

Until the current government, which took office in 2006, democratic institutions were relatively functional in Costa Rica. Parliamentary procedures prevented the adoption of laws or international treaties in haste, and many members of Parliament were opposed to CAFTA. The executive branch was controlled by a sector which clung to the traditional style of governance in Costa Rica, aimed at fostering consensus and at looking for mechanisms to build understanding when faced with the possibility of a social explosion. Thus CAFTA lingered for a long time without a parliamentary debate even starting.

This changed with the Arias administration.... But during the period from early 2004 to early 2006, the very rules set by the ruling sectors prevented them from advancing on ratification of the agreement. For example, the executive established a “Committee of Outstanding Persons”, which took a long time to deliver an ambivalent position on the agreement. This provided time to expose better the fundamental impacts CAFTA would have if adopted, and allowed the opposition movement to grow considerably.

### **Diversity and heterogeneity of participation**

Representatives of all social movements participated in the movement against CAFTA: labour unions, peasants, students, indigenous peoples, cooperatives, environmentalists, professionals, women, some sectors of various faiths, and artists. Three of the four public universities announced their opposition to CAFTA based on in-depth analysis, and in all four of them fronts of struggle against CAFTA were formed. The Ombudsman also took a position against CAFTA and released a comprehensive and detailed report on its contents.

Prominent personalities from the cultural and intellectual spheres (for examples, several laureates of national prizes) also joined very actively, as did numerous well-known artists. From the political arena, two former presidents, several former presidential candidates (of large parties), several former heads of public institutions, former ministers and former first ladies also joined. Even within the National Liberation Party, now in power, a united front was created against the adoption of the agreement. Finally, a sector of the business community played a very prominent role, including rice producers, generic drug manufacturers, ranchers, and so on. An Organisation of Businessmen for Costa Rica, which was opposed to CAFTA, was even formed.

These developments gave great legitimacy to the opposition movement and rendered ineffective the pro-CAFTA media campaign, which focused its attacks on certain union leaders, believing that this would discredit the movement. More and more people could

<sup>3</sup> (cont.) as the distribution of incomes and the increasing casualisation of employment, are now evident.

<sup>4</sup> Data from: “World Forum on Education: Education for all”, country report, at <http://www.unesco.org>; State of the Nation Programme, at <http://www.estadonacion.or.cr>; Gerardo Fumero Paniagua, “El Estado solidario frente a la globalización. Debate sobre el TLC y el ICE”, San José, Costa Rica, 2006.



see that all of these people were joining the movement to reject CAFTA, while only big business and government argued in favour. At the same time, a level of mistrust that Costa Ricans have when they feel that someone is trying to impose something on them emerged: a part of the people's opposition was generated precisely by the multimillion-dollar advertising campaign in favour of CAFTA and by the government's insistence that the country must approve it. It should be remembered that this government began its operations in a climate of controversy about the presidential re-election and the outcome of a vote supported by only one-fourth of the electorate.

There was also a diversity of forms of participation and expression. Committees and fronts of struggle formed throughout the country, and organised different kinds of activities, usually through personal contact with people and, in that sense, very different from the impersonal way in which the pro-CAFTA bloc reached out, which was mainly through the mass media.<sup>5</sup> This work grew in such a way that each week new committees or fronts of struggle emerged.

### Organisation of the resistance

The resistance to the adoption of CAFTA went through four phases:

#### *Before the signing of the FTA*

During this period, during 2003 and early 2004, the movement was divided mainly between two sectors: those opposed to any FTA with the US and those trying to incorporate certain provisions in a treaty under negotiation. There was a lot of division and fragmentation, and separate efforts being made to confront a negotiation process.

Neither sector actually knew what was being agreed upon, as people only had access to reports from COMEX and not to documents emerging from the actual talks. Not even those who sought to incorporate provisions and participated in the so-called "side room" had access to documents or information on the evolution of the talks, as the negotiating team sought advice and agreement only from industry, and concealed information to the rest of the participants.

#### *Between signature and the February 2006 elections*

Once the agreement was signed and finally made public, those who had been trying to carry out damage limitation and incorporate some less unfavourable provisions on any issue realised that nothing in CAFTA favoured anyone other than transnational capital and its domestic representatives. The dividing line now lay between those who felt that the agreement should be renegotiated and those who wanted it rejected outright. Among the former were those who, in the final stage, led the movement for a referendum.

Still, the opposition sector gained a greater unity than

<sup>5</sup> We should not overlook the presence of pro-CAFTA elements in a number of companies, where they gave talks to a sceptical audience, whom they terrorised with threats that they would lose their jobs if CAFTA was not approved. Since there are no labour unions in the private sector in Costa Rica (there is no freedom to organise), only the pro-CAFTA bloc had access to companies, which are all in the free [export processing] zones.



Costa Ricans used a tremendous array of means to express themselves against CAFTA (February 2007)

before, and a liaison committee which established mechanisms for linkages between different sectors opposed to CAFTA was formed. These instruments of unity did not account for the entire movement, but they allowed people to organise actions in which everyone could participate.

#### *After the 2006 elections*

The 2006 elections led to the start of the Arias administration, whose central project was the approval of CAFTA and the adoption of implementing legislation. This boosted the unity of the movement against the FTA because there was no possible negotiation with the government and there was no possible renegotiation of the agreement. The government broadened its campaign and made moves for legislative approval of the agreement and the complementary implementing laws. The bill moved through the International Affairs Committee – with the deficiencies that were mentioned earlier on – which, finally, would adopt it and send it to the plenary.

The "NO to CAFTA" movement grew. New coordinators and fronts of struggle were being developed, and two of the largest demonstrations against the agreement were held in October 2006 and February 2007. The demonstrations were mainly held in central downtown San José, but there were simultaneous movements in various parts of the country. The polarisation of the country was increasing, and with it social tension.

Then we went on to the fourth stage.

#### *Institutionalisation of the movement*

Within the opposition front against CAFTA, a group of citizens emerged with a proposal to hold a referendum. When the idea was first broached, before the 2006 elections, there might have been some arguments in its favour. But it was an issue that divided the movement. When the civil society petition to have a referendum on the future of CAFTA was presented to the Supreme Electoral Court (TSE), the country had just gone through an electoral process, re-electing President Arias, in which the role of the Court had been strongly challenged. The request was initially rejected by the TSE.

But after the mass demonstration of February 2007, in apparent agreement with the government, the TSE



On 26 February 2007, some 200,000 Costa Ricans took to the streets of San José to say NO to CAFTA.

approved the holding of a referendum. It would be convened by President Arias and ratified by the Legislative Assembly, and was scheduled for October 2007. With this resolution, in our view, the movement was institutionalised: the rulers had appropriated the struggle and shifted it to their own camp.

As some predicted, the conditions under which the referendum was to be conducted in Costa Rica did not ensure balanced participation. First, the media with the greatest reach were clearly in favour of CAFTA and did not report on or provide access to the opposition movement. Second, the TSE did not give the two camps equal access to the media, nor did it provide resources that could be used to expose different views. As a result, the pro-CAFTA camp had a multimillion-dollar war-chest provided by the corporate sector, while opponents had to continue on the basis of personal work or small groups. Third, the Court ruled that the referendum prosecutors would be nominated by the political parties, which hampered the work of the opposition movement, since it was not registered among any of them. Fourth, the TSE issued rulings that sought to prevent the participation of the public universities, alleging that they use public resources, in a clear and dangerous violation of university autonomy, while accepting that the President and his Ministers use their time – and the public's resources – to campaign in favour of the FTA. "We're going to make a deal", Arias said in an official meeting with citizens of a far-off community in the southern part of the country. "You vote in favour of CAFTA and we will build you a big airport."

Thus, the future of CAFTA was decided through an electoral process and not on the basis of a social struggle that had been developing. This process had no baseline conditions to guarantee that people could access



Poster calling for a massive "no" vote in referendum: "We're going to outdo the Ye\$ people on Sunday 7" (Photo: courtesy of ANEP, National Association of Public and Private Sector Workers)

information from both sides of the debate, and there were well-substantiated doubts about the TSE's impartiality in the outcome of the process.

However, both the movement and social organisation grew during this period, with the creation of even more committees and ways of exposing the contents of the FTA. This movement could be the germ of a process that, beyond the adoption or rejection of CAFTA, leads to a societal transformation that is more radical.

### A frustrating but hope-giving outcome

CAFTA was approved on 7 October 2007 with a majority vote in its favour. While technically speaking there was no direct fraud at the polls, we can confidently point to unequal conditions of the two sides and media fraud. In the future, the government will be under the close watch of the social movement that grew in this fight that opened new spaces to imagine a different model of society. So what is the situation one month after the initial shock from the outcome of the referendum experienced by the ranks of the NO camp?

