

Initial Backgrounder and Talking Points: Trade “Deal” Announced May 10, 2007

On May 10, 2007, in a surprise press conference late in the day, Bush administration officials, Speaker Pelosi, House and Senate Democratic and GOP trade committee leaders and New Democrat Coalition members unveiled the outline of a “deal” to facilitate new “bipartisan cooperation” on trade. The “deal” covers changes to certain provisions of Bush-negotiated “Free Trade Agreements” (FTAs) with Peru, Panama, Colombia and Korea. The participants had varied answers regarding whether the “deal” would facilitate passage of all four pending FTAs or just the Peru and Panama FTAs. Legal texts of proposed amendments to the FTAs are not public. Indeed, the participants revealed that the “deal” is on the conceptual (rather than the legal text) level.¹ However, a detailed description of the “deal” was made available by the Ways and Means Committee, and the Office of the U.S. Trade Representative (USTR) now has fact sheets on its website describing the “deal,” making a preliminary analysis possible.

- **No union, environmental, consumer or small business group supports the deal while all of Big Business does.** (See details on various groups’ positions below).
- **Without seeing new legal text, it is clear the “deal” is unacceptable, because the official summary shows the absence of numerous vital changes needed to “de-NAFTA-ize” the Bush-negotiated pacts.** Whatever the legal text reveals has been done to improve labor standards, this is no “deal” for working Americans because it fails to remove the many core NAFTA elements contained in these Bush-negotiated agreements that suppress U.S. wage levels, promote off-shoring of manufacturing jobs and expose our environmental laws to attack in foreign tribunals.
- **Instead of delivering on the public’s demand for a new trade policy, the “deal” could facilitate more Bush trade deals that contain the worst provisions of NAFTA and CAFTA.** The American public voted in 2006 against staying the course on Bush’s failed trade policy.² Adding new labor and environmental provisions is a step towards a new trade policy, but pasting such provisions onto a NAFTA-style pact is like putting truly tasty frosting on a poisonous cake.
- **Even if the “deal” is 100% implemented, resulting trade pacts would extend the NAFTA-CAFTA model.** The “deal” simply fails to even address many damaging elements of the NAFTA model that need to be eliminated from *all* future trade agreements. The majority of essential “fixes” listed months ago by labor, consumer and other organizations that are necessary to de-NAFTA-ize the Bush FTAs sufficiently to avoid those groups’ opposition was not addressed or fixed in the “deal.”
- **The “deal” does absolutely nothing to address the FTAs’ ban on anti-off-shoring and Buy America policy.** How could Democrats fighting to expand and preserve such important U.S. policies support a trade agreement that explicitly bans the very same policies? Fixing this problem was a key labor demand. Jobs created with government money are some of the only U.S. jobs Congress has direct authority to safeguard for U.S. workers in the global economy.
- **The “deal” does absolutely nothing to address the FTAs’ threat to federal and state prevailing wage guarantees.** Absolutely ignored is labor’s key demand to remedy the FTAs’ strict limits on the qualifications – such as requiring companies to agree to pay prevailing wages as a condition for qualifying to bid – governments can set for government contracts. These same provisions would also subject to challenge laws that forbid government contracts with companies doing business in the Sudan or Burma or companies that have terrible law or environmental records.
- **Nothing was done to fix the Peru FTA terms that would allow Citibank or other U.S. investors providing “private retirement accounts” to sue Peruvian taxpayers if Peru reverses its failed Social Security privatization.** Peru’s labor federations consider this FTA provisions to be a major

impediment to reversing their failed privatization. Seeing Democrats beat back the Bush proposal here, Peru's labor federations asked Democratic trade leaders to fix this problem unaddressed in the "deal."

