

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: AMR 34/010/2005 (Public)
News Service No: 054
8 March 2005

Guatemala: The impact of the Free Trade Agreement on human rights should be assessed by Congress

Published

The Guatemalan Congress should seriously assess the impact the Free Trade Agreement has on the human rights of the population, especially the right to health, Amnesty International said today.

In a letter sent to Congress on the occasion of its vote on the Free Trade Agreement (FTA), Amnesty International expressed its concern about restrictions on the manufacture of generic medicines.

"It is believed that, by prohibiting the use of the test data needed to approve new drugs for five years and extending the period of patent protection, the implementation of the proposed FTA will restrict the manufacture of generic medicines," said Amnesty International.

"If the Guatemalan State ratifies the FTA, thereby accepting the restrictions on the production of generic medicines, and as a result the access of poorer sections of society to medicines is reduced, it could be in breach of its international and national commitments."

According to its international commitments, the Guatemalan Government has a duty to respect, protect and realize the right to health. These commitments involve progressively realizing the right to health as well as abiding by immediate minimum obligations, including access to essential drugs.

In its letter, Amnesty International called on the Guatemalan Congress to carry out a thorough assessment of the impact of the Free Trade Agreement on human rights, especially the right to health, and to ensure that no aspect of the agreement contravenes any of these basic rights.

Background Information

The Guatemalan Government, together with other Central American Governments and the Government of the United States, signed the Free Trade Agreement in May 2004. The Government of the Dominican Republic joined the FTA in August 2004. Ratification of the Agreement with the United States is being debated prior to a vote by the Guatemalan Congress.

Articles 93, 94 and 95 of the Guatemalan Constitution address the right to health. Article 93 recognizes it as a basic right, article 94 reaffirms that the State has an obligation to safeguard the health

and social welfare of all inhabitants and article 95 defines health as a public asset, the conservation of which should be safeguarded by everyone.

As a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other international and regional human rights instruments, Guatemala has promised to respect, protect and realize the right to health. This commitment includes not only the obligation to progressively realize the right to health but also immediate obligations, including minimum core ones. The UN Committee on Economic, Social and Cultural Rights, the body which monitors the ICESCR, established in its General Comment 14 (paragraph 43) that those minimum core obligations include access to essential drugs.

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