

Access to Affordable Drugs: Children's Health First

UN Committee Warns El Salvador that IP Rights in CAFTA Must Not Undermine Children's Rights

June 2004

El Salvador was warned this week by a UN Committee that intellectual property (IP) rights in trade agreements should not undermine El Salvador's human rights commitments towards children.

The UN Committee on the Rights of the Child, in a document made public this week, expressed strong concern for the "potentially negative impacts" of IP rules on access to affordable drugs.

It also strongly recommended that El Salvador "systematically consider the best interests of the child" when negotiating or implementing trade-related IP rules into national law.

Most importantly, it demanded that El Salvador conduct an impact assessment of IP agreements "on the accessibility of affordable generic medicine, with a view to ensuring children's enjoyment of the highest attainable standard of health."

These strong recommendations come just as El Salvador is posed to begin ratification of the Central American Free Trade Agreement (CAFTA), whose final text was signed on 28 May 2004.

This regional free trade agreement between Central American countries (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) and the United States has elevated IP rules to an unprecedented level that risks undermining human rights obligations.

The UN Committee on the Rights of the Child made these recommendations as an independent organ which supervises the implementation of the Convention on the Rights of the Child. This treaty is the most ratified to date of all principal international human rights treaties, with 192 ratifications, the United States being markedly absent.

As a party to this treaty, El Salvador is obliged to take steps to ensure that the best interests of the child are taken into account at all levels of decision-making and that the right to health, of which access to affordable drugs is a fundamental element, is implemented.

The fact that El Salvador has signed CAFTA, a secretive trade agreement with dangerously high levels of IP protection, risks undermining El Salvador's ability to obtain cheaper generic drugs for children and fulfill its human rights obligations.

It is therefore necessary to delay the ratification process and demand that El Salvador undertake an impact assessment of the effect of CAFTA's IP rules on access to affordable medicines and the fulfillment of the child's right to health.

3D encourages civil society to use this UN recommendation as a tool in campaigns, because human rights, especially the rights of the poorest and most marginalized, must not be sidelined by trade interests.

Contact: Davinia Ovet, Programme Coordinator, 3D -> Trade - Human Rights - Equitable Economy. Tel: + 41 22 320 2121, Email: dovett@3dthree.org

Caroline Dommen, Director, 3D -> Trade - Human Rights - Equitable Economy,
Tel: +41 22 738 7207, Cell: +41 79 412 7207, Email: cdommen@3dthree.org