- **The "deal" fails to remove the outrageous NAFTA "Chapter 11" foreign investor privileges that create incentives for U.S. firms to move off-shore and expose our most basic environmental, health, zoning and other laws to attack in foreign tribunals.** The Bush-negotiated FTAs would extend the NAFTA foreign investor rules which have resulted in nearly 50 challenges of federal and state laws, leading to over \$36 million in taxpayer funds from NAFTA nations paid to corporations. The United States has spent millions in legal costs to defend against such attacks. The "deal" fails to alter *any* of the FTAs' foreign investor provisions. Rather, it calls for adding a sentence in the non-binding preamble of the investment rules that repeats the 2002 Fast Track non-binding negotiating objective about not giving foreign investors in the United States greater rights than U.S. firms. Yet, the *binding* language in the Peru, Panama and Colombia FTAs is identical to CAFTA's – which Democrats attacked for not meeting the "no greater rights" standard. USTR said then and says now that its extreme foreign investor protections meet the standard, which is why USTR notes the current FTAs do not require amendment: "We believe that the four pending FTAs (as well as the other FTAs we have concluded in the past five years) fully achieve this [no greater rights] objective of the Trade Act..."³
- **The "deal" does absolutely nothing to address the FTAs' NAFTA-style agriculture rules that will foreseeably result in widespread displacement of peasant farmers – increasing hunger, social unrest, and desperate migration.** According to Peruvian and Colombian government reports, the FTAs' agriculture rules will lead to an increase in drug cultivation, trade and violence.⁴ After similar NAFTA agriculture rules were implemented, immigration from Mexico increased 60 percent⁵ as 1.3 million peasant farmers lost their livelihoods to imports of subsidized U.S. commodities.⁶
- **The "deal" does absolutely nothing to address limits on imported food safety and inspection.** Even as we face a crisis over the safety of imported food,⁷ the FTAs contain language that requires us to accept imports of meat that does not meeting our safety standards.
- **The "deal" does absolutely nothing to address the FTAs' threat to recycled content and renewable energy procurement policies.** The "deal" does nothing to safeguard such federal and state procurement laws that would be subject to challenge under the Bush FTA language.
- **The "deal" does not specify if the agreements will be renegotiated; USTR Schwab suggests fixes in implementing legislation:** The agreement has been represented as requiring "legally binding" labor and environmental standards in FTAs, but there remains no consensus on whether that means reopening those FTAs already signed. *Inside U.S. Trade* reporting on the announcement news conference notes: "House Ways and Means Trade Subcommittee Chairman Sander Levin said he does not see how there can be a legally binding obligation without reopening already signed agreements. But Schwab said for Peru and Colombia, the U.S. could insert the obligations into the implementing language... Similarly, Ranking Ways and Means Committee Member Jim McCrery (R-LA) said the threshold of legally binding could be met by either having Peru reopen its agreement or finding another way."⁸
- **The "deal" provides no assurances that the Bush administration's offensive concept of a U.S. FTA for Colombia, the country with the world's highest rate of labor unionist assassinations,⁹ will be forestalled but notes that further action is required in addition to the terms of this deal.** The participants in the announcement news conference stated that work was underway to be able to build on the "deal" so as to facilitate consideration of even the Colombia deal. According to a statement in a press release from the Ways and Means Committee, Trade Subcommittee Ranking Member Wally Herger said the "deal" paved "a way forward on Panama, Peru, Colombia, South Korea and even reauthorization of TPA"¹⁰ (Fast Track). In a nearly identical vein, President Bush said the "deal"

provided “a clear path for advancing our proposed free trade agreements with Peru, Colombia, Panama, and South Korea.”¹¹ *The Miami Herald* reported Ways and Means Chairman Charles Rangel saying, in reference to the U.S. political problems created by Colombia’s unionist murder rate, that, “We’re working to find out what language and what actions we can take to remove that impediment.”¹² In sharp contrast human rights groups and labor unions say there is no acceptable FTA deal for Colombia.

