



THE CAFTA MODEL, ONLY WORSE: ENVIRONMENTAL RULES IN THE OMAN AND PERU FREE TRADE DEALS

Threats to Environment and Natural Resources in Oman and Peru

- **Oman:** The coastline and offshore waters of Oman serve as major nesting and foraging locations for several species of sea turtles, including green turtles, hawksbills, loggerheads, and olive ridleys. Oman is also rich in other biodiversity, home to animals like the Arabian Oryx, Nubian Ibex, and saker falcon.

However, Oman has not ratified one of the most important international environmental agreements for sea turtle conservation, the Convention on International Trade in Endangered Species (CITES), which came into force in 1975. Although Oman has pursued responsible policies dealing with trade in sea turtle products, it is not bound to continue these policies as long as it remains outside of the CITES regime.

- **Peru:** The tropical Andes is the richest and most diverse region on Earth. Many of the tens of thousands of plant and animal species in the Peruvian Andes are endemic and irreplaceable. Far too many are also threatened with extinction by logging, mining, dams, road building and expanding agriculture.

Peru's failure to effectively implement CITES is of particular concern. Most notably, Peru has failed to prevent illegal logging and trade in mahogany, an endangered species for which the U.S. is the largest importer. Mahogany is so valuable that it subsidizes major logging operations, often leading to the destruction of the surrounding rainforest. The result is devastating for rainforest habitats and the numerous species that depend on them.

Inadequate and Unenforceable Environmental Safeguards

The Oman and Peru Free Trade Agreements (FTAs) contain the same weak and unenforceable Environment Chapters that plagued CAFTA.

- Like CAFTA, the agreements fail to clearly require either country to maintain and effectively enforce a set of basic environmental laws and regulations.
- There are no binding obligations for countries to comply with their existing commitments under international environmental agreements and no penalty for countries that do not enforce these obligations. Nor are countries required to adopt the provisions of key international environmental agreements, including biodiversity and species protection agreements. By comparison, the Intellectual

Property Rights chapters list eight international agreements that the countries “shall ratify or accede to” and two agreements that the countries “shall make all reasonable efforts to ratify.”

- The only provision in the Peru and Oman FTAs that could be enforced through the agreements’ dispute settlement process requires countries to effectively enforce their own environmental laws. This “effective enforcement” provision is meaningless if a country lacks adequate environmental laws. Moreover, it has a gaping loophole that gives countries wide latitude about how they enforce and allocate resources for environmental protections.
- All other provisions of the Environment Chapter in the FTAs, including the requirement to improve environmental standards, are explicitly *excluded* from any dispute settlement process. The non-enforceable provisions include one that merely states that countries “shall strive to ensure” that they do not weaken domestic environmental laws to attract trade or investment.
- Like CAFTA, these agreements represent a step backward from progress made by the Jordan Free Trade Agreement. The Jordan FTA provided parity between enforcement of its commercial provisions and that of its labor and environmental provisions, with full access to the dispute settlement provisions in the case of non-compliance with the trade agreement. These agreements do not provide that parity.
- The maximum fine a Party could face for a violation of the Environment Chapter is \$15 million per year, no matter the seriousness of the environmental damage caused.
- As in CAFTA, the agreements fall short of providing an adequate institutional structure and funds to oversee implementation of the environmental provisions.

Harmful Anti-Environmental Lawsuits

The Investment Chapter of both agreements contains provisions like those in CAFTA and NAFTA that allow foreign companies to challenge health and environmental regulations for compensation before international tribunals, bypassing domestic courts. Worse, the agreements provide foreign investors even greater rights to challenge environmental laws than CAFTA does.

- CAFTA gave multinational investors the right to file suit against alleged breaches of contracts with the government involving natural resources. The Oman and Peru agreements explicitly expand these rights by broadly defining natural resources contracts to include every aspect of the extractive, productive and marketing processes.
- These new rights would enable multinational corporations to attack legitimate efforts by communities to protect their health and environment when mining or oil extraction contracts with the government are involved.
- In addition, the agreements give foreign corporations the right to challenge U.S. government decisions concerning oil and gas royalties and other domestic regulations.

Conclusion

Trade agreements should help strengthen environmental standards and increase the protection of our natural resources. Unfortunately, the Oman and Peru FTAs would continue to expand the flawed provisions from CAFTA. We urge you to oppose both agreements.

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