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For Immediate Release:
April 28, 2011

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As Obama Meets with Panama's President Martinelli, U.S.-Panama Trade, Tax Agreement Folly Comes into Focus

Statement of Todd Tucker, Research Director, Public Citizen's Global Trade Watch

As President Barack Obama meets with Panamanian President Ricardo Martinelli today, the folly of Obama's recent push to ratify former President George W. Bush's leftover U.S.-Panama trade deal makes it evident that Obama has not learned from past trade policy mistakes.

Polling repeatedly shows that Americans do not like NAFTA-style trade agreements, but how does a president claiming to close our budget deficit in part by cracking down on tax havens and tax dodgers explain why it's a good idea to do such a deal with a notorious tax haven? Before considering any trade deal with Panama, Congress should require Panama to sign a tax agreement that isn't riddled with loopholes and wait to see if and how it is implemented.

We simply have no idea whether and how Panama will implement the modest commitments in its recently-signed bilateral tax agreement. Even if it did so fully, the country's severe tax haven and money laundering problems will not end, and the other problems raised by Congress have been left entirely unresolved. Time and again we have seen U.S. presidents get us into trade deals based on countries' promises to fix problems in the future, only to see the old problems get worse once the scrutiny and pressure related to a pending trade pact is removed.

It gets worse. The proposed Panama trade deal would undermine the tools we now have to combat financial crime by newly empowering private investors to directly challenge U.S. anti-tax haven policies that they claim undermine the limits on financial regulation included in this agreement's text. The agreement was signed before the global financial crisis and consequent moves toward stronger financial regulation. It also contains the expansive limits on financial regulation included in all of Bush's bilateral trade pacts.

The actual language of the new tax treaty does not require Panama to automatically share information about U.S. individuals and corporations hiding their assets, but only requires Panama to respond to inquiries if U.S. officials know enough to inquire except "where the disclosure of the information requested would be contrary to the public policy" of Panama. Given Panama's long-standing public policy of encouraging tax-haven activities, this loophole is big enough to keep its offshore economy alive and kicking.

We've seen this promise-now-implement-later show in the past – recently with the Peru trade deal – and it's been a debacle. In exchange for their support for the Peru pact, Democratic

trade leaders in Congress [agreed to changes](#) in that pact's labor and environmental terms, including a specific commitment by Peru to make changes in how it governed its forests. The Peru pact went into effect in January 2009, just as President George W. Bush was leaving office and before Peru had implemented its labor law reforms or environmental commitments. The Bush trade team simply certified Peru as having met its labor and environmental obligations, [despite the protests](#) of the Democrats who had made the 2007 deal and who outlined a host of ways that Peru was not yet in compliance. The forestry policies that Peruvian President Alan García eventually began pushing relieved the government of its obligations to consult with indigenous groups [before making changes](#) to forestry, mining or timber policies impacting their lands. The Peruvian government's crackdown on indigenous communities protesting that pact's implementation led to the infamous [Bagua massacre](#). Despite the violence, which left 33 indigenous protestors and police dead, and the lack of a new forestry law, Peru's FTA privileges have never been suspended. But, thanks to the so-called investor-state system, private investors can and currently are challenging Peru's environmental laws.

Obama should have learned from the Peru trade deal debacle of implementing a trade deal now for promises of change in the future. Congress should require Panama to demonstrate it will end its decades of facilitating tax dodging before an FTA is approved – just as Congress should have required Peru to implement its labor law reforms and forestry policies first and taken the time to see whether they were working before holding a vote on that deal.

To see Public Citizen's analysis of the impact of the NAFTA-style deal with Panama on U.S. anti-tax haven policies, go to <http://www.citizen.org/Page.aspx?pid=519>.

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