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Joan Claybrook, President

Oppose Peru NAFTA Expansion

Dear Representative, November 5, 2007

On behalf of Public Citizen's 100,000 members, we urge you to oppose the Peru Free Trade Agreement (FTA) and vote no on H.R. 3688. Given that this is likely the only trade agreement that will come to a vote in this Congress, the policy and political significance of this vote is tremendous.

What determines the effects of a trade agreement is not mainly the economic size of the country involved, but rather the scope of the corporate rights the agreement establishes. The corporate rights established in the Peru FTA undermine important U.S. domestic and foreign policy goals. The FTA:

- Replicates CAFTA investor rights that promote offshoring of U.S. production and jobs;
- Exposes our environmental and health laws to challenge in foreign tribunals by foreign firms;
- Empowers foreign corporations with new rights to skirt Buy America and anti-offshoring policies, and challenge renewable energy, recycled content and other procurement policies;
- Establishes new rights for food exporters in Peru to directly challenge U.S. safety policies;
- Provides Big Pharma with extended patent rights that undermine flexibilities established in the World Trade Organization to allow affordable access to drugs;
- Empowers U.S. firms such as Citibank, offering private retirement accounts in Peru's privatized social security system, to demand compensation if Peru reverses its disastrous privatization; and
- Privileges foreign firms obtaining natural resource concessions for mining, oil, gas and timber on U.S. federal land to contest contracts in foreign tribunals, not U.S. courts.

It is not surprising that no U.S. labor, environmental, consumer, faith, family farm, or development groups support this agreement, which is also opposed by both of Peru's labor federations, its major indigenous people's organization, and a prominent Peruvian Archbishop.

Most simply, even with improvements to its labor and environmental chapters, the Peru FTA does not pass the most conservative "do no further harm" test. It replicates most of the core provisions, and indeed much of the text, of CAFTA.

When Democratic trade leaders decided to engage the Bush administration in modifying the Peru, Panama, Colombia and Korea FTAs, Public Citizen submitted a short list of essential changes needed to minimally neutralize the worst CAFTA and NAFTA provisions replicated in the Bush-negotiated pacts. Many unions submitted nearly identical lists of key changes necessary for them not to oppose the FTAs.

Unfortunately, when improved language was added to the Bush-negotiated FTAs' environmental and labor chapters, the core NAFTA-CAFTA provisions that have proved so damaging were not fixed or cut.

JOB LOSS AND DOWNWARD PRESSURE ON WAGES: The Peru FTA expands the worst NAFTA and CAFTA job-killing terms. The offshoring of high-wage manufacturing jobs has contributed significantly to the wage stagnation now being experienced by 70 percent of the American workforce.

The Peru FTA contains the foreign investor provisions that promote immediate offshoring of U.S. production and jobs by removing many of the risks to U.S. firms of relocating to a poor country to obtain cheap labor. The FTA guarantees to U.S. firms relocating to Peru a "minimum standard of treatment" removing the uncertainties of dealing with Peruvian law and removes U.S. firms' risks relating to use of Peruvian courts by empowering these firms to privately enforce the FTA investor guarantees using World Bank and UN tribunals. This will promote offshoring by U.S. corporations seeking "safe" low-wage venues for production and harm U.S. workers, businesses and local governments who play by the rules of our social contract. Not one word of these provisions, which are almost word-for-word identical to CAFTA, were altered in the May 10 deal that added labor and environmental improvements.

The Peru FTA requires that all firms operating in Peru, including European or Chinese firms, be given the same access as U.S. firms to outsourced U.S. government work, and to contracts covered under Buy America programs, unless specific exceptions were taken. This FTA rule undercuts Congress' authority to ensure our tax dollars recirculate in our economy to create U.S. jobs and strengthen local firms. If the Peru FTA is passed, President Bush will be authorized to issue a broad waiver to existing Buy America policies. (See 48 CFR Subpart 25.4) And, the Peru FTA even goes further than CAFTA to allow foreign firms who obtain these federal procurement contracts to build our highways, bridges or energy facilities to contest the contracts in foreign tribunals, while competing U.S. firms must obey U.S law and use our courts for their disputes.

Promoting labor rights abroad is the right thing to do morally and paves the long path towards a more just global economy. However, doing so will not alter trade agreements' economic outcomes in the short and medium terms. Rather, promoting labor rights will provide workers in Peru and other countries with rights to organize for improved wages and conditions over many decades as part of building a social contract that may take a century to establish, as it did in our own country. However, Members of Congress have a duty to secure tangible gains for American workers who are losing their jobs and seeing their wages stagnate TODAY because of the failed NAFTA-CAFTA model replicated in the Peru FTA. Removing the most damaging aspects of the NAFTA-CAFTA model was as critical – if not more critical for the short and medium term – as adding the missing labor and environmental standards to the Bush-negotiated text.

