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408 C Street NE, Washington, DC 20002
TEL: [202] 547-1141 FAX: [202] 547-6009 www.sierraclub.org

Statement by Sierra Club Executive Director Michael Brune on the U.S.-South Korea Trade Agreement December 6, 2010

The Sierra Club believes that trade done right can foster development and sustainable growth while also protecting workers and the environment in the United States and abroad. Unfortunately, the recently concluded U.S.-South Korea Free Trade Agreement (FTA) falls short of these goals.

Similar to previous FTAs, the Investment Chapter of the U.S.-South Korea FTA provides foreign investors and corporations expansive rights to directly challenge public interest laws and regulations for compensation before international tribunals, bypassing domestic courts. Mexico and Canada have lost NAFTA challenges to environmental protections and the United States has spent millions defending itself against suits.

The Trade Act of 2002 clearly requires that foreign investors are not accorded greater substantive rights than those found in U.S. law. However, the U.S.-South Korea FTA fails to meet this critical “no greater rights” test. Instead, the U.S.-South Korea FTA significantly raises the likelihood of more costly investor-state cases targeting U.S. laws and regulations. The agreement allows foreign investors to assert that environmental or public health measures constitute an “indirect expropriation” of their business interests or violate a “minimum standard of treatment” in a wide range of circumstances that would not be compensable in U.S. courts. We are also troubled that the U.S.-South Korea FTA allows foreign investors and corporations to bring suit over natural resource, services and infrastructure contracts with the federal government.

While we are encouraged that the Administration attempted to achieve greater market access for American autoworkers and manufacturers, we are concerned that the agreement could have the impact of weakening South Korea’s emissions standards.

The U.S.-South Korea FTA falls far short of President Obama’s promise of a “smart, fair and strong” trade policy that would create jobs and protect the environment, and we urge Members of Congress to oppose it.

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