#### *The referendum: legitimising the neoliberal project*

The NO movement, with its rich social and cultural life, with its alternative ways of participating in national political power, held its space away from the institutions controlled by the ruling classes, as it had been until then. However, the convening of the referendum used ideological arguments that are deeply rooted in our people, and there were very few who saw it as a demobilisation and a trap.

Oscar Arias had already used the machinery of "elec-





Voting in the referendum on CAFTA, 7 October 2007

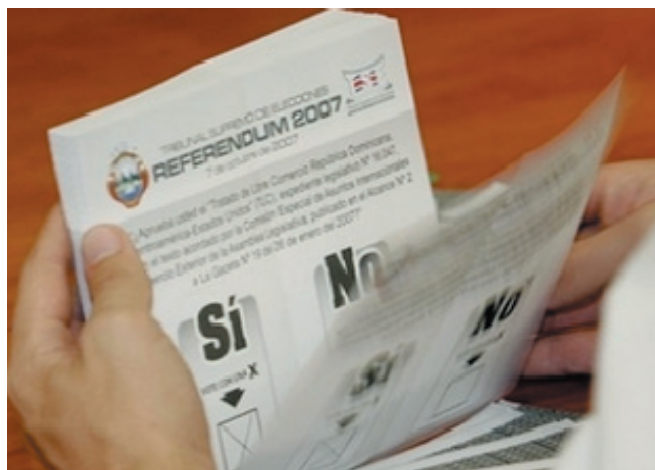
toral democracy” against the popular movement when he “saved” the US war against the Sandinista government in Nicaragua by proposing a general election. His experience in these fields and in the development of strategy – apparently in collusion with the TSE, the chambers of commerce, the US Embassy and the national and international media – could not but lead to the legitimisation of CAFTA, which has now been adopted by a “majority” vote in the country. Even the Constitutional Chamber participated in this strategy by abstaining from pointing out the overwhelming unconstitutionality of the FTA.

The process of the referendum was, like our national elections, plagued with anomalies. First, the TSE was not impartial:

- It did not apply any rule to ensure equal opportunities for the two sides in the debate; it published in the major national dailies, as a “summary of CAFTA”, a text prepared by the group “State of the Nation”, totally biased in favour of the YES position.
- It did not prevent irregularities, such as threats and fear campaigns, from being unleashed in the country’s workplaces.
- It allowed interference by sectors that should not have participated, such as public figures from the Bush administration and the US Ambassador, who personally participated in advertising campaigns and visits to companies, even when campaigning was officially suspended.
- During that suspension period, the TSE also allowed the President and his brother, the Minister of the Presidency, to go on television in favour of the YES vote, a clear violation of Article 24 of the statutory regulations of the Law on Referendums.

Second, the media did not provide access to the information that the public had the right to know.

Third, the government participated fully, using resources that belong to all Costa Ricans, in the YES campaign, using every mechanism to generate threats and fears, under the full view and with the permission of the TSE.



The (not so secret?) referendum ballots. (Photo: from the internet)

Under these conditions, no one could expect the NO camp to win – and we don’t even know if it did, since we did not have adequate representation in the polling stations.

### *The patriotic committees: germ of an alternative society*

In the Costa Rican landscape of worn out and corrupt institutions, the fight against CAFTA was lost the moment it was agreed that a referendum should be held. However, it was during the referendum process itself that the so-called patriotic committees gained strength and dynamism.

Most of these committees got involved not only in alternative media but in autonomy and horizontality, with creativity and space for all participants, without regulations or asphyxiating self-anointed leaders, in the desire and determination that is required to rebuild society. They are, therefore, potential replacements for the existing institutions.

But we cannot expect all patriotic committees to follow the same course. There will be those controlled by self-appointed leaders or political parties driven by their own interests. There will be those entangled in the current institutions, lacking the capacity to draw lessons from past experience. But some will be able to recognise the moment when their actions may form the basis of a new institutional framework in which the various popular sectors will be the ones to define and control the direction that the country should take.

(Photo: Julia Ardón)





# Two years of CAFTA:

## deep impacts in Central America and the Dominican Republic

GRAIN (November 2007)

In just two years since the Central America–Dominican Republic Free Trade Agreement with the United States (CAFTA) was concluded, not only did its projected benefits fail to materialise, but many sectors of society in the countries which signed and implemented it are already feeling its negative impacts.

So far, the impacts are perhaps most visible in the fields of manufacturing and agriculture. But we should not overlook the longer-term broader transformations that CAFTA heralds: many changes in national legislation, the imposition of new rules on intellectual property rights, “national treatment” for transnational corporations (TNCs), etc.

Honduras was one of the countries most affected by the fiscal impact of the tariff reduction policies promoted by the FTA: the government agreed to slash tariffs immediately on US imports by 74.4%, resulting in a US\$148 million loss of tax revenue. [see reference 1 on p.87]

- Honduras’ Ministry of Agriculture and Animal Husbandry (SAG) decided in mid-2007 to stop the domestic production of transgenic corn. This was reversed owing to pressure from agribusiness TNCs and the Ministry of Natural Resources – which invoked CAFTA to suspend the order given by SAG. [8]
- Honduran imports of US goods rose during the first quarter of 2007 by 24% over the previous year, from US\$1.2 billion to US\$1.5 billion, while exports dropped by 6.1%, from US\$178.1 million to US\$167.2 million. [9]
- For the Dominican Republic, the loss of tax revenue from tariff reductions on US imports was US\$727 million (2.91%). To compensate, the government is initiating fiscal reforms to collect more personal income tax from its citizens. [1]
- CAFTA was supposed to lead to increased exports that would reduce El Salvador’s trade deficit with the US. After a year of implementation, exports grew by a mere 3.8%, while imports shot up by 11%, resulting in a 19% growth of the trade deficit, now standing at US\$4.1 billion. [3]
- Nicaraguan markets have been flooded with industrial products from the US since CAFTA. From April 2006 to March 2007, the amount of goods imported from the US reached US\$649.7 million, an increase of 27.5% compared to the same period the year before CAFTA (April 2005–March 2006, imports cost US\$509.4 million).
- In 2007, Guatemala’s textile industry closed 35 factories and lost over 17,000 jobs, despite promises of a revival after the implementation of CAFTA. The textile sector was one of the strongest domestic proponents of the treaty, but did not receive any of the alleged benefits it was promised. [4]

In regional terms:

- Imports from the US have grown in all countries: El Salvador (11.7%), Honduras (26%), Nicaragua (27.5%) and Dominican Republic (13.5%). [1]
- All countries that have ratified CAFTA have seen their national debt with the US grow, and their national markets flooded with US goods, services and raw materials. [5]
- Foreign investment decreased significantly during the first year of CAFTA. It fell by 42% (loss of US\$180 million) in El Salvador, by US\$182 million in Honduras, by 3.8% (loss of US\$23.4 million) in the Dominican Republic, and Nicaragua received only US\$57.8 million in 2006. [5]
- The dismantling of the rural economy in the region has been consolidated. “In each country,” says one study, “the agricultural trade deficit has grown as imports of basic grains increased and prices for these have increased dramatically, as these imports are controlled by a few groups that concentrate the market and engaged in speculation.” [5]
- Regarding rights to knowledge and to health, initial impact studies find that “under CAFTA, the possibility of producing generic medicine is limited, and it is being prohibited, resulting in an increase of cost of medicines, affecting people’s right to health as well as undermining the national pharmaceutical industries.” [5]



“CAFTA is a factory that makes poor people” says this headline of a Costa Rican newspaper on 3 September 2007. “If Nicaragua is better off than us [because it is implementing CAFTA, while Costa Rica is not], then why are so many Nicaraguans immigrating to Costa Rica?” (Photo: Quest-Nicanet)



In March 2005, as part of the struggle, the Anti-Imperialist Bloc painted a mural denouncing FTAs and those who are selling Guatemala off to the Yankees. (Photo: Indymedia)

- Restrictions on generic drugs limit access to cheap medicine, taking into account the tremendous price difference between generic and patented products. Patented drugs cost 300% more than generics, which translates into an obvious prejudice against low-income people in the region. [7]
- A report prepared by the Regional CAFTA Monitoring Network adds that "Through intellectual property rules, which prohibit the use of trademarks, videos, sounds and even smells, CAFTA is also affecting the right to work of thousands of people who depend on informal markets to survive, given the unemployment that CAFTA is creating in the countryside. These restrictions on IPR have been accompanied by an increase in excessive and repressive actions that violate the dignity of individuals and their human rights." [5]
- On 2 July 2007, there was a peaceful popular protest in El Salvador against the launch of the National Policy on Decentralisation and the inauguration of a water project that would open the door to privatisation of water at the national level. [5] The demonstration was

brutally suppressed, with leaders arrested and dozens injured. Under CAFTA, water is a commodity, subject to trade. Since the agreement's ratification will affect water conservation implementation measures, and through its rules on trade in services, the process of privatising the provision of drinking water and sanitation systems will be set in motion. [6]

As with all FTAs, CAFTA's goal is to put the heritage of the peoples of Central America and the Dominican Republic under the control of large corporations. CAFTA's impacts have spurred a new wave of popular mobilisation and resistance in the region, not least in Costa Rica. The two fronts on which actions are now emerging are in exposing the impacts and pushing for the rejection of CAFTA, and the fight against new FTAs (mainly the EU-Central America FTA right now).

