



July 5, 2011

Dear Representative:

On behalf of our members, we urge you to oppose the proposed free trade agreements with Korea, Colombia, and Panama. If carefully negotiated and drafted, trade agreements could promote sustainable development, but the Korea, Colombia, and Panama FTAs fail to meet this test. While we have several environmental concerns with the three FTAs, one stands out: the investment provisions.

The investment chapters of the three agreements would allow foreign investors to sue for economic damages resulting from health and environmental regulations. The chapters would allow foreign investors to claim monetary compensation from international tribunals, thereby circumventing the domestic courts of both countries. While nothing, in abstract theory, would stop governments from enforcing their environmental laws, governments could be forced to pay foreign investors for lost future profits or the cost of regulatory compliance in many situations, creating an obvious chilling effect.

In Colombia, the investment chapter could chill the effectiveness of environmental protections for the Choco and other remote regions in Colombia that are home to a multitude of irreplaceable plant and animal species. Deforestation, mining, dams, oil exploration, and expanding industrial agriculture, in particular corporate palm oil plantations, threaten the survival of these species.

In Panama, the Darien rainforest and other bio-diverse areas could be endangered by U.S. investor suits, but the most significant concern about the Panama investment chapter is its potential chilling effect on U.S. environmental and climate regulation resulting from Panama-based investor suits. The Panama investment chapter, reflecting the current U.S. model, allows corporate subsidiaries to sue the United States if they have a business presence in Panama. This is a big problem because Panama serves as the legal domicile for tens of thousands of subsidiaries of U.S. and foreign corporations, seeking a haven from taxes or banking regulations. Therefore, the litigation risk for the United States under the Panama agreement is much greater than the typical U.S. investment agreement with a country in the Global South.

The Korea investment chapter also presents a significant litigation risk for the United States, because of the scale of South Korea's investment in the United States and the environmentally sensitive nature of many of its investment projects. In 2007, Korean investments in the United States amounted to \$13 billion, and many were in environmentally sensitive sectors, for

example: Korea Electric Power in uranium mining; Samsung Engineering in chlorine plant construction; SK Group in oil exploration and production; Hyundai Engineering and Construction in infrastructure development, including dams, and harbor projects; and Hanwha Machinery in explosives, pesticides, chemicals, and construction.

The investor-state dispute mechanisms in these FTAs replicate, without significant change, one of the most harmful provisions of NAFTA. Already, the U.S.-Australia FTA excludes this provision. It also should have been excluded from these three agreements. Indeed, the U.S. should exclude all trade agreement provisions that give multinational investors greater rights than are available under domestic law.

For these reasons, we urge rejection of the Korea, Colombia, and Panama free trade agreements.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erich Pica", with a stylized flourish extending to the right.

Erich Pica  
President