

March 8, 2003

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
1724 F Street, NW
Washington, DC 20508

Dear Ms. Blue:

On behalf of The Humane Society of the United States (HSUS), please accept the following comments on the Interim Environmental Review of the United States—Central America Free Trade Agreement (CAFTA). Pursuant to the notice in the *Federal Register*¹, we hereby comment on the Interim Environmental Review and provide additional information learned from many visits to the region. The HSUS prepared for the CAFTA capacity building program by spending time in each of the countries to gain a better understanding of the priorities and needs of each. Although these comments are submitted well after the published deadline, they nevertheless provide important information that should be considered.

The HSUS is the largest and most influential animal protection organization in the United States with over one million active members, eight million constituents and a significant global presence. The HSUS serves as a member of the Trade and Environment Policy Advisory Committee (TEPAC), advising both the United States Trade Representative (USTR) and the Environmental Protection Agency (EPA) on international trade and economic policy.

The HSUS is actively involved in Central America with a long-standing presence in Costa Rica and affiliations with several organizations in all of the Central American countries. The HSUS is participating in the capacity building efforts to provide needed technical assistance and expertise in a number of areas.

Representatives of the HSUS have spent a great deal of time in Central America over the last several months working with governments, non-governmental organizations (NGOs), corporations and other private interests to understand the needs and development priorities of each CAFTA country.

These comments address the preliminary findings of the interim environmental review and other issues that should be considered as the CAFTA is finalized in preparation for Congressional notification and consideration.

¹ *Interim Environmental Review of the United States-Central America Free Trade Agreement*, 68 Fed. Reg. 51822-51823 (Aug. 28, 2003).

Introduction

As set forth in the Interim Environmental Review, the Trade Act of 2002 sets forth certain environmental negotiating objectives: (1) ensuring that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;² and (2) seeking provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade.³ The question for the negotiations in the context of CAFTA is how can the parties ensure that trade and environmental policies are mutually supportive?

The Central American countries have enormous potential in a number of areas. However, years of civil war and strife have inflicted serious damage on the countries of Central America. The five CAFTA countries are linked geographically, politically and economically. If difficulties arise in one of the countries, the repercussions are often felt in neighboring countries. As such, any environmental, economic or capacity building program must be fashioned for the region if success is to be sustainable.

I. Scope of the Environmental Review

As set forth in the Interim Environmental Review the scope of the review discusses the possible direct impacts of the CAFTA on the U.S. environment resulting from prospective changes in the U.S. economy and environmental issues associated with possible transboundary effects of CAFTA.⁴ In addition, the environmental review takes account of global and transboundary impacts (where appropriate and prudent), possible effects on the U.S. environment resulting from economic effects in Central America and shared ecosystems and the extent to which the CAFTA might affect U.S. environmental laws, regulations, policies or international commitments.⁵

Although the primary focus of the environmental review is the direct impacts on the United States as a result of the CAFTA, strong consideration must be given to the overall impact CAFTA may have on our shared environment and ecosystems. The transboundary effects of unsustainable practices are well documented – smoke from agricultural fires, animal illnesses and the spreading of diseases, water, soil and air pollution are common problems in Central America with a direct and immediate impact on the United States.

² Trade Act of 2002 §2102(a)(5).

³ Id. at §2102(a)(7).

⁴ Interim Environmental Review U.S.-Central America Free Trade Agreement (August 2003) at 14.

⁵ Id.

A. Public Comments and Involvement

There are a substantial number of groups, non-governmental organizations (NGOs), private interests, corporations and government agencies involved in environmental issues and international trade and economic relations in Central America. Many of the groups in Central America are attempting to address these difficult issues in imaginative and innovative ways. A common problem in all of the Central American countries experienced by NGOs and others is a lack of adequate resources to address environmental issues and to promote sustainable development.

In Costa Rica for example, ZooAve, a non-profit animal rescue and rehabilitation facility, is working with the Costa Rican government to rescue, rehabilitate and release (where possible) wildlife that have been illegally removed from the wild and/or sold to private individuals in the country. In fact, the illegal trafficking in wildlife is largely within or between Central American countries.

SalvaNatura, an NGO in El Salvador, is responsible for management and oversight of El Salvador's national parks pursuant to a cooperative agreement with the government. This imaginative and innovative partnership helps to further both environmental protection efforts and conservation of natural resources.

