

Background the Panama “Free Trade” Agreement

The Panama FTA: The Wrong Place to Start

- This Bush hangover FTA reflects the unsuccessful ending point of the past administration’s trade policy. Despite improvements to the labor and environmental language made by House Democrats, it should not serve as the starting point for the new congress and administration.
- Panama’s economy thrives on banking secrecy and money laundering. This top tax haven is not the first country with which we should start making trade deals.
- A majority of House Democrats voted *against* the similar Peru Trade Agreement. At a minimum, we should expect a majority of the majority should *support* future trade agreements that come up for vote.
- Not one U.S. labor union, faith organization, family farm organization or environmental group has yet to endorse the Panama FTA, or push for its passage.

Panama: A Top Tax Haven

- A Government Accountability Office study identified Panama as one of eight countries – and the only current or prospective FTA partner – listed on all major tax-haven watchdog lists.
- Panama’s “comparative advantage” rests on the ease with which U.S. companies can create subsidiaries there to evade paying taxes in America.
- With 350,000 registered corporations, Panama is second only to Hong Kong as a home for multinational firms’ subsidiaries – many created for the sole purpose of avoiding taxes in the U.S.
- The Senate Homeland Security Committee estimates that tax evasion in offshore tax havens costs the U.S. taxpayer \$100 billion a year. This revenue is desperately needed to fund domestic infrastructure projects and get our own fiscal house in order.

Panama’s Dirty Laundering

- The State Department and the Drug Enforcement Agency have consistently identified Panama's financial sector as a conduit for Colombian and Mexican narco-trafficking funds.
- Panama has long been a key target of the *Organisation for Economic Co-operation and Development* and other tax transparency entities for resistance to international norms in combating tax evasion and money laundering.
- Panama is one of few countries that refused to sign any tax information exchange treaties. This international legal instrument allows for a standard exchange of tax-related information between countries, and helps to identify and catch tax cheats.
- Given the focus the G-20 Washington Summit and G-7 Finance Ministers have given to banking secrecy jurisdictions' contribution to global economic instability, our first trade deal in this economic climate should not be with the top money-laundering country in the hemisphere.

A Triple Taxpayer Fleecing

Under the Panama FTA, U.S. taxpayers are opened up to a triple fleecing by multinational companies:

- Once, through the initial tax evasion;
- Second, through various bailouts passing in Congress to save some of these very tax-evading firms;
- Third, by the potential for these and other corporations to use the FTA investment rights to sue taxpayers for cash damages for measures that would not be considered compensable under U.S. domestic law.

Panama: A Bad Country for Expanding Foreign Investor Rights

- Because Panama is a magnet for so many multinational money manipulators, it is one of the worst possible countries in which to expand investor rights.
- The Panama FTA would expand these provisions to over 350,000 subsidiaries based in Panama, providing an array of new rights to these firms, affording foreign investors greater rights than those enjoyed by U.S. investors, and limiting how the U.S. government could deal with bad conduct.
- To be clear, the Panama FTA uses the same NAFTA/CAFTA foreign investor language that promotes off-shoring and subjects our domestic environmental, zoning, health and other public interest policies to challenge by foreign investors in foreign tribunals.
- These subsidiaries - whose parent corporations are owned by investors ranging from the Chinese government to troubled financial firms of all nationalities - would obtain rights under the FTA to challenge U.S. public-interest, financial-service and other laws that affected their expectations of future profit in the U.S. market.

The Panama FTA Replicates Many of the Other Worst Provisions of NAFTA

Despite improvements in labor and environmental areas, the failure to remove other core provisions identical to those in NAFTA or CAFTA means the Panama FTA does not pass the most conservative '*do no further harm*' test. Some of these problematic provisions include:

- **Procurement:** The FTAs' procurement rules subject many common federal and state procurement policies to challenge in trade tribunals and directly forbid other common procurement policies. These FTAs' procurement rules continue the NAFTA/CAFTA ban on anti-off-shoring and Buy America policies and expose U.S. renewable energy, recycled content and other requirements to challenge.
- **Access to medicines:** While the amended text removes the most egregious CAFTA-based provisions limiting the access to affordable medicines, the text still includes NAFTA provisions that undermine the right to affordable medicines for poorer countries contained in the WTO's Doha Declaration.
- **Agriculture:** The amended text does not address the problems in the NAFTA-style agriculture trade rules that have simultaneously undermined U.S. producers' ability to earn a fair price for their crops at home and in the global market place. Continuing this model is projected to increase hunger; illicit drug cultivation; undocumented migration; and continue the race to the bottom for commodity prices. It will pit farmer against farmer and country against country to see who can produce food the cheapest, regardless of standards on labor, the environment or food safety.
- **Food safety:** The amended text does not address limits on imported food safety and inspection. This FTA still contains language requiring the United States to accept imported food that does not meet our safety standards.

Improvements Needed for Passage

- Any FTA with Panama must be conditioned on their government eliminating excessive banking secrecy, re-regulating its financial sector, forcing banks and multinational subsidiaries to pay taxes, and signing international tax transparency treaties such as the U.S. Tax Information Exchange Agreement and the standard U.S. double taxation/fiscal evasion treaty – which Panama has thus far refused to do.
- The Trade Reform, Accountability, Development and Employment (TRADE) Act -- put forward last session by eighty House and Senate members -- can also serve as a blueprint for amending the Panama FTA, offering a more balanced way to expand trade.

- We are all eager to support trade agreements that benefit a majority of U.S. workers, farmers, small businesses and consumers. We all want trade agreements that work to achieve the larger societal goals of economic justice, poverty alleviation, pollution reduction, and human rights. Unfortunately, the Panama FTA does not meet these goals
- Civil society activist groups know American companies are closing down and setting up shop overseas to take advantage of unregulated food safety conditions, sub-standard wages and labor laws, off shoring loopholes and fewer environmental constraints.

The Obama Administration Wants to Hear Your Input

- The administration indicated it “will conduct extensive outreach and discourse with the public on whether these agreements appropriately advance the interests of the United States and our trading partners.”
- In particular, the office of the U.S.T.R. indicated it “will promptly, but responsibly, address the issues surrounding the Colombia, Korea and Panama Free Trade Agreements . . . and review the implementation of our FTAs and bilateral investment treaties (BITs) to ensure that they advance the public interest.”
- At his confirmation hearing, Ambassador Ron Kirk stated he will build on the May 10th progress through a bipartisan process, consulting non-governmental organizations and unions during this process.
- Former Washington State Governor Gary Locke, nominee for Commerce Secretary, said, “More than free trade, though, I believe in fair trade. That means we must enforce our trade agreement and place a high value on environmental, labor and safety standards.”
- More than one hundred candidates from both parties ran on trade reform in 2008, promising to replace the NAFTA model, and close loopholes like those found in the Panama FTA.

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