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COMMENTARY October 12, 2007

Free Trade Undermining Democracy in Costa Rica?

By Steve Suppan

The last poll taken before the October 7 referendum on whether Costa Rica should join the Central American Free Trade Agreement estimated that 55 percent of Costa Ricans would vote "No." The binding referendum is the first ever held anywhere on a free trade agreement in which the government must act on the basis of the voting result. The stakes of the vote couldn't be higher for the future of the Costa Rican democracy and economy.

I had the honor of participating in an academic seminar and then a public forum on September 13 in San José, Costa Rica. Participants reviewed the results of their legal and economic research into the results of the first year of CAFTA-DR in El Salvador, Guatemala, Honduras, and Nicaragua, and the first months in the Dominican Republic (synthesis in Spanish: <http://www.ciid-gt.org/informecafta.pdf>). The results of were unremittingly grim, particularly in agriculture. Promised government investments in national agricultural production were not made. CAFTA DR's tariff elimination allowed 30 percent and more increases in imports of basic grains in which the countries traditionally had been self-sufficient. Former farmers sought jobs in assembly plants paying from \$.30 an hour in Nicaragua to \$.80 an hour in Guatemala. Trade balance deficits boomed while promised foreign direct investment went bust. If CAFTA-DR is implemented in Costa Rica, it very likely faces the same economic outlook. It also likely faces further corruption of its democratic institutions and the degradation of public services well known in Latin America for their efficiency, fairness and near universal availability.

So, it's not surprising that extraordinary measures were taken in the days before the election to gain its approval. In violation of a Costa Rican law prohibiting campaign activities 48 hours in advance of an election and on election day, Costa Rican television and newspapers repeatedly publicized statements from President George Bush and U.S. Trade Representative Susan Schwab suggesting that the U.S. would not extend preferential market access to any country that had rejected a free trade agreement. U.S. House of Representatives Speaker Nancy Pelosi and Senate Majority Leader Harry Reid stated in a September 28 letter to the Costa Rican Ambassador to the United States that continuation of the preferential access did not depend on the referendum's results, but their statement was not broadcast. Employers told employees not to show up for work if the "No" vote prevailed. Though election rules require that ballots be signed in black ink, the government provided only red pens for some polling stations. Despite widespread reporting of voter intimidation, illegal government financing of the "Yes" campaign, and vote buying, the Supreme Electoral Court, the fourth constitutional branch of Costa Rican government, did nothing.

The strength of opposition to CAFTA-DR is remarkable, given the campaign of voter intimidation carried out by the U.S. and Costa Rican governments. A July 29 memo from the Vice President of Costa Rica and a member of the Costa Rican Congress to President Oscar Arias recommended a campaign to “stimulate fear.” The memo was leaked to a university newspaper on September 10. Though the voting results will not be certified by the Supreme Electoral Court until October 20, the means used to achieve the 51.5 percent vote in favor of CAFTA-DR have dealt a crushing blow to the rule of law in Costa Rica. The memo recommended focusing the campaign of fear on the so-called “simple people” in rural areas. But a majority of them defied threats to vote against joining CAFTA-DR. President Arias was reduced to distributing rent vouchers personally in the poorest neighborhoods of San José on election day to get out the “Yes” vote, further tarnishing his legacy as a Nobel Prize for Peace winner.

In the United States, violation or selective enforcement of election laws and dysfunctional election technologies have become a too regular feature of our political life. But in Costa Rica, until CAFTA-DR became the principal issue of its presidential election and then the cause of this referendum, the Supreme Electoral Court was the guardian of democracy. The corruption of Costa Rican electoral institutions to advance the cause of “free” trade has removed a bulwark of democracy against an autocracy of trade rules. To the lack of positive economic performance from CAFTA-DR in its first year for all but its largest corporate beneficiaries, CAFTA-DR now dons a mantle of electoral and political illegitimacy.

Campaigners against CAFTA-DR are mulling over their political and legal options. An appeal to the Supreme Electoral Court to comply with election law may be filed, though with little hope of success. Appealing to the Organization of American States to investigate U.S. interference in a Costa Rican election likewise may be in vain. Opposition party leader Otton Solís will be proposing a legislative “mitigation agenda” to reduce some of the anticipated harm from CAFTA implementation. The possibility of a general strike, lasting weeks, to force the government to annul the illegitimate “Yes” vote and to remove officials who violated election laws, is not beyond the realm of possibility.

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Other Resources

Letter to President Bush on CAFTA-DR and Costa Rica from Senators Dorgan, Brown and Sanders. October 5, 2007 - <http://www.tradeobservatory.org/library.cfm?refid=100391>

Letter to Costa Rica Ambassador on CAFTA-DR from Senator Harry Reid and Congresswoman Nancy Pelosi. September 28, 2007 - <http://www.tradeobservatory.org/library.cfm?refid=100392>

Statement by Deputy U.S. Trade Representative John Veroneau on Costa Rica and CAFTA-DR. October 1, 2007 - <http://www.tradeobservatory.org/library.cfm?refid=100393>