

## **United Nations Children's Committee Warns About FTA Threats to Access to Affordable Medicines and Social Services for the Poor**

### **Information Note 2**

**June 2005**

The UN Committee on the Rights of the Child in recommendations made public in early June warned that Free Trade Agreements (FTAs) may negatively affect access to affordable medicines and social services for the poor.

The Committee raised these concerns as a number of the countries monitored at its 39<sup>th</sup> Session, from 16 May -3 June 2005, are either planning, negotiating or in the process of ratifying FTAs. These countries include Costa Rica, Ecuador, Nicaragua and the Philippines.

The Committee monitors the application of the Convention on the Rights of the Child – the most widely applicable human rights treaty in the world. All countries have ratified it, apart from the US and Somalia.

States have an obligation to take into account the best interests of the child at all levels of decision-making, including trade policy, and are required to fulfil their obligations under the Convention. These obligations include access to affordable medicines and health care services, under the child's right to health (article 24) and the child's right to life (article 6).

It is important that civil society encourage these States, and others that are negotiating FTAs, to take into account their human rights obligations at all times.

#### **1. Costa Rica and Nicaragua: impact assessment of DR-CAFTA needed in order not to undermine children's rights**

Costa Rica and Nicaragua are countries that have signed, but not yet ratified, the US - Central American Free Trade Agreement (US-DR CAFTA). Other parties to this FTA include the Dominican Republic, El Salvador, Guatemala and Honduras.

During the consideration of Costa Rica, the Committee experts asked whether there had been an impact assessment of the US-DR CAFTA on the enjoyment of children's rights. Costa Rica replied that a national consultation open to all stakeholders be organized in order to assess the impact of the FTA. They affirmed that if the FTA has no positive impact on human rights, it will not be ratified. Costa Rica is bound to take measures to implement this commitment expressed in the session.

Regarding Nicaragua, the Committee raised concerns about the impact of intellectual property (IP) rules in the FTA. They recommended that Nicaragua “ensure that the Free Trade Agreements do not negatively affect the rights of children, e.g. in terms of access to affordable medicines.”

## 2. Ecuador: US-Andean FTA negotiations must take into account access to affordable medicines and social services

Ecuador is negotiating a US-Andean FTA, which includes Peru and Colombia. The Committee was concerned that proposed rules in the FTA, especially IP rules, may undermine the ability of these States to comply with their obligations under human rights law. The Committee was also concerned “that the Free Trade Agreements, currently being negotiated, may also negatively impact the allocation of budgets for social services.”

In view of this, the Committee strongly urged Ecuador to “ensure that Free Trade Agreements do not negatively affect the rights of children, inter alia, in terms of access to affordable medicines, including generic ones. In this regard, the Committee reiterates the recommendations made by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.100).”

This makes reference to other UN Committee recommendations made in June 2004, urging Ecuador to “conduct an assessment of the effect of international trade rules on the right to health for all and to make extensive use of the flexibility clauses permitted in the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (the TRIPS Agreement) in order to ensure access to generic medicine and more broadly the enjoyment of the right to health for everyone in Ecuador.”

## 3. The Philippines: any future FTA negotiation must not undermine access to affordable medicines

The Philippines is negotiating a number of trade agreements and is planning to negotiate a US-Philippines FTA. If negotiations do take place with the US, there is a high risk that strict IP rules will be imposed that will undermine the Filipino government’s ability to ensure access to affordable medicines for all, an inherent part of the child’s right to health and right to life.

The Committee therefore strongly urged the Filipino government to “make use – in the negotiations of a Free Trade Agreement – of all the flexibilities reaffirmed by the Doha Declaration and the mechanisms at its disposal to ensure access to affordable medicines in particular for the poor and most vulnerable children and their parents.”

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