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(Photo: Quest-Nicanet)

# Integration or free trade?

## Little will to overcome the hurdles

Raúl Zibechi (August 2007)

The year 2007 may go down in history as the end of our hopes for a kind of regional integration fundamentally different from the one hawked by markets and transnational capital.

In recent years, a number of events point to a deepening of the neoliberal model in the Southern Cone region by progressive leftist governments that claim to be contrary to the Washington Consensus.

The deepening of the neoliberal model can be seen in several trends: the conversion of the Mercosur countries into a “soy republic”, with output exceeding 100 million tonnes of soybeans; the growing alliance between the governments of Uruguay and Brazil with the United States to advance the trade liberalisation agenda; and the decision taken by Brazil’s President Luiz Inácio Lula da Silva to push ethanol and sugar-cane monocultures, which will deepen the sub-imperial character of his country. Furthermore, the intensification of the neoliberal model does nothing more than stoke the political and social strength of the right, as we saw in the electoral victory of businessman Mauricio Macri to the position of Head of Government of Argentina’s capital city.



With the ethanol project, the delocalisation of the Brazilian economy – and with it, that of the entire region – steps up a rung. When Lula came to power on 1 January 2003, foreign companies’ share of industry had just climbed, from 31% in 1985, to 40%, according to a study released by the former president of the National Bank for Economic and Social Development (BNDES), Carlos Lessa. Of the top 500 agribusiness companies, which control almost all the agricultural GDP of Brazil, 6 are state-owned, 388 are Brazilian and 106 are foreign. But of the top 50, only 22 are national, while 28 are foreign. Adecoagro alone, a company that belongs to George Soros, plans to invest US\$800 million in ethanol

plants. Cargill bought 63% of Cevasa, the largest ethanol factory in the country. According to the Central Bank, by mid-2007 more than US\$6.5 billion in foreign capital had already been invested in Brazil this year to ride the ethanol boom.

It was also revealed in mid-2007 that the largest banks in Brazil are making their highest earnings ever. The corollary of this friendly openness to finance capital is the growing militarisation of the favelas of Rio de Janeiro. Under the guise of the Pan American Games held in Rio in July, thousands of families were violently expelled from their homes for the sole crime of living in the vicinity of local sports facilities. Street vendors and those living in the streets were also chased away. This undeniable “social cleansing” went hand in hand with an investment of US\$2.6 billion in the Games. The criminalisation of poverty is the flip side of the alliance with finance capital.

What is happening in Brazil is a repeat of what has been happening for 17 years now in Chile, through a governing alliance between the Christian Democrats and the Socialists. It is also very similar to the policies of the Uruguayan government, whose Minister of the Interior vowed to hit radical activists hard, while President Tabaré Vázquez works to build his closer alliance with Washington. In Argentina, human rights organisations claim that the “easy trigger” (the killing of poor youth by the police) continues to grow despite Nestor Kirchner’s talk against the military dictatorship’s genocide.

### Regional contradictions

In early July, Lula made strategic agreements with the European Union. The first EU-Brazil Summit, in Lisbon, adopted the issue of climate change to push agrofuels. At the business meeting parallel to the summit, Petrobrás and Portuguese Galp signed a partnership agreement to produce 600,000 tons of vegetable oil in Brazil to be converted into biodiesel and sold in Europe. These kinds of deals pull Mercosur further off the path to sovereignty and food security.

Brazil’s President has laid his bets on an integration hinged on the Initiative for the Integration of Regional Infrastructure of South America (IIRSA), consisting of 300 mega-projects for the physical interconnection of the continent. Funded by the Inter-American Development Bank (IDB), the Andean Development Corporation (CAF) and Brazil’s BNDES, IIRSA has enough resources (over US\$30 billion) to build the dams, pipelines, roads and ports that will make trade from the Atlantic to the Pacific possible, placing South America’s natural resources at the disposal of the global market.





Regional integration initiatives, like IIRSA, can mean more social and environmental upheaval. (Image: FOBOMADE)

Perhaps this is why the differences between Chávez and Lula shifted from diplomacy to public statements. The Venezuelan President said that he is not interested in the "old" Mercosur. The divergence between the two countries is getting wider each day. Brazil is out to do business, and positions itself as a regional and global power, but it does not make the slightest gesture towards regional integration and, above all, is not willing to make any sacrifice to bring it about. Meanwhile, Venezuela continues to take initiatives and push business ventures directly towards strengthening regional alliances.

The Bank of the South is another issue on which there is no agreement. It was going to be launched in July, during the America Cup football tournament in Caracas, but it had to be indefinitely postponed owing to grumblings from Brasília. No one talks of the Pipeline of the South any more, but the Lula government remains interested in a gas pipeline between Venezuela and Brazil's north-east region to promote the industrial expansion of this backward area. These two initiatives, needed by all countries of the region, show the two countries at loggerheads. Major projects like these are not going to move forward if Brazil, which will remain the key country in the region, does not stop putting its narrow national interests above everything else.

The way the Lula government is addressing relations with Brazil's smaller neighbours is a clear example of this. Fernando Lugo, the progressive candidate for the presidency of Paraguay, recalled in an interview in *Folha*

*de S. Paulo* that his country is subsidising the industry of Brazil's São Paulo state. Ninety-eight per cent of the energy produced by Itaipú is sold in Brazil at derisory prices, taking care of more than 20% of its energy needs. Paraguay makes barely US\$250 million from the energy it sells, which at the market price should come to US\$3.5 billion.

Lugo promises to review the contract and increase the price to half the market rate. But Brazil's foreign minister Celso Amorim refuses to revisit an agreement that was signed when both countries were ruled by military dictatorships. Paraguay must import oil at higher unit prices than it receives for the electricity it sells to Brazil. On the other hand, Itaipú generated a spurious debt, as did the Yacyretá dam that Paraguay built with Argentina. But while Kirchner's Argentina is willing to review the accounts, Brazil continues to refuse. If this is happening under a Lula administration, one can imagine what will happen after 2010, when the right may well return to power in Brasília.

With Ecuador things are no better. A report commissioned by minister Alberto Acosta found that Petrobrás committed a crime through the sale of shares to Japan's Teikoku and the illegal appropriation of an oil well belonging to the state-run Petroecuador. An offence similar to this led to the cancellation of Ecuador's contract with the American company OXY. The Ecuadorian government, under pressure from social movements, is considering cancelling its contract with Petrobrás. But the Lula government is pressuring Ecuador on behalf of



Indigenous peoples protest in Ecuador: "Death to the FTA, OXY and the State"

Petrobrás, even though it is not a state enterprise but a mixed corporation.

Bolivia had to go to the Amazonian Parliament to settle a dispute with Brazil over the construction, under IIRSA, of two dams on the Madeira river border. The Evo Morales government requested a meeting with Brazil to deal with the conflict, but Celso Amorim, who considers dams "strategic", did not even have the courtesy to respond to his counterpart, David Choquehuanca. The truth is that the project will flood more than 500 square kilometres of the Bolivian Amazon, and the Lula government has stated that it is not willing to backtrack. Brazil was upset in June by Morales' decree forcing Petrobrás to sell two of its oil refineries in Bolivia. Brazil now does not have the slightest intention to cooperate to enable the country to develop its natural resources and break out of its neocolonial prostration. Lula remains a prisoner of transnational corporations, the finance industry and his ambition to raise Brazil in the ranks of power.

### Venezuela and Brazil

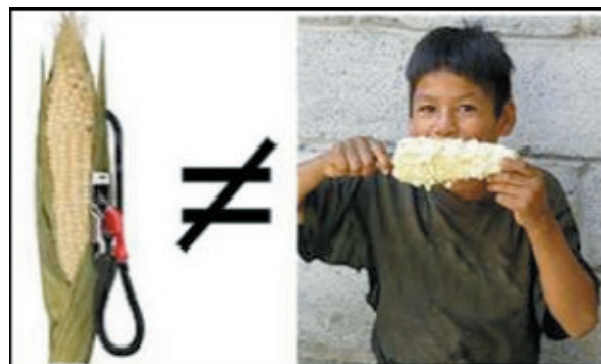
In early August, Presidents Lula and Chávez made two tours which demonstrated the insurmountable contradictions that exist in the region. Lula visited five countries: Mexico, Honduras, Nicaragua, Panama and Jamaica, with the aim of promoting agrofuels. On the same dates, Chávez visited Argentina, Uruguay, Ecuador and Bolivia to sign agreements to boost integration.

