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LEGISLATIVE ALERT!

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Dear Senator:

This week the Senate Finance Committee will hold an informal markup of the U.S.-Peru Free Trade Agreement (Peru FTA). The AFL-CIO strongly opposes this flawed trade agreement and urges you to vote against it.

The Peru FTA provides the wrong answers to the challenges faced in Peru and the United States. The agreement is based on a failed model that neither addresses the problems confronted by workers in Peru, nor contributes to the creation of good jobs and decent wages at home. Once again, the workers' rights provisions are entirely inadequate to ensure that fundamental human rights are respected, and the dispute settlement mechanism for workers' rights and environmental protections is far weaker than that available for commercial provisions. At the same time, flawed provisions on services, investment, government procurement, and intellectual property rights will undermine the ability of both governments to protect public health, strong communities, and the environment.

Like the Central American Free Trade Agreement (CAFTA), the Peru FTA's labor provisions constitute a significant step backwards from existing labor rights provisions in the U.S.-Jordan FTA and in our Generalized System of Preferences (GSP) program. In the Peru agreement, only one labor rights obligation – the obligation for a government to enforce its own labor laws – is actually enforceable through dispute settlement. All of the other obligations contained in the labor chapter, many of which are drawn from Congressional negotiating objectives, are explicitly excluded from the dispute settlement system and are thus completely unenforceable.

The United States Trade Representative (USTR) has no legitimate excuse for continuing to negotiate these weak and inadequate labor provisions. During a visit to Washington, D.C., in 2005, President Alejandro Toledo expressed support for including an enforceable commitment to comply with International Labor Organization (ILO) core labor standards in the trade agreement. Our government has consciously chosen not to include this provision in the final text, despite the willingness of the Peruvian government to do so. It is no longer credible for USTR to claim that other governments are not willing to include meaningful worker rights provisions in FTAs.

In addition to the problems outlined above, which are common to all of the trade agreements negotiated by this Administration, we continue to have very serious concerns about the labor laws of Peru. As the ILO recently observed, many of Peru's labor laws still do not comply with ILO core labor standards. Moreover, existing laws are not respected in practice.

Despite improvements made to Peru's legal framework in 2003, labor laws today do not provide for the full exercise of the most important and fundamental workers' rights: freedom of association and the right to organize and bargain collectively.

Workers in Peru suffer from a labor relations system that makes the entire employment relationship precarious and unfair. Employers can and often do avoid unions by employing workers on short, fixed-term contracts, commercial contracts, or by hiring workers through a management-dominated service cooperative. Should a worker with a fixed-term contract attempt to organize or join a union, the contract is generally not renewed upon expiration. Those workers hired through a cooperative are not considered employees, but members of the cooperative; thus, they are completely denied the ability to exercise their basic labor rights.

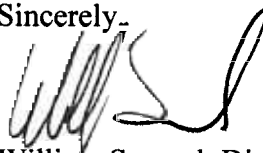
The labor provisions included in the Peru FTA do *not* include any enforceable provisions preventing the weakening of, or derogation from, domestic labor laws. This means that even if Peru's labor laws are brought fully into compliance with ILO standards, the U.S. government would have absolutely no recourse to dispute settlement or enforcement if a future government were to reverse those gains and weaken or gut Peru's labor laws after Congressional passage of the FTA.

We also have significant concerns with regard to national security. It is disturbing to note that in Annex II of the U.S. schedule in the Peru FTA, USTR explicitly added language that establishes a right for foreign companies to operate the landside activities of U.S. Ports. This provision could lead to a challenge should the U.S. deny a corporation registered in Peru a contract to operate ports. It is also worth noting that Dubai Ports World just obtained a 30-year concession to develop and run a terminal in Peru's Callao port. Under this FTA they would now have status as an "establishment of a party" and be granted certain rights. If the Peru FTA were adopted, such a company would now qualify to use the investor-state enforcement mechanisms of the agreement to challenge a denial by the U.S of their rights to operate our ports.

This provision, which was highlighted during the debate over the Oman Free Trade Agreement, represents a troubling change. All transportation services, including ports, have been excluded from coverage under WTO rules.

American workers are willing to support increased trade if the rules that govern it promote fairness, stimulate growth, create jobs, and protect fundamental rights. The AFL-CIO is committed to fighting for better trade policies that benefit U.S. workers and the U.S. economy. We urge you to vote against this U.S.-Peru FTA and begin work on a more just economic and social relationship with Peru.

Sincerely,



William Samuel, Director
DEPARTMENT OF LEGISLATION