In Nicaragua, the National Zoo is working to rescue and rehabilitate wildlife and other animals kept as pets or used as circus animals. The National Zoo is a misnomer because it is a rescue, rehabilitation and education center rather than a zoo. The National Zoo is operating on a very small budget with little or no assistance from the Nicaraguan government. In fact, the National Zoo desperately needs land to expand its facilities and the Nicaraguan government has refused to sell it land that it controls located adjacent to the Zoo.

There are numerous stories such as these that are unlikely to be reported in an environmental review but must be understood to gain a basic understanding of the environmental and conservation situation in Central America. NGOs and other groups are doing their best to preserve and protect the environment but there are not sufficient resources to adequately address all the needs. If the CAFTA is going to be sustainable and promote development in a manner that supports environmentally sound policies, then adequate resources (financial, human and technical assistance) must be invested in Central America.

B. Transboundary and Global Issues

Environmental policies and sustainable development should be a global priority. Environmental problems do not respect continental or national boundaries. Increased trade, investment flows and travel between the United States and Central America as a result of CAFTA, will make the truth of these statements all the more evident.

The United States and the Central American countries need to devise an environmental strategy much like the trade and development strategies being considered as part of the CAFTA. Environmental cooperation is an important and integral aspect of the CAFTA and should be treated as such.

1. Migratory Birds

Deforestation and forest degradation are great threats to birds and their habitat in Central America. Unsustainable agricultural practices and unsustainable timber production must be stopped if Central America is to recover from its present troubled situation.

Educational and outreach programs need to be increased to educate rural farmers and communities about unsustainable practices and how to transition to more sustainable methods of farming. Any educational and outreach program must also provide information and training concerning alternative opportunities for rural communities to benefit from sustainable tourism and other economic activity that supports wildlife and habitats.

2. Wildlife Conservation and Trade

Although deforestation and unsustainable agriculture practices are primary reasons for decreasing numbers of wildlife and habitat in Central America, the illicit trade in animals in Central America (sometimes wholly within a particular country) is also a serious problem. Even in the cases where countries are committed to protecting wildlife and habitat, lack of resources often prevents effective enforcement and protection efforts.

It may be unlikely that the CAFTA would cause an increase in illegal trade of wildlife or endangered species, but, that does not mean the issue does not need to be addressed by the Central Americans. Developmental policies that do not address the protection of wildlife and habitat as natural resources to be protected will have limited success and questionable sustainability.

Costa Rica, for example, promotes areas where tourists are able to observe native species in their natural habitat. The promotion of such regions illustrates the importance of wildlife and habitat to the domestic economy through sustainable tourism programs.

Despite the potential for economic benefit, Central America remains a region where wild animals, many endangered, are available for purchase – sometimes on the side of the highway. In visits to the region we observed monkeys chained to trees outside restaurants with little or no room to move.⁶ In fact, we were told of a restaurant that operates in Nicaragua where wild animals – including endangered species – are kept to be slaughtered for patrons wanting to experience an “exotic meal.”

Conservation of wildlife and habitat must be addressed through education as well as other means. The governments of Central America must make the protection and humane treatment of wildlife a priority in their development programs. Most tourists from the

⁶ Photographs of the monkeys are available for inspection.

United States, Europe or other developed countries would find the often cruel and inhumane treatment of wildlife unconscionable.

The laws concerning animal protection and welfare should be reviewed in each of the countries. Even where there are laws or regulations providing protections for wildlife or other animals, those laws are rarely enforced effectively. The Central American countries need capacity building and technical assistance to address shortcomings in the laws, regulations or other protections for animals and in the enforcement mechanisms and procedures.

The HSUS will provide a detailed analysis to each of the CAFTA countries concerning their participation in and compliance with CITES, and will include specific recommendations on ways in which to improve in both of these areas.

3. Shrimp/Turtle

Sea turtles in the Caribbean and Pacific are threatened with extinction. The interim environmental review addressed this issue “[s]even species of sea turtles are currently included on CITES Appendix I, and all appear in the International Union for the Conservation of Nature (IUCN) Red Data List of threatened species where two species are listed as critically endangered.”⁷

The protection of sea turtles is an important issue in the United States as evidenced by the protections enacted by Congress and high profile disputes at the World Trade Organization (WTO).⁸ Although sea turtles are in crisis throughout Central America (Atlantic and Pacific), there are a number of programs that provide some hope for the survival of these magnificent animals.

In Tortuguero, Costa Rica the Caribbean Conservation Corporation (CCC) runs a turtle station. The turtle station at Tortuguero provides important research and tracking information on sea turtles and records the activities of the turtles laying their eggs on the beach. Scientists, students and tourists all have the opportunity to venture onto the beaches at night to observe sea turtles nesting, laying and camouflaging their eggs. Not only is Tortuguero an important sight for sea turtles, it is an important ecologically minded tourist destination and, as such, an important area for tourism in Costa Rica. The popularity of Tortuguero illustrates that the protection of sea turtles can provide a much better economic existence than poaching or killing the endangered animals for food.