Lula's trip could be called the "Second Ethanol Tour". The first was made by George W. Bush in early March, during which he reached long-term deals with Lula to promote agrofuels. This time it was the President of Brazil travelling to promote his country's businessmen, who want to install sugar-cane ethanol factories in Central American countries. In Mexico, the first stop on his trip, Lula pushed an agreement between the state-run Pemex and transnational Petrobrás for exploration and exploitation of oil in the waters of the Gulf of Mexico. The agreement is interesting for Petrobrás, since the company is a world leader in deep-sea extraction of crude oil, a technology that the Mexican firm doesn't have.

The Mexican left reacted strongly. Andrés Manuel López

Obrador, a victim of election fraud in the 2006 elections, which benefited the current president Felipe Calderón, warned that Petrobrás might be used as a "spearhead" for the privatisation of Pemex, a goal that has been long cherished by the multinationals. "I respect him a lot, but the movement that I represent – a real and true opposition – does not accept that Mexico's oil wealth be surrendered to foreigners, under any conditions", said López Obrador about Lula's moves in *La Jornada* of 6 August. According to the leader of the centre left, the plan is for Petrobrás to find oil in the Caribbean and in return get a share of the hydrocarbons, which involves no risk because the location of the reserves will be known. But behind Petrobrás, he argues, other multinationals will appear.

On agrofuels, Lula said that he has the support of Mexico "in the campaign to establish a global market for cleaner and cheaper renewable energy. We have an opportunity to democratise access to new sources of energy, multiplying job creation and diversifying the energy supply." Clearly, the president of Brazil was not paying attention in recent months to the arguments made by Fidel Castro, among many others, against these fuels. In Nicaragua, Lula offered support to Daniel Ortega for his country to become a pioneer of agrofuels in the region. "It's completely inadmissible and a crime to produce ethanol derived from maize", replied the Nicaraguan.



In Jamaica, Lula opened an ethanol dehydration plant owned by Jamaican and Brazilian investors, and in Honduras and Panama he signed agreements for the development of fuels from sugar cane. The newspaper *Folha de S. Paulo*, on 5 August, gave the reasons for Brazil's interest in expanding ethanol in the region. "The idea is to use Central America as a platform for ethanol exports to the United States. These countries have a free trade agreement with the Americans and no limits on the export of ethanol." Brazil provides the technology and the capital, the Central Americans provide semi-slave labour in the cane fields, and the emerging power secures entry to a protected market which it has enormous difficulty accessing. The mindset of Lula is clear: "Together we can build a world economic power", he told the right-wing Felipe Calderón in Mexico.

Chávez's tour was very different. In Argentina, he signed an agreement with Nestor Kirchner to buy US\$500 million in Argentine bonds, and pledged to buy a similar amount in a few months. This agreement is vital because, since its 2001 default, Argentina has no access to international credit. Moreover, he signed an agreement for the construction of a Venezuelan liquefied gas

plant in Bahía Blanca, since Argentina suffers a serious energy crisis. In Uruguay, Chávez signed an Energy Security Treaty with Tabaré Vázquez, through which the state and Ancap PDVSA will work to double the production capacity of the refinery in Uruguay, and a joint venture to extract crude from the Orinoco Giza, considered the world's largest reserve, was created. This will provide Uruguay with long-term energy security.

This time Vázquez and Kirchner agreed. "What other government in the world has made another offer of such magnitude and grandness?" said the Uruguayan. "We should and must be grateful to the Venezuelans, because whenever we needed them they were there", said a minister very close to Kirchner.

In Ecuador, Chávez signed an investment deal of US\$5 billion with Rafael Correa for the construction of a refinery in the province of Manabí, to process 300,000 barrels of crude oil daily. In Bolivia, Chávez, Kirchner and Evo Morales, gathered in Tarija, launched the construction of a regasification plant in the Andean country, as well as an energy integration pact.

Venezuela's difficulties in entering Mercosur made

themselves felt during the tour. So far, the parliaments of Argentina and Uruguay have ratified the accession of Chávez's country to the bloc. Paraguay and Brazil are delaying. It is known that Brazil's Congress does not want to approve Venezuela's entry, as it has a centre-right majority, though the government could push its allies. In Buenos Aires, Chávez said in a restricted meeting, covered on 8 August by *Página 12*, that the friction between Venezuela and Brazil is due not to "a leadership dispute" but to "a confrontation of energy models".

The basic problem is the enormous capacity of free trade to shape relations between countries in the region. In so doing, it introduces asymmetries and contradictions that produce a dual outcome: it creates vertical relationships between countries and international financial institutions, corporations and countries of the North, while at the same time it blocks or complicates any horizontal integration among them along trade and political lines. In this scenario, small countries have far greater difficulty than large ones in opening spaces within such cannibalised international relations. It is no coincidence that, given the failure of the FTAA, Washington decided to negotiate FTAs with small and medium-sized countries.



# Resource colonialism and the Chile–Argentina mining treaty

GRAIN (November 2007)

The bilateral mining treaty between Chile and Argentina signed in 1997 and ratified by both parliaments in 2000, is part of a series of laws and regulations issued to implement and enforce the Agreement on Economic Complementation (1991), in turn presented as part of the implementation of a peace treaty signed in 1984.

More than twenty other legal texts, including a treaty for the promotion and protection of investments and special tax exemption regimes, complement the mining treaty and make up an increasingly complex legal web that facilitates mining activities.

The mining treaty allows for the first time cross-border exploitation of mineral deposits, covering an area of more than 200,000 square kilometres. It is presented as a unique opportunity for both countries to exploit their mining resources more efficiently, cooperate in research and development of new mining technologies, promote “mutual investment” and protect the “national and public interest” of both countries. Yet less than a decade after its ratification, it has proved to be a powerful and exclusive tool for transnational corporations (TNCs) to access and exploit binational resources. No national investments – public or private – have yet been channelled through it.

Indeed, the treaty was the result of years of lobbying by some of the world’s biggest mining companies. Rio Tinto, Barrick Gold, Falconbridge and Tenke Mining set up local offices or subsidiaries, joined the National Mining Chambers and/or deployed their lobbying engines. Initially, lobbying efforts produced specific “facilitation protocols”, granting special conditions and privileges mostly to Barrick Gold and Falconbridge. The treaty provides a general framework that opens the border region to any mining TNC. Many provisions have been added through further protocols which facilitate TNC activities, granting them privileges and exemptions. As privileges can be transferred through the sale of mining rights, they are fully covered by investment protection clauses. So Chile and Argentina must set up special border controls, grant access to the mining companies to “all types of natural resources” – including water, allow private airports in the border area, grant broad exemptions to their immigration, health, labour and sanitary laws, and grant further privileges in the future. For Chile, whatever is granted through the treaty and these protocols is strengthened and protected by means of the multiple bilateral FTAs it has signed. For Argentina, this role is so far mostly played by a Mining Code (1999), and a Law on Mining Investments (2004). Ironically a peace treaty that ended years of tensions when both countries were on the brink of war over the border areas has been used to surrender the same territories to TNCs.

Mining TNCs have been mostly absent from Argentina (except for oil and gas companies), but are well known in Chile. Demanding all kinds of guarantees and privileges, they are skilled at using every legal loophole to expand their profits. Barrick Gold, for example, has operated a gold mine in Chile for over 15 years without paying any taxes. Year after year they report losses, using different accounting tricks, such as reporting loans at unusually high interest rates, or selling the extracted mineral at unusually low prices to their own subsidiaries. Thus Chile has had almost no income from foreign mining companies, although they extract and market around half of its mineral production.

The impact of the treaty and its associated legal web is already being felt. Four massive binational projects have been approved: Pascua Lama (Barrick Gold), El Pachón (Falconbridge), Vicuña (Rio Tinto) and Amos-Andres (also Rio Tinto). In Argentina, transnational mining projects rose in number from 3 in 2002 to 150 by the end of 2005. Copper and gold is the main focus, but also silver and molybdenum. The projects are so far concentrated in the highlands of northern Chile and Argentina, and the mainly hilly extreme south. Both areas are key



Call to mobilise on 21 December 2006 against Pascua Lama and the “international treaty to destroy nature” forged between the Chilean and Argentine governments



"Water is worth more than gold" says the banner at this people's action against the Treaty

(Photo: noapascualama.org)

sources of water that feed rural communities and several cities. The mining treaty covers over 95% of the border, one of the longest in the world. Future projects will be located in more central areas, near where most of the agricultural activity takes place and where most of the Chilean people, and an important part of the Argentinian population, live.

