

Congress of the United States

Washington, DC 20515

September 15, 2009

The Honorable Ron Kirk
U.S. Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Kirk:

We are pleased to have this opportunity to submit comments in support of the U.S.-Colombia Trade Promotion Agreement (“the Agreement”) to the United States Trade Representative in response to his July 29, 2009 *Federal Register* request. These comments address the improvement in the labor rights situation in Colombia, a strong democratic ally; how the implementation of the Agreement could enhance and accelerate continued efforts to improve labor rights in Colombia; and how implementation of the Agreement will provide many new opportunities for American exporters and workers.

Benchmarks Must be Identified Promptly:

Critics of the Agreement have asserted the need for further progress on labor rights before consideration of the Agreement but they have failed to provide any specific recommendations to make that a reality. Nor have they explained how delaying the Agreement would benefit workers in Colombia or the United States.

In our view, the United States should encourage further progress in Colombia by promptly identifying reasonable benchmarks for the Colombian government and the United States to meet, thus allowing for Congressional consideration of the Agreement without further delay. Failing to consider the Agreement would result in a double loss – Colombia would not be subject to the more rigorous labor criteria in the Agreement, and American workers become less competitive as other countries complete trade agreements with Colombia guaranteeing those countries and those workers better access to that market than American workers have. Failure to consider this Agreement is a failure to level the playing field for American workers.

The Agreement Will Further Improve Labor Conditions:

The *Federal Register Notice* poses three specific questions: 1) whether there are gaps in Colombia’s labor laws, 2) whether the Colombian government is taking adequate steps to protect Colombian workers, and 3) whether Colombia has made sufficient progress in its efforts to prosecute perpetrators of violence. In our view, consideration of these questions must be in the context of the tremendous progress already made by Colombia on these issues to improve the living and working conditions of all Colombians.

The safety of Colombian workers is a chief concern for all parties, and any violence is too much. Clearly, further improvements are necessary. However, simply rejecting the

Agreement would not improve conditions in Colombia and could actually damage the progress already made. The Agreement is an important tool the United States can use to provide additional support to the Colombian government and its efforts to improve conditions for all Colombians.

Colombia has greatly improved its labor law regime. Colombia has ratified 71 International Labor Organization Conventions, including all eight “core” conventions, while the United States has ratified only two. The Colombian government and the International Labor Organization have created a permanent ILO office in Colombia to assist the Colombian government’s effort to improve labor conditions. Colombia has made many changes to its labor laws to address specific criticisms. For example, Colombia has changed its labor law so that it no longer prohibits collective bargaining when a union represents fewer than half of the workers at an enterprise. Colombia also changed its laws to prevent firms from using independent contractors and worker cooperatives to avoid unionization. Additionally, Colombian labor law now requires cooperatives to provide the same health and social security benefits other entities are required to provide. Another key reform has been to move the authority to determine the legality of a strike from the Executive Branch to the Judicial Branch of the government.

The Colombian government has taken extensive steps to ensure the adequate protection for Colombian workers against violence, and there is clear, tangible proof that these efforts are working. As the Colombian government has restored stability and the rule of law after a period of violent civil war, the overall level of violence has plunged. Overall homicide rates have declined by 44 percent since 2002 and 2008 saw the lowest murder rate in 15 years, with even further reductions in 2009. Kidnappings have declined by 87 percent and terror attacks have declined by 77 percent. Colombia is spending \$42 million to provide security to over 1,700 union members. This effort to reduce violence against union leaders has been successful: the number of homicides involving union members has declined by 80 percent, and the murder rate for union members is now lower than for non-union members. Most importantly, all Colombians, including union members, are safer than ever before. These improvements have led Colombian labor union leaders representing 79,000 Colombian workers to support the Agreement wholeheartedly.

In addition to its tremendous efforts to prevent violence, Colombia has invested significant resources to prosecute the perpetrators when acts of violence do occur. Colombia amended its Constitution to completely overhaul its justice system to speed the prosecution of perpetrators. The Colombian government has established a dedicated team of investigators and prosecutors to deal exclusively with cases of violence against labor leaders. Funding for the Prosecutor General’s office has increased by 75% since 2002. These efforts are speeding the process of justice and addressing the backlog of cases inherited by the Uribe Administration after years of civil war, when the judicial branch was a target of drug lords and their FARC allies, making the functioning of the justice system virtually impossible.

The Agreement would lock in current results and incentivize further progress. Currently Colombia is subject to the labor rights provisions in the Andean Trade Promotion and

Drug Eradication Act (ATPA). As a result of the bipartisan May 10, 2007, Agreement between Congress and the Administration, the labor chapter of the Agreement goes beyond the criteria in ATPA by explicitly incorporating the ILO Declaration and subjecting those commitments to binding and enforceable dispute settlement with trade sanctions just like any commercial dispute. Thus, implementation of the Agreement would subject Colombia to more rigorous labor rights commitments than those currently in effect. In addition, the labor provisions set an example for the rest of the world in protecting and preserving fundamental labor rights through bilateral trade agreements, but only if United States takes the lead and implements the Agreement.

