

## The Three Free Trade Agreements (FTA) with Korea, Colombia and Panama

**Opposition to all three Bush-signed FTAs is strong among unions, consumer, environmental, family farm, faith and other groups. All three pacts are based on the North American Free Trade Agreement (NAFTA) model and largely replicate the actual text of that pact and that of the Central America Free Trade Agreement (CAFTA.)** Thus, all three pacts include the extreme foreign investor privileges and offshoring protections and their private enforcement in foreign tribunals, limits on financial and other service sector regulation, a ban on Buy America procurement preferences, limits on environmental safeguards and imported food and product safety, drug patent rules that limit generics, and other provisions that conflict with Democrats' domestic policy goals. All three pacts also contain the ban on reference to the ILO labor standards inserted by Pres. George W. Bush. In addition, there are problems specific to each agreement.

**The Korea FTA:** Many congressional Democrats and Democratic base groups opposed Bush's Korea FTA, the most economically significant NAFTA-style trade pact since NAFTA. In a July 2010 letter to Pres. Obama, 110 Democratic Representatives reiterated opposition and called for key changes to the investor, labor and financial service rules. A September 2010 letter signed by 500 labor, consumer, environmental, faith, and farm groups demanded renegotiation of the same terms. None of this was changed in the supplemental negotiations concluded by the Obama administration in December 2010. The final deal is opposed by the AFL-CIO, which is scoring the votes on all three deals as well as Teamsters, IBEW, Machinists, Steelworkers, Carpenters, CWA-IUE, Boilermakers, Painters, IFPTE, ILWU, TransAfrica, LULAC, Sierra Club, National Farmers Union, Public Citizen, U.S. Business and Industry Council, National Association of Textile Organizations, NCTO and more.

- The supplemental deal did not alter the basis for the U.S. International Trade Commission (ITC) projection that the Korea FTA will increase the U.S. trade deficit or the Economic Policy Institute's projection that the agreement would result in the loss of 159,000 American jobs. The ITC identified seven manufacturing sectors that would be losers under the FTA, including many providing the "jobs of the future" in computer, solar, high speed train and other manufacturing.
- The supplemental deal did not alter the NAFTA-replicating foreign investor offshoring protections in Bush's 2007 Korea FTA text. Nor did it remove the private corporate enforcement of these extreme new privileges. The 270 Korean corporate branches now operating here would be newly empowered to demand taxpayer compensation in foreign tribunals (World Bank and UN) over U.S. environmental, financial, labor or health policies that they oppose.
- The Bush FTA labor chapter was not altered. The provision inserted by Bush for the Chamber of Commerce that bans reference to the International Labor Organization (ILO) Conventions in enforcing the FTA's labor terms remains intact.
- The Korea FTA limits regulation of risky financial products and services and is celebrated by the Wall Street firms that wrecked our economy as the "best" trade deal ever.
- No currency adjustment provisions were added to counter the likelihood that Korea could erase the effect of FTA agriculture and other tariff cuts by devaluing its currency. Korea is one of only three countries Treasury has officially charged with currency manipulation.

<b>Korea FTA: Losing U.S. Industrial Sectors</b>		
(Data from U.S. International Trade Commission Study)	Increase in U.S. global trade deficit by sector (millions of dollars)	
	Low	High
Motor vehicles and parts	(\$531)	(\$708)
Other transportation equipment	(\$340)	(\$293)
Electronic equipment	(\$790)	(\$762)
Metal products	(\$169)	(\$187)
Textiles	(\$169)	(\$190)
Apparel	(\$56)	(\$74)
Iron-containing metals	(\$65)	(\$75)

- The supplemental does not require Korea to import more U.S. cars, nor are U.S. tariff cuts conditioned on Korea buying more U.S. cars. Korea sends 500,000 cars here and we send 6,000 cars there. Only 4% of autos sold in Korea are foreign. The Korean Auto Manufacturers Assoc. celebrated the December 2010 supplemental agreement because it “is forecast to drive up South Korean automakers' market share in the U.S.” The ITC projected this FTA will increase the trade deficit in autos and auto parts by \$700 million.
- The supplemental deal did not change the FTA’s 35% domestic content rule that allows duty-free treatment for vehicles with 65% of content sourced from China, Mexico or other nations. The EU-Korea FTA content rule is 55%. Thus, even if the U.S. were to export more cars to Korea, it would not likely translate into more jobs for U.S. workers in auto parts, steel, glass, tire and rubber. The U.S. unions representing workers in the auto supply chain, IAM, USW, IBT, CWA-IUE and IBEW oppose the pact.
- The FTA was not fixed to ban goods assembled in South Korea from parts from the North Korean *Kaesong* sweat shop zone from getting FTA benefits. Thus, the FTA would generate more income for the Kim dictatorship and its weapons program, undermining U.S. sanctions and our security.
- None of the changes to the FTA’s textile provisions demanded by a bipartisan group of Congress people and by the industry were made, including to keep out Chinese transshipped goods.