Mining technologies to be used are mostly open pit and lixiviation, both highly contaminating and requiring huge amounts of water. Open pit entails mountains being blown into small pieces to extract minerals. The daily production of thousands of tons of dust and waste and the consumption and contamination of thousands of litres of water per minute are expected in each project, plus contamination with cyanide and acids. The water supply of rural communities and cities is endangered. The Pascua Lama project could destroy three glaciers that have fed indigenous communities for centuries and allowed them to develop agriculture near the world's driest desert (Atacama), also endangering the water supply of several medium-sized cities.

All companies involved claim in their annual reports and websites that environmental protection is a top priority. However, they have used all sorts of legal manoeuvring to avoid any responsibility. Environmental laws in Chile and Argentina require environmental impact studies for all mining projects. Companies have then requested a "provisional" permit to set up their facilities and start prospecting. Once provisional permits are granted, they

are deemed to be company assets and hence are protected by investment and free trade agreements. So if an environmental study shows an unacceptable impact and the permit is revoked, under such agreements both governments could be brought to the World Bank's International Centre for Settlement of Investment Disputes (ICSID) and pay multimillion-dollar compensation. This possibility, in tandem with continuous and intense lobbying, has caused amazing forms of law-twisting by government and state officials. Pascua Lama, for example, will continue despite its devastating environmental impact. Chile's National Environment Commission, whose legal mandate is to protect the environment, works closely with Barrick Gold to "solve" legal barriers and make its mining project possible.

People's organisations on both sides of the border have actively resisted the mining projects. TNCs have used bribes, promises of future jobs, "development projects", threats and physical intimidation to combat resistance. Opposition has continued, but so has lobbying by the corporations – and they have succeeded: a bill that protects glaciers from mining activities has slept in Chile's Congress since 2004, but a bill recently introduced to allow the exploitation of underground water reservoirs is moving ahead.

#### Going further:

[www.miningwatch.ca/index.php?/chile\\_en/pascua\\_lama\\_action](http://www.miningwatch.ca/index.php?/chile_en/pascua_lama_action) (English)

[www.nopascualama.org](http://www.nopascualama.org) (Spanish)





The Banner of Our Dreams, an inspiration to the struggle against CAFTA

## Women versus CAFTA: declaration of “Mujeres del NO”

**Mujeres del NO** (October 2007)

“Mujeres contra el TLC” was the name we gave ourselves during the brave period of struggle that will be remembered in history as the Campaign against CAFTA.

We are the creators of the Banner of Our Dreams, in which thousands of people have left their marks of rejection of the treaty and the imposition of adventurist neoliberal politics, which surrender goods and services that belong to the people to private businesses so that they can profit from the basic needs of the population. This politics affects women, responsible for the reproduction and care of life on Earth, particularly deeply. It endangers our Social State of Law, which, although far from perfect, has allowed us to survive in better conditions than our fellow Central American sisters.

“Mujeres del NO” was the name of our daily programme on Radio Actual, which allowed us to become part of the forces fighting against the media dictatorship taking over the planet in the last few decades. This dictatorship’s purpose is to silence millions of diverse voices that oppose the imposition of neoliberal politics, which turns into a private business what used to be a common good. In this pro-

gramme we have given a voice to dozens of women from different fields, because we are convinced that each and every voice has truth and reasons why it should be heard, and that is why we made audible the resistance of women to CAFTA and its development model.

Aware of the marginalised role historically given to women’s participation in emancipation movements throughout the centuries, we organised the “Power of NO” event on 29 September 2007, erecting tents to enable participants to interpose any complaint about irregularities and abuses of power regarding the referendum process, complaints that are currently being analysed through judicial research for national and international presentation.

Tents for other purposes were also set up: the Information Tent to train referendum supervisors (*fiscales*), the







(Photo: Mujeres contra el TLC)

Legal Tent to complain about irregularities or violations of electoral rights, the Feminist Observatory of Transformational Politics Tent to participate in hearings with women from Mexico and other Central American countries that have already ratified free trade agreements with the US, and of course the Banner Tent to keep sewing our rejection of the agreement. At the end of the day, a great concert took place to celebrate the political creativity of a NO that goes far beyond repudiation of the CAFTA, because it comes from the will to care, nourish and protect life on this planet.

Our communication work in the region helped in the creation of an international conscience by a number of organisations and institutions, specially by *La Jornada de México* daily, which titled a recent editorial “La vulneración de la Democracia en Costa Rica” (The transgression of democracy in Costa Rica), in reference to the irregularities observed during the process. We also connected this local struggle to international organisations and movements fighting for peace, equality and justice, achieving a declaration from the Nobel Women’s Initiative, which expressed its disappointment with an electoral process that could have been an example to the world but turned out to be another example of the abuse of power by many powerful public officials.

Our actions against the politics implied by the CAFTA are not only recent. In 2000 we were part of “Mujeres contra el Combo”, and in 2002 many of us participated in the planning of the 9th Latin American and Caribbean Feminist Encounter, with the theme “Resistance to Neoliberal Globalisation”, which reunited more than 800

feminists from the region, who declared against neoliberalism owing to its impact not only on women’s lives, but on the planet itself.

Today, after the culmination of this process of abuse and violation of many human rights, we want to demonstrate that we remain alert as we wait for the results of the manual recount demanded by various social sectors, due to the anomalies witnessed by many referendum supervisors, guides and voters; which include the arbitrary intent to annul votes, signs of trying to buy votes, and the legal impugnation over the unconstitutionality of the referendum itself.

We strongly oppose the “Leyes de Implementación” (Implementation Laws), which, at the government’s insistence, did not form part of the referendum. We consider that before discussing those and other laws, we need to agree on the model of society we want for Costa Rica. As feminists we will fight for that model not to be based on the unrecognised or ill-paid labour of poor women, without forgetting that that kind of exploitation is framed under the context of discrimination and subordination of all women.

We are still preoccupied with the victorious attitudes of a government which, having been elected by a small margin 2 years ago and having won the referendum by about 3%, presumes to have the power to continue with a CAFTA rejected by at least half of those who voted. A half that was not intimidated by the well-documented threats of the Bush Administration and the politics of the memorandum of Vice-President Casas and Congressman Sánchez. A half that with conviction, passion and creativity opposed the CAFTA because the consequences it carries for health services, education, phone services, electricity services, water services, etc. were studied and analysed together with the exploitation of the human, marine and land resources of the country.

Because women were over half of the voters who voted NO, and because as feminists we have always opposed extending the exploitation and discrimination against women to those men who are less powerful or to our natural resources, we are going to insist that the laws required to implement CAFTA will not be negotiated only in Congress. They must be negotiated by all who have worked hard to make Costa Rica a democracy.



(Photo: Mujeres contra el TLC)



Women say no to CAFTA (Design: Mujeres del NO)

Furthermore, because as women we know inequality and because we have struggled against it for millennia, we will not accept a referendum that was tainted by partial and even illegal decisions by the Supreme Electoral Court (TSE) and by an arrogant abuse of power by the President and other high officials, all of which are well documented. For millennia we have resisted the power men exercise over our bodies and our right to choose based on the unequal power relations between women and men, so too today we will not accept that those who have the economic and political power in this country have, for that reason alone, the power to violate the will of the majority of Costa Ricans who do not want this so called agreement.

*"As feminists we have always said NO to rape and therefore we cannot but say NO to this gang rape of our collective freedom to choose what treaties we accept."*

There is ample evidence that the rules made by the TSE did not guarantee equality or freedom of choice during the process leading up to the referendum. Radio and television transmissions were not obliged to give equal time to both sides, nor were citizens guaranteed a minimum of access to impartial information about the agreement. Freedom of choice was not guaranteed when the President himself was allowed to freely campaign for the Yes. How can we accept that the people freely chose to ratify the agreement when the choice was tainted by threats made by the largest multinationals in the country of firing everyone if the NO won, or by threats of a collective suicide if the NO won made by the President

himself, not to mention the threats by the US Ambassador and even the White House?

As women we know about frustration when those who have raped our bodies are left unpunished, or, worse still, when the crime is not even recognised and we are accused of meaning yes when we have said NO. That is why we will not remain silent about the fact that there were no real sanctions made by the TSE when the Yes campaign violated the prohibition to campaign two days before the referendum, after the polls showed that the NO was 12 points ahead. We will insist that the process itself was tainted, as was the decision to vote yes by so many Costa Ricans. As feminists we have always said NO to rape and therefore we cannot but say NO to this gang rape of our collective freedom to choose what treaties we accept.

From now on "Mujeres contra el TLC" will call itself "Mujeres del NO" (Women for the NO).

