

The Colombia FTA: Environmental Concerns

Rolling Back Environmental Protection in the Earth's Most Biodiverse Area

- New environmental laws are desperately needed for Andean countries, including Colombia, to allay rapid destruction of the upper Amazon basin, one of the most biodiverse areas on the planet.
- The Colombia FTA – just like NAFTA and CAFTA – acts as an incentive to pollute in a corporate race to the basement. Under this FTA, Colombia can promote that it has fewer environmental regulations, and lure in U.S. companies looking to produce cheaper goods and services.
- It's cheaper when a company can use harmful pesticides and dangerous chemicals not allowed in the United States, and recklessly dispose of pollutants without legal consequences or financial repercussions.
- Dozens of environmental groups have joined together to actively oppose the Colombia FTA, including Amazon Watch, American Lands Alliance Forest Campaign, Forest Ethics, Greenpeace USA and the Rainforest Action Network. Not one environmental group has endorsed the Colombia FTA.
- The Colombia FTA includes virtually the same foreign investor rights found in NAFTA and CAFTA, allowing outside corporations to privately enforce an extreme set of investor rights by directly suing the United States. This text and language has proven to be the worst threat to sound environmental policy.

Foreign Investor Rights = Loss of Environmental Protection

- The United States has spent millions of dollars in legal costs to defend against attacks on toxic bans, responsible mining practices and environmental protections. Similar NAFTA provisions resulted in nearly 50 challenges to federal and state laws, leading to over \$36 million in taxpayer funds paid to corporations.
- Foreign investors based in Colombia can challenge our U.S. state and local laws in foreign courts, and demand compensation if our laws undermine corporate profits. This allows foreign companies, for example, to challenge progressive environmental state laws and local ordinances.
- NAFTA has already generated "regulatory takings" cases against responsible land use decisions, environmental safety initiatives, and public health policies. These adverse rulings would not have been possible in U.S. courts.
- Even worse, by expanding the definition of "investment" to specifically include contracts for natural resource extraction, this FTA actually extends foreign investor rights beyond what was contained in NAFTA to establish new rights for foreign logging, mining and oil companies to skirt domestic courts and laws.
- The U.S.- Australia FTA *excluded* investor-state enforcement, proving this vital fix was not only possible, but was previously accomplished. It is appalling that this severe problem, which environmental groups have drawn attention to for over a decade, was not fixed.

This Agreement Does Not Address Core Environmental Problems

- New language in the Colombia FTA does not address basic NAFTA-style foreign limits on domestic procurement policy. Environmental, consumer and labor groups argued these provisions would need to be removed to avoid opposition to these trade agreements.
- This new language still allows foreign investors to demand taxpayer-funded compensation for any governmental action – including a virtually limitless range of common policies used to protect the environment – which could affect an investor’s expected future profits.
- The Colombia FTA encourages corporate rollbacks of common procurement policies that local governments use to encourage sustainable environmental practices. These include rules governing recycled content, forest stewardship certifications, renewable energy and other basic environmental incentives.
- The newly inserted provisions dealing with labor and environmental issues are positive steps forward, but are also entirely dependent upon President Bush and the Executive Branch for enforcement.
- Some members of Congress still remain concerned that these improved environmental standards will be made part of virtual side deals, which have historically been ignored.
- The Colombia FTA text ignores limits on imported food safety and inspection, and still contains language requiring the United States to accept imported food that does not meet our safety standards. The foreign investor provisions are almost word-for-word identical to the language found in CAFTA.
- Such private enforcement rights for the most predatory multinational corporations tilt the balance badly against the environment, and will chill reforms desperately needed to protect the upper Amazon Basin.

There’s Nothing “Free” About this FTA: Opponents Support a Fair Trade Agreement

- Trade isn’t “free” when we destroy the most biodiverse regions on the earth. It isn’t free when we roll back basic local environmental laws. These prices are simply too high.
- We are not against trade. We are for protecting Colombian biodiversity. We are for stronger health and environmental standards. We are for safe food imports. We are for Colombian human rights and democracy.
- We support open trade and globalization, but want to leverage our market to ensure trade is done fairly, with a focus on protecting the environment, and benefiting a majority of the world’s people.
- Past trade agreements like NAFTA and CAFTA are corporate investment schemes, written to reduce the cost to pollute. They are concocted in back rooms by a handful of select people. Congress isn’t even allowed to amend or alter them.
- America has the largest and most robust market in the world, and if we open it up to other countries, we should expect them to play by the same rules we do, on a level playing field, with basic environmental regulations. Colombia’s “comparative advantage” should not be their ability to pollute without costs.