The HSUS and the CCC are partners in an effort to assist the other Central American countries in developing turtle conservation centers and/or stations that can also generate tourism revenue. El Salvador, Honduras and Nicaragua have expressed serious interest in establishing turtle conservation centers similar to Tortuguero, Costa Rica. Sea turtle

⁷ Interim Environmental Review U.S.-Central America Free Trade Agreement (August 2003) at 21.

⁸ For a complete history of the issue, see *Trade and Domestic Protection of Endangered Species: Peaceful Coexistence or Continued Conflict? The Shrimp-Turtle Dispute and the World Trade Organization*, Terence P. Stewart and Mara M. Burr, 23 WM. & MARY ENVTL. L. & POL’Y REV. issue 1, Fall 1998.

conservation efforts should have a priority position in the environmental cooperation agreement so that efforts such as these can be developed and sustained.

The HSUS believes that the United States should consolidate and coordinate sea turtle conservation efforts in Central America to boost the capacity building and technical assistance program for CAFTA and the environmental cooperation agreement. One mechanism to provide funding for such an effort would be to support Senator Jefford's bill to promote international sea turtle conservation efforts.⁹

Sea turtle conservation is an area where conservation activities and sustainable economic development efforts can overlap and be mutually supportive. The HSUS recommends that the United States, together with the CAFTA countries, devote time, expertise and resources to this most important endeavor.

4. Transboundary Air Pollution

Air pollution is a major problem in Central America. Unhealthy levels of air pollution and smoke are common features of the large cities. Agricultural fires cause enormous amounts of smoke and unhealthy air in the countryside and in cities. As the interim environmental review provided, "[e]ven so, the potential transport of pollution from fires in Central America could continue or even increase given the following conditions: no change in the widespread practice of burning agricultural wastes; and no change in the use of fire to clear trees and other vegetation."¹⁰

Unsustainable and environmentally harmful agricultural practices are far too common in Central America. These practices not only harm farmers and their families, but also harm people in cities, farm animals, companion animals, soil, air, water, habitat and wildlife. Agricultural reform with more sustainable, humane and environmentally sustainable practices must be undertaken if Central America is to protect its natural beauty, its biodiversity and its environment.

The HSUS will work with its partners in Central America to assist farmers, ranchers and other agricultural interests to be more humane and environmentally sustainable. In addition, The HSUS will work with its partners to assist them with access to the humane and environmentally conscious consumers and markets in the United States and elsewhere.

5. Marine Pollution

The interim environmental review correctly points out that:

Increases in land clearing and/or agricultural production in the less-developed eastern watersheds of Central America could accelerate soil erosion and increase polluted run-off (such as sediments, nutrients and

⁹See Marine Turtle Conservation Act of 2002, S. 2897, Report 107-303, 107th Cong. (2003).

¹⁰ Interim Environmental Review U.S.-Central America Free Trade Agreement (August 2003) at 23.

persistent organic compounds). This would increase existing pollution stress on coastal ecosystems and could also be expected to have adverse effects on regional ecosystems. The most vulnerable coastal resources include components of coral reef ecosystems (mangroves, sea grasses, back reef areas and coral reefs). Of particular concern are possible system-wide effects on the Meso-American Barrier Reef, the second largest barrier reef system in the world, and other coral reef areas adjacent to Central America.¹¹

The interim environmental report goes on to state that “we have been unable to identify specific links between the CAFTA and changes in land clearing or agricultural production in Central America.”¹² Recently in Costa Rica, run-off from either a large commercial banana or pineapple polluted the rivers and waterways near Tortuguero, killing several species and harming habitat for others.¹³ Although it is not clear that CAFTA will have an immediate or specific impact on such activity, the danger remains quite real that increased production in certain areas could exacerbate such negative effects.

The Central American countries have a unique and wonderful asset in the Meso-American Barrier Reef and the diversity of marine life therein. Activities should be undertaken to ensure that marine pollution is limited and eventually eliminated to the greatest extent possible. Sustainable and environmentally sound agricultural practices must be a priority for Central America so that its marine assets are provided an opportunity for survival.

6. Tourism

The interim environmental review accurately assesses the situation with respect to tourism in Central America, “[t]ourism has the potential to introduce new environmental stresses, as well as to create opportunities for sustainable development.”¹⁴ It is also quite true that tourism poses significant threats to the environment in each of the Central American countries – that is if tourism is promoted in a way that is unsustainable.