- **The process for formulating demands, negotiating a “deal” and “accepting” it excluded most Democratic House members. Democratic Party constituents, such as labor, were also excluded.** Neither most Democratic House members nor the organizations whose members care most about trade had opportunities for meaningful input during the process or were allowed to see the various proposals (or the resulting texts) developed during the negotiations with the administration. In late March, the Democratic Caucus was provided a one-page summary of a proposal, but provided no opportunity for discussion. Most Democratic House members learned that there even was a “deal” via a press release announcing the news conference to praise the “deal.” The news conference, chaired by Speaker Pelosi, was attended by two Bush administration Cabinet-level officials, all four co-chairs of the New Democratic Caucus, Chairmen Rangel and Baucus and their GOP counterparts, and CAFTA-15’er Rep. Gregory Meeks among others. Noticeably missing were any freshmen Democrats, most of whom were elected by promising to stop the Bush trade attack on the middle class, and the many House and Senate Democratic leaders and chairs who have consistently opposed the NAFTA-CAFTA trade model.
- **Big Business interests celebrated the “deal” while no labor union, consumer, environmental or small business group supports it. Who says what about the “deal” – (taken from David Sirota’s Working Assets blog at <http://blog.workingassets.com/sirota/>):**
 - **U.S. CHAMBER OF COMMERCE AND NAM SUPPORT:** Tom Donahue, President of the Chamber noted “we are encouraged by assurances that the labor provisions cannot be read to require compliance with ILO Conventions.”¹³
 - **REUTERS - BIG BUSINESS OVERJOYED:** Reuters reports that most of the corporate lobbying community in Washington, D.C. is praising the deal.¹⁴
 - **DLC APPLAUDS “DEAL” AS FIRST STEP TO GIVING BUSH FAST TRACK:** The Democratic Leadership Council – the corporate-funded group that has long supported NAFTA-style pacts – issued a statement praising the deal, and saying it is “good news” that the agreement is a step towards Democrats passing President Bush’s request for reauthorization of “fast track” trade authority.¹⁵
 - **TEAMSTERS PRESIDENT JAMES HOFFA “WE WILL FIGHT LIKE HELL TO OPPOSE THIS SHORTSIGHTED AGREEMENT”:** President Hoffa’s press release states: “To my great disappointment, Democratic leaders in the House joined with the Bush administration yesterday to announce a trade ‘deal’ that sells out American workers. I am baffled as to why there is such eagerness to give this president – who is unwilling to enforce current labor and trade laws – a victory by continuing to pass more NAFTA/CAFTA-like trade models that send good-paying jobs overseas... Therefore, this ‘deal’ is NO ‘deal’ for the Teamsters or American workers, and we will fight like hell to oppose this shortsighted agreement.”¹⁶
 - **CHANGE TO WIN PLEDGES TO FIGHT THE DEAL:** The Change to Win Coalition, representing 6 million workers, released a statement saying “we are disappointed that House Democratic leaders joined with the Bush Administration yesterday to announce a trade deal that is more free than fair... [the “deal”] fails to address how to protect U.S. jobs or create new ones, undermines our prevailing wage and Buy America laws, and hands foreign firms operating here more privileges

over U.S. companies. [The “deal”] opens the door for subsequent harmful trade policies that resemble NAFTA/CAFTA.”¹⁷

- **AFL-CIO SAYS “DEAL” FAILS TO ADDRESS MAJOR PROBLEMS:** The AFL-CIO issued a statement praising Pelosi and Rangel for making “progress on workers’ rights and the environment” but said “we remain concerned that the agreement fails to adequately address issues related to the outsourcing of U.S. jobs and the ability of foreign corporations to challenge U.S. laws, among others.”¹⁸
- **STEELWORKERS CONCERNED ABOUT ENFORCEABILITY OF LABOR PROVISIONS:** “We are deeply disappointed that neither the Democratic caucus nor the Labor Movement were fully briefed about the details of the proposed agreement before those who negotiated it were publicly proclaiming its virtues... We will withhold judgment on how much progress, if any, has actually been achieved. But, from what we have learned so far, unlike protections provided for corporations and intellectual property, the enforcement of labor and environmental standards would be left to the devices of the Bush administration [meaning] we will be hard pressed to support this agreement.”¹⁹
- **DOMESTIC MID-SIZED MANUFACTURERS SAY “DEAL” IS “A SELL OUT”:** The U.S. Business and Industry Council – the group that represents mid-sized domestic manufacturers – released a statement condemning the deal: “The ‘New Trade Policy’ compromise announced yesterday by House Democratic leaders, House Republicans, and the Bush administration will become a simple sell-out of U.S. producer and worker interests if not quickly accompanied by more fundamental changes in America’s global trade strategy.”²⁰

