

Lima, May 11, 2007

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20510

Dear Speaker Pelosi,

We have been informed of the “deal” reached between some Democratic congressional leaders and the Bush administration with respect to the terms of the new U.S. trade policy, and in particular, these parties’ inclination to push forward on the ratification of the Peru, Panama, Colombia and South Korea FTAs. Considering that a central message of Democrats’ recent successful electoral campaigns was the promise for a more just and fair trade policy – a goal we share – we fear, nevertheless, that this “deal” does not reverse the grave threats that the Peru FTA poses to the human right to social security, a theme that also forms part of Democratic legislators’ agenda and preoccupations.

Indeed, we have always been impressed with your leadership and constant concern for retirees’ social security. And we’ve also observed that, in spite of the attempts made by the Bush administration and financial interests to privatize the U.S. social security system at any cost, you and your party have defended the program, which was not broken, and certainly did not need a Bush “fix.” This valiant effort demonstrates your commitment to the promotion of social justice and economic opportunity for everyone, without discrimination.

Nevertheless, although you have successfully blocked President Bush from privatizing the U.S. social security system, this has not stopped him from pressing for the deepening of social security privatization in our country through a little-known provision that has been included in the FTA negotiated between the Peruvian and U.S. authorities.

First, a bit of background. During the 1990s, ex-President Alberto Fujimori’s autocratic regime – taking inspiration from a similar policy imposed on Chile by the Augusto Pinochet dictatorship – imposed a partial privatization of Peru’s social security system. With the help of Peru’s Armed Forces, he not only imposed his control over the judicial and legislative branches, but also introduced radical modifications to labor law that led to the virtual dismantling of union action and opposition. Our current attempt to democratize that legislation through a new General Labor Law is, unfortunately, being ferociously resisted by the current Peruvian administration and the business community, which benefits from the flawed regime now in place.

The privatized system not only has higher administrative costs and frequently lower rates of return than the public system, but has also not expanded coverage. Five pension fund corporations (known as AFPs in Spanish) are licensed to participate in the privatized system. One of these is an entity (ProFuturo AFP) whose principal shareholder is Citibank – a financial corporation that we understand has a great deal of political power and influence in the United States.

A central political and policy demand of our union federations and national retiree groups is the reversal of the partial privatization of Peru's social security system. This experiment has been a failure in economic as well as social terms. Unfortunately, the proposed FTA would grant excessive foreign investor rights (in the infamous style of NAFTA's Chapter 11) to foreign investors like Citibank that could seriously limit our country's policy space in this area.

The FTA would allow potentially enormous compensation claims if Peru nationalizes or affects in any way the expected future earnings of a covered foreign investment (chapter 10, section 7), which includes financial shares and operating licenses (chapter 10, section 28). These provisions would allow Citibank to demand compensation for its future expected earnings (derived from its shares in ProFuturo, which charges contributors a high user fee and has a time-unlimited operating license to provide social security services in Peru) if Peru reverses the partial privatization of the social security system.

It is very important to note that the FTA's text does not contain exceptions for the reversal of the partial privatization of the social security system. To the contrary, the FTA says that there *will not be an exception* to the FTA's terms in the case of a privatization reversal for a social security system that is *already* partially privatized (chapter 12, section 11).

It goes without saying that, for a poor country like Peru, the mere existence in the FTA of these excessive rights for foreign investors – coupled with the possibility that they will actually use them to demand enormous compensation if it happened – would chill any effort to reverse the privatization of the national social security system.

Given that a majority of U.S. citizens rejected opening up their social security system to private, for-profit competition, why lock in and impose this policy on Peru via the FTA?

As you know, the imprudent privatizations of the last two decades – often required by World Bank and International Monetary Fund policies – has led to unspeakable damage on Latin America's economically vulnerable populations, reducing instead of expanding their access to essential social services like health care, education and social security. Recently, the privatization and handover of Peru's ports to Dubai Ports World, together with the privatization of important Peruvian electric grids, has inflamed considerable social tensions. Even the World Bank, in their 2005 review of Latin America's privatization era, concluded that the privatized portion of Peru's social security system gave users lower returns than the public system.

Although we raised these concerns to Chairman Charles Rangel, the person we understand is the Democrats' point person for actually negotiating FTA changes with the Bush administration, we still have not received a response from Mr. Rangel over a month later. Worse still, we fear that the social security problem that we have outlined – even though it would be very easy to fix – is not even among the Democratic demands that Mr. Rangel has presented to President Bush.

Given that a majority of Peruvians reject the FTA, we hope that no NAFTA-style, Bush-negotiated FTA would be ratified by the new U.S. congressional leadership. But if for some reason this total rejection cannot occur, we hope at the very least that these amendments on social security can be included.

By rejecting the Peru FTA, the U.S. Congress and Democratic Party in particular can show the world that they can advocate – in not only words, but deeds – in favor of a needed change of course from the privatization agenda and, at the same time, work in favor of an economic future of real well-being and dignity for all of the hemisphere's peoples.

We are sure of your attention to this matter and await your kind response. We can assure you of the same. Please accept our highest regards.

Sincerely,

Juan José Gorriti
Secretary
General Confederation of Peruvian Workers (CGTP)

Julio Cesar Bazán
President
Unitary Confederation of Peruvian Workers (CUT)

Julio Castro Gómez
National Coordinator
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Jorge Salazar
President
National Confederation of Pensioners and Retired Persons of Peru