

Minimal 'Fixes' to Bush's Proposed 'Free Trade' Agreements

The items below are minimum necessary changes to the “free trade” agreements (FTAs) the Bush administration signed with Peru and has pending with Panama and Korea. The changes would remove the most extreme conflicts with Democrats’ domestic agenda and our members’ values and goals. This list reflects the fact that initial talks with Peru and Panama were completed. Thus, these changes do not describe a *good* agreement, but rather what is necessary to neutralize the worst of these FTAs. The only way to make these changes – to make them enforceable – is to renegotiate existing language. And, there is no way to fix the FTA with Colombia signed by Pres. Bush. The U.S. should not offer a special FTA relationship with any country where thousands of unionists have been assassinated – scores just in 2006 – with government impunity, if not involvement.

PROBLEMS THAT MUST BE REMOVED FROM FTA TEXTS

- **Extreme monopoly drug patent extensions via data exclusivity:** The FTA language that grants monopoly control (“data exclusivity) for drug test data must be eliminated. Rep. Waxman, Oxfam, Doctors without Borders and others have demanded for years that FTAs not undermine nations’ rights to ensure consumers’ access to affordable drugs. This FTA language destroys nations’ ability to use the 2001 WTO Doha Declaration on Public Health and thus violates Congress’ related requirements in the 2002 Fast Track used to negotiate these FTAs.
- **Extrajudicial challenges of U.S. environmental, health and land-use policies by foreign investors:** The language defining the types of foreign investment subject to investor-state enforcement for expropriation and minimum standard of treatment must be limited to real property to meet the 2002 Fast Track rules (that foreign investors within the U.S. have no greater rights than the Constitution interpreted by the Supreme Court provides domestic investors). The language also must be altered to explicitly limit challenges only to government actions terminating all value of an investment – permanently – to comply with the no-greater-rights standard. These changes are compatible with the terms of the “Kerry amendment” and demands by Reps. Doggett, Blumenauer, McDermott, and others.
- **Dubai Ports World, port infrastructure:** The right for foreign port service providers to demand compensation if they are denied the right to acquire U.S. port operations must be removed by eliminating the exception for landside port activities in Annex II. Given Peru’s ports are run by DPW, this is especially critical.
- **Mandatory service sector privatization and deregulation:** Do Democrats want trade agreements that require opening social security and other essential services to private competition and deregulation? The Peru FTA requires Peru to open its social security system to private investors. This must be removed.
- **Zeroing out of staple food tariffs in Peru:** Provisions requiring FTA partners to zero out tariffs on their subsistence food crops must be removed to ensure food security and also for U.S. national security given Peru’s own military concludes that displaced *campesinos* will join paramilitaries and the drug trade. Exceptions must be added for rice, beans, etc. as well as a real safeguard mechanism against U.S. dumping of subsidized goods.

LANGUAGE THAT MUST BE ADDED TO FTA TEXTS

- **Enforceable environmental and labor standards:** Binding labor and environmental standards must be added to FTAs’ core texts requiring countries to enforce core ILO standards and MEAs, that failure to do or weakening such laws is an FTA violation and these terms must be enforced equally to commercial terms. This would bring these human rights directly affecting production costs on parity with FTA treatment of patents and other rent-seeking protections unrelated to trade. The FTAs also must explicitly ban trade in illegally-logged timber.
- **Procurement:** Add a clause explicitly stating that the technical specification rules and the supplier qualification rules in no way limit government action regarding prevailing wage or living wage requirements or renewable source or recycled content and that such measures do not violate either the procurement or investment rules of the FTAs. The current language subjects many common federal, state and local environmental, labor procurement policies to challenge in trade tribunals.
- **Require imported food to meet U.S. safety standards:** The right to send agricultural products for human consumption into the U.S. must be conditioned on meeting U.S. safety and inspection standards. The FTAs require the U.S. to import food produced under “equivalent” standards, a standard that is not defined and is being interpreted now to allow food imports that do not meet our core standards.