**The Panama FTA:** The same unions and civil society groups that oppose the Korea FTA oppose the Panama FTA. It also replicates the worst aspects of the NAFTA model and contains Bush’s ban on reference to the ILO labor standards. In addition, the financial services and investor provisions of this agreement pose special problems related to Panama’s status as a major tax haven. Effectively, this FTA would eliminate many of the policy tools Congress now uses to battle tax havens.

- Panama is one of the world’s worst tax havens, allowing rich U.S. individuals and corporations to dodge the taxes that our communities desperately need and that are needed to decrease the U.S. deficit. Panama’s “competitive advantage” as a tax haven was intentionally designed with corporate and tax laws that shield information on actual owners of assets, such as paper bearer share corporations, strict banking secrecy and a dual tax system that provides tax-free status for foreign firms. Over 400,000 corporations, including many U.S. firms, are incorporate there to avoid their obligations at home.
- Panama has consistently been criticized by tax and financial crime transparency watchdogs, such as the Organization for Economic cooperation and Development. It is also a main site of drug money laundering by Mexican and Colombian drug kingpins, according to the State Department.
- The tax treaty Panama signed with the U.S. in spring 2011 does not remedy these problems. When it goes into effect in 2012, it merely requires Panama to stop refusing to provide information to U.S. officials on specific cases *if U.S. officials know to inquire*. This is NOT an automatic tax information exchange treaty, for instance like the treaty we have with Canada which requires U.S. firms and individuals to provide tax ID information and provides automatic transfer of related financial data to U.S. agencies. And, the recent tax treaty includes a massive exception that allows Panama to reject specific requests if it is “contrary to the national interest,” an interesting concept for a country that derives significant income from being a tax haven. Further, it remains unclear if and how the treaty will be implemented.
- Worse, the FTA would undermine existing U.S. policy tools against tax haven activity. This FTA would newly empower corporations registered in Panama to directly challenge future U.S. anti-tax haven policies to demand cash compensation in foreign tribunals.
- While the risks of associating with such a financial crime center are clear, the potential U.S. economic benefits are not. Panama took broad exceptions to the deal so that it does not have to provide U.S. construction and other firms equal access to work on its massive Panama Canal improvement project.

**The Colombia FTA:** The same unions and civil society groups that oppose the Korea FTA oppose the Panama FTA, as do many human rights organizations including TransAfrica and Human Rights Watch. It also replicates the worst aspects of the NAFTA model and contains Bush's ban on reference to the ILO standards.

- Colombia is the world capital for violence against workers, with more unionists killed every year than in the rest of the world combined. This situation has not improved, even with increased U.S. scrutiny and what should be a period of maximum leverage related to the pending FTA. In 2010, 48 of the 101 trade unionists assassinated worldwide were Colombians.
- The number of unionist assassinations has increased since the FTA was signed from 37 in 2007. According to Colombia's National Labor School, the leading source on the topic, nearly 2,860 trade unionists have been killed since 1986. Only six percent of these cases have resulted in any convictions. This is roughly a 94 percent impunity ratio.
- Just since the Obama administration announced its Action Plan, the lawyer for striking sugar cane workers was assassinated as was a leading Afro-Colombian leader fighting for an investigation of the case of her labor leader husband who had previously been assassinated.
- The Action Plan does not require Colombia to end the unionist murders or bring past perpetrators to justice in order to obtain special trade privileges. It is not enforceable or linked to the FTA. On March 17, 2011, six House Democrats led by Reps. George Miller and Jim McGovern submitted a list of 27 benchmarks to the Obama administration designed to eliminate violence against unionists and human rights defenders before a vote on FTA could occur. The Obama administration's April 6 Action Plan failed to address any of these benchmarks completely, and failed to require an end to violence against trade unionists before the FTA is introduced, voted on or implemented. The Action Plan was rejected by all key stakeholders. As AFL-CIO President Richard Trumka noted: We have no doubt that if 51 CEOs had been murdered in Colombia last year, this deal would be on a very slow track indeed." Given that the Obama administration certified that the plan had been met on June 13, there is no certainty that *any* changes will occur on the ground regardless of changes that have been made on paper in Colombia.
- Colombia has the highest number of displaced people in the world, 2.4 million — outpacing even Sudan—because of forced displacements and land grabs, often with Colombian military involvement. Afro-descendant persons account for at least 30 percent of Colombian IDPs. The deal will accelerate displacement of impoverished Afro-Colombians and farmers and the stealing of their lands.
- African descendants comprise 26 percent of Colombia's population. As with other African descendants, Afro-Colombians face racial discrimination that results in economic hardships far worse than experienced by the average Colombian. However, in Colombia, a vibrant 1980s civil rights movement won full recognition of Afro-Colombian cultural rights, and collective ownership and community control of territories and natural resources. A new 1991 Colombian Constitution and the landmark Law 70 (Ley 70) explicitly enshrine these rights and recognize official democratic Afro-Colombian governance structures.
- The Colombian government has worked consistently to undermine Afro-Colombians' hard-won civil rights and control of their territories. The Action Plan does not address any of these issues. Systematic violence against Afro-Colombians and assassinations of their leaders continue unabated to this day. According to the Afro-Colombian Solidarity Network — a coalition of NGOs — "On February 28, 2011, the Inter-ecclesial Commission for Justice and Peace reported that battalion 80 soldiers burned and destroyed the homes of 119 Afro-Colombians in the Lower Calima river area. The justification given by the military for burning down these homes that have belonged to these communities for the past 70 years is that they are now the property of the economic development project- Industrial Port of Sweet Water S.A."

