

# ENDURING FLAWS: FTA DEAL WITH COLOMBIA STILL HAS MAJOR PROBLEMS

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## SUMMARY

The U.S.-Colombia Free Trade Agreement, stalled in Congress since the George W. Bush Administration signed it in 2006, is likely to be voted on by legislators this summer as part of a broader trade package that also includes the pending pacts with Panama and South Korea.

In an effort to address the concerns of U.S. labor unions and Democratic lawmakers, the Obama Administration and the administration of Colombian President Juan Manuel Santos have agreed upon an “Action Plan” of labor-related revisions to the U.S.-Colombia Free Trade Agreement (FTA).

While the Action Plan includes many positive elements, it does not address the most important concerns Demos outlined in a [report](#) about the Colombia FTA, published last year. Specifically, the Action Plan would do nothing to avoid the negative effects the FTA will likely have on rural Colombian workers, including unemployment, poverty, violence and displacement – effects that would exacerbate a security situation that remains fragile amid a long-running civil war.

In addition, the Action Plan has other flaws. It is a side agreement that is not part of the main trade agreement and thus not subject to any of the FTA's enforcement mechanisms. Nor does the Action Plan require the Colombian government to show that it has made progress on agreed-upon reforms before the FTA takes effect. In other words, while the Colombia government makes laudable promises in the Action Plan, there is no way to ensure that those promises will be kept over time.

Last year, Demos called for Congress to address the most negative consequences of the agreement on workers prior to ratifying the Colombia FTA. We do not believe that the Action Plan is a satisfactory response to widespread concerns about the FTA and thus recommend that Congress not ratify the agreement in its present form.

Should Congress nevertheless move forward with ratification of the FTA, we recommend that the Obama Administration exercise its prerogative to delay implementation of the agreement until Colombia has demonstrated that it is making progress on the pledges outlined in the Action Plan.

## DISPLACEMENT OF RURAL WORKERS AND SECURITY IMPLICATIONS

The Colombia FTA is likely to have serious negative impacts on Colombia's rural workers by allowing that country to be flooded by subsidized U.S. agricultural products. Currently, Colombia's agricultural market is protected with tariffs that help preserve the livelihood of small farmers in rural areas. Agricultural workers account for over 20 percent of Colombia's employment – over half of which are small farmers – and generate 8.3 percent of the country's GDP.

Implementation of the FTA would have dramatic effects on these workers. For example, the USDA estimates that U.S. corn exports to Colombia would increase by 21 percent annually, leading to a 23 percent decline in Colombian domestic prices and a 6.9 percent decrease in domestic production. A respected group of Colombian economists estimates domestic corn prices will drop by over 40 percent, leading to a 20 percent decrease in production, an over 50 percent drop in values of production.

Likewise, Colombian rice farmers – who now enjoy an 80 percent tariff on all rice imports – would be severely affected as these tariffs disappear altogether over coming years. The U.S. International Trade Commission estimates that U.S. rice exports to Colombia would increase from \$1 million in 2005 to \$28 million the first year of the FTA to an estimated \$110 to \$200 million a year in the longer term – resulting in a 44 percent decline in prices and 22 percent decline in Colombia's domestic production of rice. The FTA could reduce Colombian agricultural production by more than \$218 million annually in the first six years of FTA implementation, leading to a 15 percent reduction in harvested land.

This will severely impact the incomes of rural farmers. The FTA would hit Colombia's small farmers with reductions in income ranging from 16 to over 70 percent, depending on their produced crops. Fully 1.8 million small farmers would see their incomes drop by over 16 percent on average, while 400,000 would experience income declines of 50 to 70 percent. Oxfam Colombia estimates that the FTA would destroy at least 20 percent of employment for small farmers who already live on less than \$3.90 per day, or 15,000 jobs.

This large-scale disruption of Colombia's rural agricultural sector, with large spikes in unemployment, could have major impacts on the country's security situation.

Unemployed, uneducated workers with no options for retraining may turn to coca cultivation or join the violent civil war between guerrilla groups, paramilitaries, and the government.

Why should any of this matter to Americans? The vulnerability of rural labor to coca cultivation and paramilitary and guerrilla violence means that harming rural labor without providing constructive alternatives is counterproductive to U.S. counter-terrorism, security, and counter-narcotics aid to Colombia, which has amounted to over \$6 billion dollars since 1996.

If the FTA with Colombia is ratified, American taxpayers may find themselves paying twice: once to subsidize U.S. agriculture products, and a second time to pay for security assistance to offset the instability that the FTA will cause in rural Colombia.

## ENFORCEMENT OF LABOR RIGHTS: NO GUARANTEES

Colombia is the most dangerous place in the world to be a trade unionist, and the Action Plan includes no guarantees that this will change. While the Colombian government has now been pledging to curb violence against union organizers for several years, 2010 actually saw an *increase* in such violence over previous years. This bloodshed raises serious questions about Colombia's commitment in this area.