- A NO that is directed not only at the implementation laws, but a NO to the abuse of power, whether in our homes or in the country.
- NO to public or private violence, whether it is exercised by the President of the Republic or by the Head of the Household.
- NO to that which is blindly called "development".
- NO to the overvaluation of production over reproduction.
- NO to capitalist greed as natural.
- NO to discrimination against women.
- NO to the disappearance of our millenary resistance.

The Banner of Our Dreams will continue to travel throughout Costa Rica and the whole world so that anyone can express in it what they have not been given the chance to say in the media. It will continue to safeguard the space for dreaming a world where every colour of the human rainbow can have a voice to demand with dignity, without the slavery of unabated production and consumption of unnecessary and inert goods, a planet full of poetry, beauty and happiness.

**Source:**

<http://www.radiofeminista.net/oct07/notas/proclamaing.htm>



"The Maleku say NO to CAFTA" at the 30 September 2007 mobilisation. The Maleku are an indigenous community in Costa Rica.



# three Strategic learnings

(bilaterals.org and GRAIN)

November 2007

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## Learnings from the struggles

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Despite the uniqueness and diversity of the many struggles against bilateral free trade and investment agreements, there are a number of common elements.<sup>1</sup>

- FTAs and BITs are part of a divide-and-conquer strategy by economic and political elites seeking new allies, new markets and greater power and control. This often forces people to fight specific negotiations and agreements, involving two (or, in the case of sub-regional or inter-regional FTAs, a few more) governments. This can result in fragmented and isolated movements, even though the agreements themselves are very similar.
- FTAs affect so many issues that national coalitions tend to form from many sectors: farmers, public sector workers, indigenous peoples, fisherfolk, artists, scientists, churches, media workers, people with HIV/AIDS, teachers, women, university students and academics, politicians, and so on.
- The secrecy of bilateral trade and investment negotiations distorts national democratic processes and often causes fractious domestic political problems regarding constitutionality of the deals, who has authority to approve such agreements, the jurisdiction of courts, implications for local governments, and so on.
- In many cases, the adoption or rejection of an FTA becomes a national electoral issue (e.g. Peru, Colombia, Ecuador, Costa Rica, Australia). In some cases, it has formed part of movements to depose national leaders (e.g. Thaksin in Thailand or Gutiérrez in Ecuador).



### Challenges in the campaigns and processes to stop FTAs

A number of important challenges arise from different struggles against FTAs.

**Resist vs participate:** While many people share a common understanding that FTAs are essentially tools to spread neoliberalism, some NGOs and others engaged in campaigns to stop FTAs often take a reformist approach. In some countries, NGO representatives or other “civil society” groups participate in negotiating teams, advise governments on “better” terms to achieve, lobby for the exclusion or inclusion of this or that element, and so on. This is not unique to FTA or trade policy struggles, but can be seen as weakening wider movements for social change, dampening resistance and leading to co-optation.

**“Alternatives”:** In many campaigns and struggles to

<sup>1</sup> For a broader and more collective analysis of similarities and differences across the struggles, see “Fighting FTAs: workshop summary report”, September 2006.  
[http://www.bilaterals.org/article.php3?id\\_article=5803](http://www.bilaterals.org/article.php3?id_article=5803)



fight FTAs, the question “What is your alternative?” is posed to critics, especially by governments which resent challenge from social movements.<sup>2</sup> For those who understand that an FTA’s overarching purpose is to further the domination and control of, say, Washington and US TNCs over your own country, this question makes little sense: why in the world would people’s organisations feel the need to propose an alternative route to this goal? For others, articulating alternative – fairer or more beneficial – trade or investment relations with powers like the US or the EU is essential to the credibility, direction and purpose of people’s movements. Attitudes towards this “alternatives” question often boil down to whether one believes that social justice can be achieved under neoliberalism, or under the grip of capitalism altogether. For some, there seems to be no need to step out of this frame – or, as some people lament, that we don’t have another frame and must get on with what we’ve got. For others, no alternative is possible within this frame and we must find a different one. In short, the old “reform versus revolution” dilemma is very present within today’s social activism against FTAs.

*Constantly choosing the lesser of two evils is still choosing evil.*  
– Jerry Garcia, musician<sup>3</sup>

**Regional integration:** Governments of the South have long tried to form blocs to counter the weight of former colonial powers and pursue their “development” strategies in neighbourly co-operation. Today, regional integration has become an idealised counterforce to the push for FTAs from imperial powers, especially the US, Japan and the EU. The election of supposedly progressive leftist leaders in much of Latin America, and especially the active role of Hugo Chávez, has sparked a wave of new interest in forging links between Latin American countries as a way to move forward, not only among governments but also among NGOs and other groups. Ideologically, much of the talk coming from the leadership is about building new trade relations based on complementarity rather than competition. In practice, many of the projects being brokered are giant new business deals fronted by “Latin American” capital. It seems to be the same old programme of agribusiness expansion, mining concessions, highways and telecommunication deals, the recycling of petrodollars or the boom for agro-fuels, but this time led by the region’s elites, whether public or private. The glimmer of South-South business deals<sup>4</sup> as a way to foster independence from the North is being flagged as the way forward in the sub-regions of Africa, Asia and between emerging Southern giants, as in the case of the India-Brazil-South Africa alliance. The “people” component of this regional integration wave is so far proving slippery, top-down or barely existent. But many NGOs and others are intrigued by the promise that South-South cooperation offers to counteract the imperialist relationships embedded in North-South FTAs. A

<sup>2</sup> The European Commission takes an even more defensive attitude by asserting over and over that “there is no alternative” to the Economic Partnership Agreements that it is pushing on African, Caribbean and Pacific states.

<sup>3</sup> From the email signature of someone involved in the NAFTA struggle in Mexico.

<sup>4</sup> The business deals – from joint ventures to direct investment contracts – are complemented by a slew of preferential loans, aid packages and other financial measures. We may soon see the emergence of a South-South philanthropy industry!



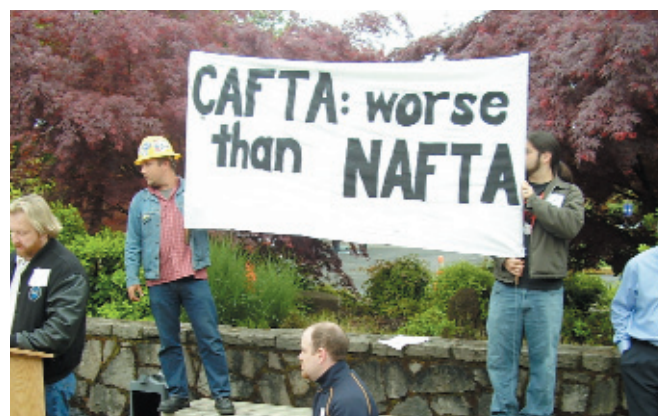
"Yes to life! No to the Free Trade Area of the Americas!"  
(Photo: Ricardo Stricher)

nagging problem this raises, however, is the relationship between states and people. Today, rhetoric aside, hardly any state is not penetrated by neoliberal values.

### Some key learnings

It would be impossible to sum up all the learnings from years of peoples’ struggles against bilateral FTAs and investment agreements around the world. However, a number of important points stand out.

**1) The struggle against FTAs is a struggle against neoliberalism:** Bilateral free trade and investment agreements are just one face of contemporary capitalism and imperialism which are advancing through different means at local, national, regional and global levels. The comprehensiveness of many FTAs, affecting so many facets of our societies and economies, and the multi-layered and multi-sectoral nature of many anti-FTA struggles, attest to this dynamic. Korean and many Latin American experiences drive home the message that



US workers mobilising against CAFTA in 2005.  
(Photo: Portland Indymedia)



Mapping terrains of FTA struggle

FTAs and investment treaties are not merely trade pacts, but structural tools of overall “regime change” that aim to consolidate a very deep basis for new power relations in their countries. Those relations are not just economic ones, reshaping rules so that TNCs can do whatever they want, wherever they want. They are also geopolitical, pulling countries into much larger struggles for leverage and influence between states, be they old or emerging hegemon.

**2) Overcoming compartmentalised approaches:** In the fight against FTAs and investment treaties, we should be wary of approaches that compartmentalise or bureaucratised either the analyses or the struggles. It may be tempting to frame campaigns against FTAs within the terms set by the agreements themselves. But in doing so, one can miss the underlying threat posed by the totality of the agreement. NGOs often tend to focus their work and campaigns on narrowly defined “issues”. Such compartmentalisation can lead to positions that argue that amending a particular provision of an FTA constitutes a victory. Or it may lead to challenges against the *process* of trade negotiations as being undemocratic, demanding only that certain NGOs or sectoral groups are listened to, rather than focusing on the fundamental injustices in the *content* of these deals. Similarly, the bureaucratisation of people’s struggles can lead quickly to a damping down of resistance and foster a form of ideological pragmatism on the part of larger NGOs and

trade unions that is easily co-opted by governments and the corporate sector.

