



FRIENDS OF THE EARTH INTERNATIONAL FREE TRADE AND PLANTATIONS

Bilateral or multilateral free trade agreements have been signed or are being negotiated in many countries. All these agreements have impacts on the peoples, nature and the society. At the same time, they represent legal frameworks that perpetuate a development model that promotes exploitation, unfairness and inequality, while securing rights for corporations.

These agreements are closely linked with tree plantations. During the FTAA negotiations we had already warned on the possibility of an increase of these plantations. We said the same in 2006 in the WTO negotiations, when they wanted to include the opening of certain forestry products, such as timber and pulp. Besides, free trade favors and is based on a form of production that relies on monoculture plantations, since it entails producing large amounts of homogeneous products for export. On the other hand, the way in which investments and services are defined under these free trade arrangements can end up promoting these plantations:

- most trade agreements do not include a specific definition of the concept of services, and they refer to the one included in the WTO General Agreement on Trade in Services (GATS), which is extremely broad and ambiguous. “The GATS covers virtually any action, rule or regulation that has a direct or indirect effect on trade in services. (...) This broad nature of GATS threatens to seriously limit the capacity of national governments to carry out actions or policies for the sake of social, environmental or development priorities”;
- something similar happens with the concept of investment. The criteria used to define it are equally ambiguous, to the point that it has not prevented it from extending its scope beyond the traditional limits. This has been the trend in the implementation of the Investment Chapter of the North American Free Trade Agreement (NAFTA), under which the tribunals created to review investors' claims have labeled as investments, aspects such as a corporation's mere expectation of gaining a market share;
- all provisions included in the investments and services chapters are applicable to all the activities that qualify as services and investments – regardless of whether they are mentioned in the agreement or not- with the only exception of those activities that are explicitly mentioned in the annex as exceptions, and only for those obligations that it explicitly says are not applicable. That is to say, if a measure on a certain service is not included there, it is assumed that it should comply with the opening and deregulation obligations imposed by the agreement. If it is included in the lists, it will only be exempted from the obligations expressly mentioned.

In this way, a tree plantation can be considered as an investment, and even as a service. This can happen, for instance, with agrofuels, which can also enjoy certain tariff benefits, which makes them more attractive.

There is also a series of rules included in these free trade instruments that favor plantations. For example, if an investor buys land in Central America to log a forest and plant trees and the State prevents him from doing so, this government action could be considered as an expropriation. This can happen because the investor expects a return on his investment, and when it is not allowed to make its investment under the rules of the free trade agreement between these countries, the US and Dominican Republic, he is considered to be deprived from his expected returns. This action is considered as expropriatory.

Bibliography

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