IMPORTED FOOD SAFETY THREAT INCREASED: The FTA also replicates other NAFTA-CAFTA provisions that will directly effect your constituents in the short term. The U.S. International Trade Commission projects that the FTA will increase Peruvian food imports. Yet, even as Congress works to fix serious imported food safety problems, the FTA includes limits on food safety standards and border inspection that are included in past pacts. The FTA requires that we treat imported food the same as U.S.-produced food, even though more intensive inspection is needed to compensate for Peru's weak domestic regulatory system. The FTA limits on border inspection effectively force us to rely on Peru's extremely limited regulatory structure to ensure our food is safe. Even with imported seafood inspection rates below 2 percent, the FDA has found poisonous swordfish, Salmonella in shrimp, dangerous histamines in Mahi Mahi, and filthy shipments of dried, canned, frozen, and fresh fish from Peru, as well as illegal pesticide residues in Peruvian dried paprika, tangelos, clementines, sugar snap peas, and ancho-chiles. Instead, passage of this FTA would elevate, not lessen, the imported food safety threat. The Peru FTA offered an opportunity to create a new model for enhanced food safety in trade.

IMMIGRATION PRESSURES INCREASED: The FTA replicates NAFTA's agriculture rules, which displaced over 1.3 million Mexican farmers and led to an increase in poverty and hunger in

Mexico and a 60 percent increase in annual Mexican immigration to the United States in NAFTA's first six years alone. Over 7 million people in Peru live in rural areas. Agriculture helps sustain one third of the population. Development specialists – including those at the Inter-American Development Bank – predict further displacement and income losses for rural families if the FTA is implemented. While the United States will be the destination for many of these *campesinos,* U.S. farmers will not get the market access resulting from the tariff cuts that displace Peru's peasant farmers. Peru has a 2003 Trade Agreement with the South American MERCOSUR bloc that automatically grants all tariff cuts to MERCOSUR countries that are given by Peru to any another country in an FTA. Thus, nearby and lower-cost agribusiness export giants Brazil and Argentina will get the market opened by the U.S. FTA.

UNDERMINING NATIONAL SECURITY: Displacing tens of thousands of Peru's poorest citizens is not only a moral outrage, but is a threat to our national security. Over 4.5 million Peruvians are malnourished and desperate for any income earning activity – even if it's illegal. As Peruvian Catholic Archbishop Pedro Barreto told *The Miami Herald,* "*We are certain that the trade agreement will increase the cultivation of coca, which brings along with it a series of negative consequences including drug trafficking, terrorism and violence*." Repeated polling shows developing country trade partners' publics do not see our FTAs as friendly help, but rather as threats to their livelihoods. Pushing more of these deals will further undermine the U.S. image in a region where it has already been badly damaged.

BAD POLICY, BAD POLITICS: While many corporations are eager to obtain the new rights and privileges offered by this FTA, expanding the NAFTA-CAFTA model will harm the interests of most people in both countries. Recent polling has shown repeatedly that the American public has had it with our current trade model. The recent *Wall Street Journal*/NBC poll found that, by a margin of 2-to-1, even GOP voters think our current trade policy is damaging to them.

Democrats won congressional majorities in no small part because of the scores of freshmen elected across the country, including in GOP-leaning districts, who focused their campaigns on stopping more Bush job-killing trade agreements. It is good politics – and good policy – for Democrats to create a new trade direction for our country. Unfortunately, the Peru NAFTA expansion does not accomplish this important goal, nor will the public perceive it as anything but more of the same.

Worse, passage of the deal would give President Bush a high-profile victory, changing the message from the debacle in Iraq. It is hard to understand how a Democratic-controlled Congress would give Bush another NAFTA-style trade agreement under any circumstances, but more so the week after he announced he would veto the Democrats' Trade Adjustment Assistance legislation, not to mention past vetoes of Democrats' children's health insurance and anti-war legislation.

There is a long list of trade policies on which the Democratic Congress could take initiative rather than helping President Bush expand NAFTA. We would be excited to work with you to address the imported food safety crisis, fix our disastrous China trade situation, halt the continuing importation of sweatshop-made goods, expand Buy America and anti-offshoring policy, and close the tax loopholes that promote offshoring. Such policies would be a foundation for a new direction on trade which could be built upon when a new president arrives in 2009. The first step towards this new direction is opposing more of the same. Please vote no on H.R. 3688, the Peru Free Trade Agreement.

Sincerely,

Lori Wallach
Director, Public Citizen's Global Trade Watch