**3) New meanings of public and private:** Many social struggles against FTAs make appeals to the state, or to state institutions, in one way or another. After all, it is governments that sign FTAs. Politicising the actions of the state in relation to international treaty-making is one way to raise public awareness and mobilise people against these agreements. But people’s movements against FTAs often put forward and defend a notion of “sovereignty” against the new wave of privatisation and deeper integration with transnational capital that these deals promise. Similarly, moves to defend state constitutions, to use them as some kind of litmus test for what is fair or foul play in an FTA process, or to leverage them to block or modify specific provisions, frequently emerge. But one must ask: who is the state? What kind of sovereignty do we mean? Who defends or represents public interests? Who is the government really working for? If Korea, for instance, really ought to be called the Republic of Samsung, as FTA activists there say, what are we dealing with? States have never stood outside capitalism. They are key players, and the lines between states and private sector interests have become so blurred that it is difficult to consider them apart. The transnationalisation of capital and the current emergence of new and powerful corporate empires in countries like China, Brazil, Mexico, Singapore or India further challenge our perceptions of who and what we are actually fighting against in these FTA battles. Many experiences fighting FTAs illustrate that the state is not “the people”, but rather an instrument of elite power, domestic or foreign capital or political interests. Furthermore, the corporations standing to gain from these FTAs are not just US or Japanese ones; they are increasingly “Third World” TNCs eager to expand their own market control and profit margins. The Zapatistas taught us to take a critical stance in relation to the state when NAFTA came into effect. Fifteen years later, many movements resisting neoliberalism continue grappling with tensions around state power and interests.

**4) Grounding in local struggles:** FTA struggles highlight the importance of resistance firmly grounded in local and national contexts, but which connects to regional and global perspectives. The framing of FTAs as bilateral, regional or sub-regional, not to mention the plethora of different names for them (e.g. EPAs or CEPAs), can divert attention from the bigger picture, whether in the context of North-South or South-South deals. Strategies that emerge from strong local organising are the ones most able to map the terrain of struggle, to identify key local and international players pushing



“No fear” to say no to FTAs. And, more importantly, “no to the intimidation” created by powers that push these deals. A message from the struggle in Costa Rica. (Photo taken just before the October 2007 referendum.)



ing specific agreements (and specific provisions of agreements), to know their weak points, histories, styles of operating and how they are connected, and to oppose, expose and challenge those pushing FTAs and their strategies. Alongside this, technical policy analysis needs to be informed by and connected to the realities of people's struggles, not the other way around. These forms of knowledge are increasingly important as resources for other movements which find themselves confronting the same strategies and players in different parts of the world.

**5) Avoiding the pitfall of co-optation:** Governments, corporations and some so-called “civil society” organisations that are essentially pro-free market have learned from previous campaigns against corporate power, structural adjustment programmes and free trade and investment agreements. They seek to avoid confrontation, and to maintain control over the parameters of public awareness about these agreements. They increasingly use the language, strategy and tactics of “dialogue”, “consultation” and “participation” in order to undermine – and to divide and rule – opponents of FTAs. These processes are frequently designed as cosmetic safety valves to allow “responsive” or “constructive” critics to vent steam about their concerns, and to marginalise – and too often criminalise – more militant or critical opponents. They serve to add legitimacy to fundamentally unjust and anti-democratic processes, and to mask the disproportionate influence of TNCs and domestic elites in the imposition of these agreements. In fighting such methods, groups can draw attention to the unequal power relations that lie beneath FTAs, and to the fragility of the arguments in favour of neoliberal capitalist regimes. In several FTA struggles, state and big business attempts to limit terms of the debate have been denounced, and movements have framed their struggles based on their own platforms, rather than in a narrowly defined space for stage-managed “civil society consultation”.

**6) The struggle post-FTA:** If we understand the fight against FTAs as a fight against new tools of much older processes of capitalist and imperialist invasion, then we know that the struggle does not end when an FTA is signed or takes effect. FTAs often aim at advancing and locking in extreme neoliberal economic and political models, and in most countries there are many ongoing struggles against such policies – such as the fight for access to water, for publicly funded health care and education, for genuine agrarian reform, for access to affordable medicines, or against the creeping corporatisation and privatisation of agricultural biodiversity. These struggles are long-term and do not end when a government adopts an FTA. The experience in Mexico is quite clear about this. NAFTA in and of itself is still unfolding and gaining shape; it is not just a piece of paper. Over the years, Mexican farmers, textile workers, indigenous communities, political groups and others, rather than adapt or adjust, have had to keep on with the struggle and take it to new levels in a worsening context of poverty and disenfranchisement. The Costa Rican experience shows that fighting FTAs through socially broad national processes may provide the dimension and depth that gives rise to new forms of solidarity and people power in the longer term. Moreover the effects of FTAs and BITs expand not only through progressive implementation, but also through successive interpretations which give ever stronger protections to the interests of big capital. This is particularly clear with the pro-



European and Korean activists join forces in the struggle against the EU-Korea FTA in Brussels on 17 September 2007 (Photo: Friends of the Earth Europe)

visions of the EU's FTAs, which are very open and vague, and subject to “interpretation” every three or five years. This is another reason why the struggle against these agreements must continue.

## 7) Exploiting contradictions:

Without minimising the powers that are pitted against social movements fighting FTAs, it is important to recognise and politicise the contradictions that exist among the forces behind these deals. States and corporate interests are fraught with contradictions and are more fragile than they may seem. It is easy to see neoliberal globalisation as an unstoppable force that moves only in one direction. But in the geographies and rationales of different forces pushing FTAs there are many contradictory and sometimes conflicting realities. These may take the form of disagreements among government ministries or agencies in relation to parts of an agreement. They may appear in the competition between TNCs for markets, access to resources or guarantees on investment. There are conflicts between business groups and governments over the primacy of corporate interests versus so-called national security concerns. Likewise, much work has been done in highlighting disparities between claimed benefits of agreements and their real impacts. These contradictions can be highlighted and used more by social forces.



**8) The need to learn from each other:** Bilateral free trade and investment deals deliberately sow divisions. One of the most important examples of this is the division between peoples on both sides of the countries directly affected by a given FTA. Another is the division between FTA struggles in different countries. Much more needs to be done to bridge these divides. People in Thailand, for instance, mobilised against the Thailand-China FTA as it became clear how much harm it would cause to Thai farmers, especially fruit or garlic producers in the north of the country. But the reality of the struggle took on a different dimension when they went to China and talked to garlic farmers there. Contrary to what they imagined, the FTA, which had put many Thai garlic growers out of business, was of no





"Distribution of wealth now!" The Mothers of the Plaza de Mayo, an association of Argentine mothers whose children "disappeared" under the military dictatorship between 1976 and 1983, remind us constantly that our struggles must come together. (Photo: Asociación Madres de Plaza de Mayo)

benefit to Chinese garlic producers. It was the middlemen, the traders, who were making all the money. We have to share experiences, learn from each other in much deeper ways and build common fronts of action. The same is true at the global level. Latin America has had the misfortune of being the vanguard of the struggle against FTAs because of US aggressiveness towards what it considers its backyard. Many people in other parts of the world have learned a lot from Latin American movements and are eager to learn more from them. We need to intensify this reaching out and learning – from the grassroots, not from the elites – to strengthen the fight. Much has been shared in terms of stories and analysis, understanding impacts and situations. But not enough yet in actually working and fighting together, whether across the Thailand–China border or as people of Peru and Senegal in common struggle.

### Moving forward

Free trade and investment agreements, and the state, private sector and other players that promote them, must be critically analysed and challenged in national, regional and international contexts. This work needs to be situated in an understanding of the nature of capitalist restructuring, histories of colonialism and imperialism, as well as the shifting geopolitical priorities of state and corporate players. In strategy-building against FTAs, we can draw on conceptual resources and strategies from older histories of resistance to other forms of imperialism – local struggles against privatisation, anti-war movements, women's movements, indigenous peoples' struggles for self-determination, resistance to World Bank/IMF structural adjustment programmes or opposition to the WTO. While all of these processes are interlinked and have their own specificities, resistance movements against FTAs need to confront the overall system that lies beneath all of these.