The Action Plan makes several important and positive changes to the criminal code and labor law. Key provisions include criminalizing violations of workers' rights by employers, calling on the government to address abuses of collective pacts and cooperatives, pledging to increase the number of inspectors enforcing labor laws, and

establishing reforms to combat impunity in labor rights cases.

What is missing from the Action Plan is any guarantee that the Colombia government will follow through in these areas as well as any means to ensure enforcement or results based on promised changes.

The Action Plan re-creates a separate Labor Ministry, which is a welcome development. The Colombian labor ministry was absorbed into the Ministry of Social Protection by the Alvaro Uribe Administration in a move that was widely seen as reducing the capacity of the Colombian government to protect labor rights. The new Labor Ministry will budget to hire and train 480 new labor inspectors over the next four years, with 100 to be hired by the end of 2011. What is not yet known, however, is whether these new watchdogs will have the training, resources, and political backing to do their jobs.

The Action Plan also expands the Ministry of Interior and Justice's protection programs to include labor activists, and past, current, or would-be unionists, and commits the government to specific steps for criminal justice reform to investigate the backlog of labor rights-related cases, with the intent of decreasing impunity rates. In addition, the Colombian government has committed to establishing criminal penalties of up to five years' imprisonment for employers that violate the rights of workers to organize and bargain collectively.

Again, these are important promises and would be significant if fully implemented. But the Action Plan says nothing about hiring additional judges or prosecutors to deal with the many past and current cases of violence against unionists. Nor does it set milestones laying out how aggressively it will prosecute cases. Given the high level of anti-union violence, including just in the past year, it is reasonable to demand more tangible evidence of progress by the Colombian government in this area before Congress schedules a vote on the FTA.

Last year's Demos [report](#) highlighted the abuse of labor cooperatives (*cooperativas de trabajo asociado*, known as CTAs) as a form of labor relation that strips workers of all basic employee rights provided by the Colombian Labor Code. The Action Plan recognizes this and commits the Colombian government to the creation of specific regulations that establish methods for addressing and punishing these abuses. The effectiveness of this agreement is therefore based on regulations and laws that do not yet exist. The plan also calls for half of the new labor inspectors to specialize in investigating cases involving cooperatives, especially in the palm oil, sugar, mining, ports, and flower sectors. However, even if labor inspectors are effective in identifying abuses in cooperatives, the government has no plan to transfer the million-plus workers in cooperatives into direct employee-employer contracts.

Demos also outlined the ways in which employers use collective pacts (*pactos colectivos*) – a form of labor relation in which workers are excluded from labor protections – to avoid labor regulations and to provide incentives or threats to get workers to leave unions. The Colombian government agreed to criminalize the use of collective pacts to undermine the rights to organize and bargain collectively, and to enforce and promote awareness of these regulations. However it still falls short of ILO guidelines, which prohibit bargaining with unorganized workers if a union is present in a workplace.

All of these changes are positive but again, no track record of progress or results in these areas is required prior to ratification of the FTA, and any failure to address the agreed-upon changes may not be enforceable through the FTA's trade enforcement mechanisms.

## RECOMMENDATIONS

Congressional approval of the Colombia FTA would remove the biggest and best carrot the U.S. has to create the political will in Colombia to address labor issues. It would be unfortunate if Congress ratifies the agreement without solid evidence that Colombia is willing and able to 1) address impacts on displaced rural workers; and 2) make progress on labor rights issues.

We recommend that the Obama Administration ask the Colombia government to outline a comprehensive

plan for offsetting the FTA's negative effects on agricultural workers and rural employment. For example, the provision of jobs and skills training programs for rural farmers and laborers affected by U.S. agricultural products could keep workers from turning to coca or violence. The Administration should be open to ideas for redirecting some U.S. assistance to help implement a plan for cushioning rural workers from the downsides of the FTA.

We also recommend that the Obama Administration delay bringing the Colombia FTA before Congress until the Colombian government provides evidence that it is moving forward on the labor rights provisions of the Action Plan. Colombia should show that it is addressing the backlog of unresolved cases involving the murder of unionists, preventing new violence, effectively empowering the new labor inspectors it is hiring, and more.

Finally, in the event that Congress does ratify the Colombia FTA, we recommend that the Obama Administration delay implementation of the agreement until Colombia has shown demonstrable results on the pledges outlined in the Action Plan. Current law provides the Administration with the power to delay implementation until it sees evidence of progress. It should be willing to exercise this prerogative.

For citations of all the facts and figures in this brief, please see the original Dēmos report: *The Likely Impact of the U.S. – Colombia Trade Promotion Agreement on Colombian Workers*.

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