ENDNOTES

¹ According to *Inside U.S. Trade*, “McCrery emphasized that House and Senate Democrats and Republicans have reached a conceptual agreement with the administration, and still have to work on putting this agreement on paper. “Conceptually, we are there, we know what we want to say,” McCrery said. “It is a matter of writing it down” and making sure that the final language reflects the conceptual agreement, he said.” See “Schwab, Congress Announce Labor, Environment FTA Deal,” *Inside U.S. Trade*, May 11, 2007.

² Chris Slevin and Todd Tucker, “The Fair Trade Sweep,” *The Democratic Strategist*, January 2007.

³ http://ustr.gov/assets/Document_Library/Fact_Sheets/2007/asset_upload_file146_11282.pdf.

⁴ “Colombian Agriculture Before the Free Trade Agreement with the U.S.,” Min. of Agriculture and Rural Development, July 2004; see also Hugh Bronstein, “Colombia must be firm in U.S. trade talks – Stiglitz,” *Reuters*, October 21, 2004; and “U.S., Peru trade accord receives mixed feelings,” *The Miami Herald*, April 13, 2006.

⁵ Jeffrey S. Passel and Roberto Suro, “Rise, Peak and Decline: Trends in U.S. Immigration 1992 – 2004,” Sept. 27, 2005, Pew Hispanic Center, at 39.

⁶ John Audley, Sandra Polaski, Demetrios G. Papademetriou, and Scott Vaughan, “NAFTA’s Promise and Reality: Lessons from Mexico for the Hemisphere,” Carnegie Endowment for International Peace Report, Nov. 19, 2003.

⁷ Alexei Barrionuevo, “Food imports often escape scrutiny,” *New York Times*, May 1, 2007.

⁸ “Schwab, Congress Announce Labor, Environment FTA Deal,” *Inside U.S. Trade*, May 11, 2007.

⁹ Patrick Markey, “Colombia labor killings under U.S Democrat scrutiny,” *Reuters*, May 1, 2007.

¹⁰ Reps. Charles Rangel (D-N.Y.) and Jim McCrery (R-La.), Congressional Press Release, May 10, 2007.

¹¹ “President Bush Pleased by Bipartisan Free Trade Agreement,” White House Press Release, May 10, 2007.

¹² Pablo Bachelet, “Bipartisan deal puts trade back on track,” *Miami Herald*, May 11, 2007; see also “Rangel, Levin Say Conceptual Agreement Not Enough For Colombia FTA,” *Inside U.S. Trade*, May 11, 2007.

¹³ “U.S. Congress, government in trade standards deal,” *Agence France Presse*, May 11, 2007; Ian Swanson, “Despite deal, future of some trade accords is uncertain,” *The Hill*, May 14, 2007.

¹⁴ Doug Palmer, “Democrats, Bush strike deal on trade,” *Reuters*, May 10, 2007.

¹⁵ http://www.ndol.org/ndol_ci.cfm?kaid=131&subid=207&contentid=254299.

¹⁶ http://www.teamster.org/07news/nr_070511_1.asp.

¹⁷ <http://www.changetowin.org/for-the-media/press-releases-and-statements/labor-opposes-bush-congress-trade-deal.html>

¹⁸ <http://www.aflcio.org/mediacenter/prspptm/pr05112007a.cfm>

¹⁹ <http://uswa.org/uswa/program/content/4016.php>

²⁰ http://www.americaneconomicalert.org/view_art.asp?Prod_ID=2762