(Photo: courtesy BIOTHAI)

In struggles against FTAs, we also need to be more alert to invisible threats posed by various forms of finance liberalisation and the emergence of relatively new financial instruments, in a context of a deepening financialisation of much of the world economy. The mobility of capital is enormous today and it is growing further through finance liberalisation. This makes it harder for social movements to trace and uncover structures of corporate ownership and control. Many FTAs, like the US–Chile FTA, openly attack capital controls where these exist. And CAFTA radically departs from earlier agreements, such as NAFTA, by applying US investment rules to sovereign debt, severely threatening Central American countries' ability to stave off or cope with financial crises.<sup>5</sup>

FTAs can be potent, enforceable tools to advance the power of TNCs together with the geopolitical and other interests of governments. The Bush administration's out-sourced war, occupation and restructuring programme in Iraq is a clear example of this, linked as it is to Washington's aggressive free trade and investment policies in the Arab world, which are aimed at achieving "normalisation" of the region's relations with Israel. Major powers – which involve the state and corporations working very closely together, whether in Beijing or in Brussels – are using FTAs as one means to re-carve the world into new or renewed colonial spheres of influence. So while critically challenging "our" governments about free trade deals, we cannot rely on their political will to stop them. On the contrary, many people's struggles against FTAs have brought into question western "democratic" models of governance, showing that these democracies are merely formal. This is thrusting us deeper into the challenge of how to construct other social orders. We must build counter-power to both states and corporate capital through consolidating, strengthening and broadening peoples' movements. For that to succeed, we need to work more together and build closer relations between people's movements in the struggle against neoliberalism – starting from the ground.

<sup>5</sup> Sovereign debt refers to the bonds, loans and other securities issued from or guaranteed by national governments.

# Glossary

AAN	Alternative Agriculture Network (Thailand)	FARC	Revolutionary Armed Forces of Colombia
ACMECS	Ayeyawady-Chao Phraya-Mekong Economic Partnership Strategy	FDI	foreign direct investment
ACP	Africa-Caribbean-Pacific (countries/group)	FICCI	Federation of Indian Chambers of Commerce and Industry
ADB	Asian Development Bank	FIRE	Feminist International Radio Endeavour
ADM	Arthur Daniel Midland (US)	FTA	Free trade agreement
AfDB	African Development Bank	FTAA	Free Trade Area of the Americas
AEPF	Asia-Europe People's Forum	GATS	General Agreement on Trade in Services (WTO)
AFL-CIO	American Federation of Labour - Congress of Industrial Organisations	GATT	General Agreement on Tariffs and Trade
AFTA	ASEAN Free Trade Agreement	GCC	Gulf Cooperation Council
AFTINET	Australia Fair Trade and Investment Network	GDP	gross domestic product
AGOA	African Growth Opportunity Act (US)	GM(O)	genetically modified (organism)
AIG	American International Group	GNP	Grand National Party (Korea)
ALBA	Bolivarian Alternative for the Peoples of Our America	HIV/AIDS	human immunodeficiency virus / acquired immune deficiency syndrome
ALP	Australia Labour Party	HOR	House of Representatives
AMDH	Moroccan Association for Human Rights	IBSA	India-Brazil-South Africa
AMU	"Arab Maghreb Union	ICSID	International Centre for the Settlement of Investment Disputes (World Bank)
AoA	Agreement on Agriculture (WTO)	IDB	Interamerican Development Bank
AoP	Assembly of the Poor (Thailand)	"IDEALS "	Initiatives for Dialogue & Empowerment through Alternative Legal Services Inc. (Philippines)
APEC	Asia-Pacific Economic Cooperation	IFAC	Industry Functional Advisory Committee (US)
APEC	Coopération économique Asie Pacifique	IIRSA	Regional Integration of South American Infrastructure
APMC	Cooperación Económica Asia-Pacífico	ILSA	Latin American Institute of Alternative Legal Services (Colombia)
ASEAN	Agricultural Produce and Market Committee (India)	IMF	International Monetary Fund
ASEM	Association of South East Asian Nations	IPR(s)	intellectual property right(s)
ASSOCHAM	Asia-Europe Meeting	JPEPA	Japan-Philippines Economic Partnership Agreement
AUSFTA	Association Chambers of Commerce and Industry of India	JTEPA	Japan-Thailand Economic Partnership Agreement
BIMSTEC	Australia-US Free Trade Agreement	KCTU	Korean Confederation of Trade Unions
BIT	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation	KoA	Korean Alliance against the Korea-US FTA
BNDES	bilateral investment treaty	KMP	Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines)
BSE	National Bank for Economic and Social Development (Brazil)	KMU	Kilusang Mayo Uno (May First Movement) (Philippines)
CAF	Bovine spongiform encephalopathy ("mad cow disease")	KPL	Korean Peasants League
CAFTA	Andean Development Corporation	MAI	Multilateral Agreement on Investment (OECD)
CAN	US-Dominican Republic-Central America Free Trade Agreement	AMI	Accord multilateral sur l'investissement (OCDE)
CARICOM	Andean Community of Nations	MEFTA	US-Middle East Free Trade Agreement
CCC	Caribbean Economic Community	MERCOSUR	Southern Cone Common Market (Argentina, Brazil, Paraguay, Uruguay, Venezuela)
CDB	Commodity Credit Corporation (US)	MITI	Ministry of International Trade and Industry (Japan)
CEO	China Development Bank	MP	Member of Parliament
CEPA	Chief Executive Officer	NAFTA	North American Free Trade Agreement (Canada, USA, Mexico)
CEPAL	Closer Economic Partnership Agreement	NAM	National Association of Manufacturers (US)
COMESA	Economic Commission for Latin America and the Caribbean (UN)	NCR	National Capital Region (Philippines)
COMESSA	Common Market for East and Southern Africa	NESAC	National Economic and Social Advisory Council (Thailand)
COMEX	Community of Sahel-Saharan States	NGOs	non-governmental organisations
CONASUPO	Ministry of Foreign Trade (Costa Rica)	NHRC	National Human Rights Commission (Thailand)
CP	National Company of Popular Subsistence (Mexico)	NLA	National Legislative Assembly (Thailand)
CSOs	Charoen Pokphand (Thailand)	OECD	Organisation for Economic Co-operation and Development
DDA	Civil Society Organisations	OIC	Organisation of the Islamic Conference
DTI	Doha Development Agenda (WTO)	PAD	People's Alliance for Democracy (Thailand)
EAFF	Department of Trade and Industry (Philippines)	PBS	Pharmaceutical Benefits Scheme (Australia)
ECOWAS	East Africa Farmers Federation	PCCI	Philippine Chamber of Commerce and Industry
EFTA	Economic Community of West African States	PDVSA	Petróleos de Venezuela S.A.
EGAT PLC	European Free Trade Association (Switzerland, Lichtenstein, Norway, Iceland)	PhRMA	Pharmaceutical Research and Manufacturers of America
EIA	Electricity Generating Authority of Thailand	PLWHA	people living with HIV/AIDS
EMFTA	environmental impact assessment	PM	Prime Minister
ENCE	EU-Mediterranean Free Trade Agreement		
EPA	National Cellulose Company of Spain		
EU	Economic Partnership Agreement		
	European Union		

PNA	Philippine Nurses Association	TBT	technical barriers to trade
PO	people's organisation	TDRI	Thai Development Research Institute
PROPAC	Sub-regional Platform of Peasant Organisations of Central Africa	TIFA	Trade and Investment Framework Agreement (US)
PTA	Preferential Trade Agreement	TIFA	TIFA
RECALCA	Colombian Action Network against Free Trade and the FTAA	TNCs	transnational corporations
ROPFA	Network of Peasant and Agricultural Producers Organisations of West Africa	TNP+	Thai Network of People Living with HIV/AIDS
RTA	Regional Trade Agreement	TRIPS	Trade-Related Aspects of Intellectual Property Rights (Agreement on) (WTO)
SAARC	South Asia Association for Regional Cooperation	TRT	Thai Rak Thai Party (Thailand)
SACAU	Southern Africa Confederation of Agricultural Unions	TSE	Supreme Electoral Tribunal/Court (Costa Rica)
SACU	Southern Africa Customs Union	UAE	United Arab Emirates
SADC	Southern African Development Community	UN	United Nations
SAFTA	South Asia Free Trade Agreement	UNCTAD	United Nations Conference on Trade and Development
SAG	Ministry of Agriculture and Animal Husbandry (Honduras)	UNICE	Union of Industrial and Employers' Confederations of Europe (EU)
SEIPI	Semiconductors and Electronics Industries of the Philippines, Inc.	UPOV	Union for the Protection of New Plant Varieties
SEPA	Strategic Economic Partnership Agreement	USAID	US Agency for International Development
SEZ	Special Economic Zone	WAEMU	West Africa Economic and Monetary Union
SPS	sanitary and phytosanitary standards	WEF	World Economic Forum
TAFTA	Thailand-Australia Free Trade Agreement	WHO	World Health Organisation
		WINFA	Windward Island Farmers Association (Caribbean)
		WIPO	World Intellectual Property Organisation
		WTO	World Trade Organisation