The HSUS agrees with the interim environmental review in that “. . . Central America’s environment is an important factor in attracting tourists to the region and thus justification and motivation for conservation.”¹⁵ The interim environmental review lists visits to rain forests, lowland jungles, beaches, and coral reefs as accounting for 25 percent of the visitors to Central America.¹⁶ This is quite true and the numbers and percentages are growing.

¹¹ Interim Environmental Review U.S.-Central America Free Trade Agreement (August 2003) at 25.

¹² Id.

¹³ For additional information on this incident please contact the Caribbean Conservation Corporation.

¹⁴ Interim Environmental Review U.S.-Central America Free Trade Agreement (August 2003) at 26.

¹⁵ Id.

¹⁶ Id.

The intersection between sustainable economic development, environmental protection and conservation efforts is quite clear when examining the issue and potential of tourism for Central America. Simply put, tourism has the potential to provide enormous economic benefits to the region if it is planned and managed in a sustainable fashion. Such planning and management will require a great deal of thoughtfulness, input from civil society and experts in a number of disciplines. Capacity building efforts and technical assistance is desperately needed on this issue in Central America.

As stated earlier, sound conservation and environmental protection efforts can be successfully combined with tourism and other economic development activities. The HSUS is working with the Central American countries to assess efforts aimed at turtle conservation, wildlife and habitat protections, and how those efforts could be tied to sustainable tourism projects. There are many opportunities for economic growth in the area of tourism but it must be remembered that tourists flock to Central America because of its natural beauty, its wildlife and habitat (jungles, rain forests, mangroves, mountains and beaches).

Cooperation activities should be undertaken to strengthen the ability of the Central American governments and ministries such as environment and natural resources, tourism and other to conduct environmental, wildlife and habitat impact assessments before tourism related activities are undertaken.

II. Environmental Cooperation

Environmental cooperation is important if other aspects of CAFTA (i.e., economic cooperation) are to be successful. There are many reasons for this, but, the most important one being that successful and sustainable economic development in Central America is dependent upon the level of efforts undertaken to preserve and protect the environment. Environmental protection in Central America and economic development are inextricably linked. For example, if the Central American countries are to develop a strong tourism industry (except for Costa Rica which has already achieved a high level of success) protection of the environment, biodiversity and habitat must be accomplished.

The text of the Environmental Cooperation Agreement is promising and hopefully there will be sufficient funds to adequately provide for the capacity building needs of each country in the area of environment, biodiversity protection and conservation.

III. Country-Specific Comments

At the outset it should be noted that each of the five CAFTA countries recognize the importance of protecting the environment and finding innovative ways to ensure that development is sustainable both environmentally and economically. Each of the countries faces unique challenges and problems and each has a slightly different perspective on how to address those challenges. The HSUS worked closely with each CAFTA country during the negotiating process and developed programs to address both the challenges and development priorities outlined by the countries. The following

comments address the current situation in only in Costa Rica and El Salvador due to the progress of our programs in those countries.

A. Costa Rica

Costa Rica, although widely recognized as a “green” country that preserves and protects its environment, nevertheless faces serious challenges in its efforts to promote environmental protection, conservation, biodiversity protection and habitat.

Wildlife Trade

One significant problem is the extraction of animals from the wild for pets in Costa Rica.¹⁷

All parrot species, primates and felids documented as pets in Costa Rica are endangered or vulnerable under IUCN (formerly International Union for the Conservation of Nature, now the World Conservation Union) criteria and/or national legislation (Solis et al. 1999). With the exception of white-faced capuchin monkeys, these species are all listed under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), indicating global concern about the potential harm to their wild populations from international trade. Local trade of these species to satisfy the illegal pet market poses an additional burden on the viability of their wild populations, in addition to other pressures such as habitat destruction. In Costa Rica the yearly extraction rate of parrots from the wild to satisfy the national demand for pets is in the range of 25,000 to 40,000 chicks (Drews 2000b). This figure does not take into account mortality during capture and transport, which would at least double the estimate (Perez and Zuniga 1998). This Costa Rican figure alone exceeds the volumes exported from Central America for the international pet market (Drews in preparation), just as Beissinger (1994) had anticipated.¹⁸

As the study above indicates, the problem in Costa Rica is mainly animals taken from the wild and kept as pets in Costa Rica rather than trading wild life in the international market. Costa Rica is working to address this problem through greater education and outreach.