- Because the Colombian law is on the side of Afro-Colombian territorial rights, wealthy interests have employed illegal means to physically remove Afro-Colombians and others from their lands, with over 200,000 people forcibly expelled from their lands in 2006 alone. Joint operations between the Colombian military and illegal terrorist paramilitary organizations like the “Operation Genesis” in the Afro-Colombian Chocó region have targeted Afro-Colombian leaders with assassinations, while the Colombian military has aerielly bombarded Afro-Colombian territories claiming they are fighting guerrillas.
- These forced displacements are now occurring in port communities, such as Buenaventura, and other regions supporters of the FTA seek to develop. No Afro-Colombian lands have been returned to community control. Under Colombian law, if the land is not occupied – and with the land occupied by the military or “guarded” by paramilitaries this is not possible – it reverts to government control.
- Accompanying these physical attacks has been a legal assault aimed at formalizing the theft of Afro-Colombian land. The Uribe government passed Forestry and Rural Development Laws and has amended the Mining Law to extinguish Afro-Colombian rights and empower oil palm, logging and other firms that have used the services of paramilitaries to occupy Afro-Colombian territories. Afro-Colombian communities have vehemently opposed these laws as unconstitutional.
- The Colombia FTA is opposed by Afro-Colombian communities in part because it would lock in the paramilitary-financiers’ control of Afro-Colombian land. Specifically, the FTA’s expansive foreign investor rights would empower multinational corporations investing in these projects with protections that would make restoration of Afro-Colombian lands extremely difficult, even when Afro-Colombian communities win in Colombian courts.
- More than 200,000 indigenous citizens are now being displaced annually. When asked about this fact in 2008, Bush’s U.S. ambassador to Colombia, William Brownfield responded: “I do not challenge your figure. I have heard from enough sources — including government of Colombia sources — that the number of internally displaced people in Colombia is, in fact, continuing to rise.”
- Colombia’s legislation to compensate victims of displacement has been criticized by Afro-Colombian and other human rights groups for limiting the timeframe under which the displacement had to occur (1991 and January 2010) that will leave out many displaced families, and also eliminate the ability of families being displaced currently from seeking reparations. The initiative also does not envision compensation for non-land losses, offer protection for families returned to their land, or offer a development or jobs strategy.
- Even the Colombian government says that additional trade pact displacement, related to the FTA’s agricultural provisions, will force *campesinos* into immigration or illegal drug trafficking.
- The Colombian government has not been a neutral or benevolent actor in the country’s human rights nightmare. President Santos has promised that things will change. But he presided over the Colombian military during the Uribe administration’s severe human rights abuses. And Santos and Uribe have long been linked to paramilitaries. According to the *New York Times*, “Speaking at a closed court hearing in Medellín, Salvatore Mancuso, the former paramilitary warlord, said Defense Minister Juan Manuel Santos had met with paramilitary leaders in the mid-1990s to discuss efforts to destabilize the president at the time, Ernesto Samper, according to judicial officials.” Mancuso also claimed to have dealings with Francisco Santos, Juan Manuel’s cousin and Uribe’s vice-president. Former President Samper has confirmed Mancuso’s story.
- The pact gives incentives for mining, timber and palm oil companies to rip up the Amazon, worsening global warming.