The Agreement Will Boost U.S. Exports and Opportunities for U.S. Workers:

In addition to subjecting Colombia to a more rigorous labor regime, the Agreement will provide an important boost to both the U.S. and Colombian economies, which is particularly important in these difficult economic times. Because the U.S. market is already largely open to imports from Colombia, the bulk of the economic benefits would accrue to American workers and exporters. According to the U.S. International Trade Commission, U.S. exports to Colombia could increase by over \$1 billion, not counting increases in services exports. The delay in implementation of the agreement has cost U.S. exporters over \$2 billion in unnecessary tariffs.

The world isn't stopping to wait while the United States decides how to handle the Agreement. Our trading partners recognize that Colombia is one of the largest and fastest growing markets in Latin America and are moving ahead to conclude their own deals and guarantee themselves a piece of this dynamic market. Among the countries poised to complete trade agreements with Colombia are Canada and the EU. There is significant competition between exports from these countries and the United States into Colombia. Should Canada and the EU implement these agreements before the United States, their exporters and workers will gain a competitive advantage over U.S. exporters and workers and U.S. exports would decrease. Indeed, analysis conducted by Ways & Means Committee Republican staff with the assistance of the U.S. International Trade Commission found that key U.S. agriculture sectors such as wheat, dairy, and meat products could see reductions in exports of nearly \$57 million if Canada and Colombia implement a trade agreement ahead of the United States. The analysis shows that many important U.S. manufacturing sectors, including machinery, auto parts, chemicals, plastics, and electronics, would experience declines in exports of nearly \$387 million if the EU and Colombia implement an agreement ahead of the United States. In these difficult economic times, Congress and the Administration must take all available steps to increase exports and the jobs that they support. Delaying the U.S.-Colombia Agreement and putting American workers at a competitive disadvantage is clearly moving in the wrong direction.

Passage of The Agreement is Vital Foreign Policy:

Finally, Colombia is a key regional ally and security partner. This agreement will anchor longstanding ties with a vital regional ally while promoting economic growth and poverty reduction and strengthening peace, democracy, freedom and reform within our hemisphere. The rest of the hemisphere is watching U.S. action with respect to the Agreement and judging the reliability of United States as an ally based on our actions.

Conclusion:

In recognition of the tremendous progress the Colombian government and people have already made, their commitment to further progress, and the critical role the Agreement can play improving the economic conditions of workers in Colombia and America, we urge the speedy establishment and implementation of benchmarks and Congressional consideration of the U.S.-Colombia Trade Promotion Agreement.

Sincerely,

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Sam Johnson Paul Ryan Eric Cantor
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cc: Ambassador Demetrios Marantis
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America Falling Behind:

As Other Countries Complete Trade Agreements, American Exporters and Workers Get Left Behind

Results for U.S. Export Sectors that Experience a Decline of at Least 5% /1/

Impact of EU - South Korea Trade Agreement on U.S. Exports to South Korea

| <u>Sector</u> | Percent Decline | Dollar Decline (\$ thousands) |
|---|-----------------|-------------------------------|
| Machinery & equipment: | -7% | (447,510) |
| Chemical, rubber, and plastic products: | -5% | (273,250) |
| Food products: | -31% | (223,820) |
| Meat products: | -62% | (51,460) |
| Motor vehicles and parts: | -5% | (27,900) |
| Cereal grains: | -5% | (27,650) |
| Dairy products: | -57% | (17,670) |
| Crops: | -11% | (13,750) |
| Leather products: | -12% | (12,480) |
| Apparel: | -9% | (5,400) |
| Beverages & tobacco products: | -10% | (4,800) |
| Vegetable oils: | -10% | (1,500) |
| Cattle, sheep, and goats: | -5% | (350) |
| Sugar: | -6% | (120) |
| Subtotal selected sectors: | -8% | (1,107,660) |

Impact of Canada - Colombia Agreement on U.S. Exports to Colombia

| <u>Sector</u> | Percent Decline | Dollar Decline (\$ thousands) |
|----------------------------|-----------------|-------------------------------|
| Wheat: | -38% | (50,920) |
| Cattle, sheep, and goats: | -27% | (4,590) |
| Meat products: | -10% | (900) |
| Dairy products: | -8% | (240) |
| Subtotal selected sectors: | -35% | (56,650) |

Impact of EU - Colombia Agreement on U.S. Exports to Colombia

| <u>Sector</u> | Percent Decline | Dollar Decline (\$ thousands) |
|---|-----------------|-------------------------------|
| Machinery and equipment: | -15% | (154,950) |
| Chemical, rubber, and plastic products: | -9% | (118,710) |
| Electronic equipment: | -6% | (37,800) |
| Paper products: | -14% | (20,160) |
| Textiles: | -11% | (15,730) |
| Motor vehicles and parts: | -13% | (14,040) |
| Manufactured products: | -13% | (7,280) |
| Metal products: | -14% | (6,160) |
| Apparel: | -21% | (5,460) |
| Mineral products: | -9% | (2,790) |
| Iron and steel: | -6% | (1,680) |
| Wood products: | -13% | (1,300) |
| Leather products: | -7% | (350) |
| Dairy products: | -10% | (300) |
| Beverages and tobacco products: | -7% | (140) |
| Processed rice: | -7% | (11) |
| Wool: | -50% | (30) |
| Subtotal selected sectors: | -11% | (386,891) |

/1/ Analysis of the impact of implementation of FTAs between the EU and Korea, the EU and Colombia, and Canada and Colombia and no U.S. FTAs implemented.

Source: Committee on Ways & Means, Republican Staff from technical assistance provided by the U.S. International Trade Commission.