CAFTA Is a Bad Deal for the United States

by Phyllis Schlafly *March 23, 2005*

Those who believe in American sovereignty and/or our unique principle of federalism are waking up to the damage that CAFTA will do to both. Its fate in Congress is uncertain and bipartisan opposition is growing.

The United States signed CAFTA (Central American Free Trade Agreement) in May 2004 with Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. On August 5, 2004, it was expanded to include the Dominican Republic (sometimes called DR-CAFTA).

U.S. Trade Representative Robert B. Zoellick sent a letter to the governors of 50 states in September 2003 asking them to "sign on" to the government purchasing regulations contained in all the trade agreements he was then negotiating. More than half replied with a letter of consent. When the draft text of CAFTA was first made available on January 28, 2004, these states discovered they were bound by the 2,400-page agreement and were specifically listed in Chapter 9. A third have since rescinded their support of CAFTA.

The governors are hearing from their state legislators who are beginning to understand how these foreign-trade agreements usurp the states' constitutional and legislative powers. These agreements take away state legislative authority over regulating utilities, controlling land use, and the granting of taxpayer-funded contracts.

Last fall, a WTO tribunal outlawed Utah's ban on gambling, opening the door to millions of dollars in penalties against all states with anti-gambling regulations. Antigua and Barbuda had charged that Utah's ban on gambling violated America's obligation not to discriminate against foreigners providing "recreational services."

CAFTA includes hundreds of pages of grants of vague authority to foreign tribunals. It wouldn't take a very activist foreign judge to read his own interpretation into language that requires us to use the "least trade-restrictive" regulations and to change our laws so they are "no more burdensome than necessary."

Meanwhile, states are feeling the heat from their constituents who discovered that some state agencies were paying out taxpayers' money to corporations that outsource their labor, particularly programmers, engineers and call-center workers. Anti-outsourcing bills have been introduced in 35 states.

It is clear that CAFTA would prevent any state that has "signed on" from giving preference to in-state contractors or prohibiting tax dollars from going to contractors who outsource jobs. Any Central American country could file a complaint, and the state would have to rely on its defense by the U.S. Government that has already agreed to CAFTA's rules.

If President Bush is successful in starting private accounts in Social Security, WTO rules would require us to let foreign money managers and insurers bid to manage our retirement.

It's not as though we weren't warned. In line with the ancient axiom that coming events cast their shadows before them, the shadows of CAFTA's harm have been visible for years from the anti-American decisions of the 1994 North American Free Trade Agreement (NAFTA) and the 1995 World Trade Organization (WTO).

The Geneva-based WTO's tribunals have ruled against the United States in 24 cases. Some of those decisions were very costly to the U.S. economy.

On February 6, 2001, a NAFTA international tribunal ordered the U.S. to open all U.S. roads to Mexican trucks. The ruling repeatedly referred to NAFTA as a "treaty," although NAFTA was never submitted to the U.S. Senate as a treaty, but instead was rushed through Congress by a simple majority vote (and the WTO was passed using the same treaty-ducking shenanigan).

Former Congressman (D-IL) and U.S. Court of Appeals Judge Abner Mikva, who served on a NAFTA panel in 1998, said, "If Congress had any idea what they were voting on back then, they never would have passed NAFTA."

The pro-CAFTA lobby tells us to relax and enjoy it because CAFTA is part of inevitable globalization. But trade agreements are not handed down from on high, and they are not free-market actions; they are man-made rules created by politicians and lobbyists to serve the interests of the corporations that pay the lobbying costs.

The pro-CAFTA lobby's promise of big trade with the CAFTA countries is a pipe dream. How can anyone expect customers for U.S. products from countries where half the people live below the poverty line and the hourly wages are often below 50 cents per hour? El Salvador's principal exports to the United States are its vicious MS-13 and other street gangs. Hundreds of these young criminals have brought an unprecedented level of murder, violence, mutilation, and brutality to cities all over our country.

The real purpose of CAFTA is to allow multinational corporations to exploit the abundance of cheap labor and the scarcity of taxes and safety regulations in CAFTA countries. CAFTA will increase our $58 billion job-killing U.S. trade deficit and further weaken our already suffering dollar.

Congress should defeat CAFTA and reassert the primacy of our Constitution, which states that only Congress has the power "to regulate commerce with foreign nations" and that treaties are valid only if ratified by two-thirds of Senators.