

Please Oppose the Peru FTA, Which Could Lock In Peru's Failed Social Security Privatization

October 23, 2007

Dear Senator/Representative:

Our organizations are dedicated to preserving and strengthening Social Security here in the United States so that everyone has a safe economic platform on which to build in times of need. As such, we are vehemently opposed to any efforts to privatize Social Security. **Today we write to urge you to oppose the proposed Peru-U.S. Free Trade Agreement (FTA), which includes provisions that could lock in that country's failed Social Security privatization.**

When discussions about modifications to the Bush-negotiated Peru FTA began last winter, Peruvian labor and retiree organizations and a Peruvian archbishop wrote Democratic trade leaders, requesting that they include changes to remedy the FTA's threat to their efforts to reverse the partial privatization of their nation's Social Security system. The privatization, which established Private Retirement Accounts operated by for-profit institutions similar to President Bush's proposal defeated by Congress, was imposed during the Fujimori quasi-dictatorship. A bevy of World Bank and academic reports describes how Peru's Private Retirement Account providers are taking large fees while diminishing income security for Peruvian citizens.

In a May 11, 2007 letter to House Speaker Nancy Pelosi, the presidents of Peru's two labor federations, along with retiree and health advocates, elaborated how the Peru FTA could hinder efforts underway in Peru to move their Social Security system away from a failed privatized plan and back toward a public system.

In brief, the problem arises because of ambiguous provisions in the FTA's Financial Services and Investment Chapters. The Financial Services Chapter includes an Annex allowing Peru to terminate "*market access*" in the financial service of Private Retirement Accounts without violating its FTA obligations *to the U.S. government*. However, that exception does NOT protect Peru from private foreign investors, who are empowered to enforce their FTA rights directly in investor-state tribunals at the World Bank and UN, suing the Peruvian government for compensation for the loss of future revenue if the privatized plan is replaced by a public Social Security system. Indeed, the FTA's Investment Chapter – which establishes these excessive foreign investor rights – explicitly notes: "*For greater certainty, nothing in this Chapter shall be construed to impose an obligation on a Party to privatize any investment that it owns or controls or to prevent a Party from designating a monopoly, provided that, if a Party adopts or maintains a measure to privatize such an investment or a measure to designate a monopoly, this Chapter shall apply to such measure.*" (emphasis added, Chapter 10, fn 1.)

For instance, Citibank is a large investor in one of Peru's Private Retirement Account providers, ProFuturo. As such, the FTA would newly empower Citibank to claim a large monetary award in a World Bank or UN tribunal if Peru were to "nationalize" Citibank's investment in private retirement accounts.

Given Peru is a very poor country, the prospect of having to pay a large sum, in hard currency as required by the FTA, for the right to restore a public Social Security system would have a severely chilling effect on Peruvians' hopes to restore a public Social Security system that better protects and provides for their seniors. As the Peruvian groups themselves noted in their letter to Speaker Pelosi:

“It goes without saying that, for a poor country like Peru, the mere existence in the FTA of these excessive rights for foreign investors – coupled with the possibility that they will actually use them to demand enormous compensation if it happened – would chill any effort to reverse the privatization of the national social security system.”

Social Security is a critical public service, and providing citizens with this basic security is a key domestic policy priority – in both the United States and Peru. Peru must not be hindered by an FTA in its ability to make decisions about the future of Social Security – including balancing the broad benefits to society with any corresponding limits on corporate profits – without being constrained by “trade” rules that overreach into non-trade, domestic affairs.

We are concerned, therefore, that this Peru FTA is not only a threat to the future well-being of Peruvian citizens, but also a dangerous precedent for the United States and world. Social Security, and the essential protection it provides, should not be limited by U.S. trade policies – either in the United States or in our trading party countries.

We urge Congress to reject the Peru FTA and begin a course toward a fair trade model.

Sincerely,

Americans for Democratic Action
Arizona Advocacy Network
Campaign for America's Future
Citizen Action/Illinois
Citizen Action of New York
Citizen Action of Wisconsin
Colorado Progressive Coalition
Connecticut Citizen Action Group
Florida Consumer Action Network
Georgia Rural Urban Summit
Iowa Citizen Action Network
Labor-Religion Coalition of NY state
Maine People's Alliance
Michigan Citizen Action
Missouri Progressive Vote Coalition
Oregon Action
NDPeople.org
NETWORK: A National Catholic Social Justice Lobby
New Hampshire Citizens Alliance
New Jersey Citizen Action
New Mexico PACE
Progressive Maryland
Public Citizen
Rhode Island Ocean State Action
Tennessee Citizen Action
United Vision for Idaho
USAction
Washington Community Action Network
West Virginia Citizen Action Group