The Caribbean Conservation Corporation (CCC) has a turtle station in Tortuguero, Costa Rica. The CCC works to protect and preserve some of the most endangered sea turtles through habitat protection, tagging and research. Not only has the CCC been successful in developing a first-rate turtle conservation facility, it has combined these efforts with economic development in the region through environmentally sustainable tourism. The

¹⁷ See Carlos Drews, *The State of Wild Animals in the Minds and Households of a Neotropical Society: The Costa Rica Case Study in The State of the Animals II*, D. Salem and A. Rowan, ed. (Humane Society Press) (2003).

¹⁸ Id. at 195, column 3.

CCC model could be replicated throughout Central America and is a wonderful example of how conservation efforts and economic development activities can -- if conducted in the right manner -- be mutually supportive.

Agriculture

Unsustainable agricultural practices have caused problems for Costa Rican farmers, animals, wildlife and protected areas. Conventional agriculture in Costa Rica is heavily dependent on chemicals and pesticides. These practices are not supportive of the efforts to protect the environment, biodiversity and habitat. In one instance that was well documented, run-off from a plantation contaminated a protected area resulting in the deaths of wild animals, many of which were endangered species.¹⁹ The HSUS spent time with several farmers who left conventional agricultural systems because they and their families became ill due to the overuse of chemicals and pesticides. In fact, many of these farmers banded together to form the organic movement of Costa Rica.

Deforestation

Although the situation in Costa Rica is not as dire as in other Central American countries, deforestation and loss of natural areas (rainforests, cloud forests, dry forests) is a major concern for the country. Costa Rica is working to protect its natural beauty and habitat but these efforts are challenged by unsustainable agricultural practices, clear-cutting and agricultural burning.

Another important challenge is development and its effect on the natural environment, biodiversity and habitat. Costa Rica must find a way to balance its development goals and investment opportunities with its longstanding efforts to protect and promote its environment.

B. El Salvador

El Salvador is still dealing with the consequences of its civil war and the destruction brought about by years of conflict. El Salvador has the highest deforestation rate in Central America with the smallest amount of land. According to a United Nations estimate, El Salvador has lost 95 percent of its natural forests.²⁰ Despite these bleak facts, El Salvador is working to improve its environment and protect what is left of its natural beauty.

El Imposible national park in Western El Salvador is a shining example of what can be accomplished when a number of groups work together. The park supports native and migratory birds and other wildlife as well as providing economic activity to the surrounding communities.

¹⁹ For a complete explanation of this event visit the Caribbean Conservation Corporation's website or contact the CCC's representatives in San Jose, Costa Rica.

²⁰ See *On Your Own in El Salvador* 2nd ed. (2001).

El Salvador is in the process of enacting laws to protect more of its land and natural habitat.

The HSUS plans to assist El Salvador in its conservation, biodiversity and habitat protection efforts in its national parks and throughout the country.

IV. Trade Capacity Building

Trade capacity building is an important tool to assist the countries of Central America to develop in a sustainable manner. The trade capacity building talks held parallel to the trade negotiations were a progressive and innovative way to address the development needs of developing countries in the context of a trade negotiation. This effort assisted the Central American countries in identifying the development priorities and the development needs prior to the conclusion of the trade agreement.

A better coordinated approach to development both for the recipients and the donors is urgently needed. The CAFTA effort was a great first step but much more needs to be done. Although the idea of having national strategies and priorities identified prior to the start of the trade talks did focus the countries attention on needs, the donors were not as quick to react to the needs expressed by the countries. This was understandable given the fact that trade capacity building was new to all the parties (recipients, donors, governments and non-governmental participants).

The lessons learned in CAFTA need to be digested and the errors made corrected quickly. There needs to be much greater coordination among the donor community and donors need to show greater flexibility in addressing the needs of developing countries.

Non-governmental organizations, both non-profits and private sector representatives, should strive to take a more active and constructive role in capacity building efforts. The CAFTA countries came to the negotiating table with open minds and were open to innovative ideas and initiatives. The private sector and NGOs should to be more open to the idea of offering assistance to developing countries.

V. Conclusion

The countries of Central America recognize the urgent need to preserve and protect their environments and to ensure a better future for their people. Sufficient resources both financial and human are needed to provide the necessary tools to accomplish the economic development desired in a sustainable manner. Central Americans have the desire, creativity and incentive to find solutions to the many problems facing the region they simply need assistance to succeed in these efforts.

The CAFTA may not be the answer to all the problems of the region but it will provide some measure of hope, opportunity and stability for both the United States and Central America. The HSUS supports CAFTA and urges others to support this agreement.