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LOSING JOBS AND ALIENATING FRIENDS: THE CONSEQUENCES OF FALLING BEHIND ON FREE TRADE WITH COLOMBIA AND PANAMA

A REPORT

TO THE MEMBERS

OF THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

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LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, February 8, 2011.

DEAR COLLEAGUES: I directed my senior Senate Foreign Relations Committee staff member for Latin America and the Caribbean, Carl Meacham, to travel to Panama and Colombia from January 18 to 21, 2011, to assess the consequences of U.S. failure to ratify Free Trade Agreements (FTAs) with these countries.

As Congress debates renewal of trade preferences for Colombia, which are due to expire on February 12, 2011, under the Andean Trade Preference Act (ATPA), it should also consider the importance of retaining U.S. competitiveness in Latin America through approval of the pending FTAs. During President Obama's recent State of the Union Address, he advocated for passage of the South Korea Free Trade Agreement and mentioned his interest in advancing the Panama and Colombia FTAs. This was an important development, but the President needs to do more to build support in Congress for the agreements with Panama and Colombia.

I have been a strong supporter of the Panama-United States Trade Promotion Agreement (TPA) and the United States-Colombia Trade Promotion Agreement (CTPA) since their signing. Approval of these free trade agreements would eliminate trade barriers and facilitate access for U.S. exporters in these countries. Delay has already resulted in significant loss of market shares and jobs for U.S. businesses.

In Panama, large-scale projects, such as the $5.25 billion Panama Canal Expansion, the $1.5 billion Panama City Metro, and hundreds of millions of dollars in highway expansion contracts, have been awarded to non-American firms. The United States recently lost its position as Colombia's number one agricultural supplier. Total U.S. agricultural exports to Colombia decreased from $1.8 billion in 2008 to $827 million in 2010. Meanwhile Argentina's total agricultural exports to Colombia increased from $457 million in 2008 to $1 billion in 2010. Ratification of the free trade agreements would help to reverse these trends and solidify market opportunities for U.S. goods and services.

The United States is being displaced in South America as the preferred and logical trading partner. U.S. market share is being lost to China, Brazil, and other countries in Latin America that benefit from trade accords with Colombia. When the Colombia-Canada FTA is implemented, as early as this summer, the immediate effect is likely to be the replacement of U.S. wheat in Colombia with lower-priced, duty-free Canadian wheat. FTA tariff reductions will also benefit Canadian heavy equipment and other capital good exports to Colombia at the expense of U.S.-manufactured products, which still face tariffs ranging from 5 to 20 percent. As non-U.S. goods and services effectively gain preferential access to these economies, the United States will lose significant opportunities.

Beyond the compelling economic arguments, these FTAs are important to U.S. influence and standing in the region. Continued delay on a matter of such importance to our allies calls into question U.S. reliability. The FTAs are increasingly considered by Panamanians and Colombians as a crucible in the bilateral relationships. They serve as a symbolic litmus test of U.S. commitments to its friends in a neighborhood where various countries are taking sharply divergent paths.

The United States not only enjoys a long-standing bilateral relationship with Panama but a particularly close partnership with Colombia. This Andean country promotes and adheres to representative democracy and open markets at a time when some of its neighbors ignore these principles. Without the FTA, we risk diminishing a constructive alliance with a country that has achieved so much in cooperation with the United States.

For the first time, nations such as Chile, Mexico, Peru, and Colombia are promoting joint efforts to expand intraregional trade and business ties as well as commerce with Asia. Failure to conclude an FTA with Colombia, a nation that shares our democratic values and economic development priorities, would signal U.S. neglect for like-minded allies within an ideologically divided hemisphere.

Mr. Meacham's report provides significant insight and important recommendations to advance U.S. interests in Latin America. I hope you find the report helpful. I look forward to working with you on these issues and welcome any comments you may have.

Sincerely,

RICHARD G. LUGAR,
Ranking Member.

LOSING JOBS AND ALIENATING FRIENDS: THE CONSEQUENCES OF FALLING BEHIND ON FREE TRADE WITH COLOMBIA AND PANAMA

From January 18 to 21, 2011, Senate Foreign Relations Committee minority staff traveled to Panama City, Panama, and Bogotá, Colombia. During this official visit, staff met with senior government officials, U.S. Embassy officials, trade associations, think tanks, the local private sector, and representatives of U.S. industry. At the request of Senator Lugar, the Committee Ranking Member, the purpose of the trip was to assess the economic and political consequences of U.S. inaction on pending free trade agreements.

BACKGROUND

Both Colombia and Panama are awaiting U.S. congressional approval of free trade agreements (FTAs) that were signed in 2006 and 2007, respectively. These comprehensive agreements would eliminate tariffs and other barriers on U.S. exports and services.

THE UNITED STATES-COLOMBIA TRADE PROMOTION AGREEMENT (CTPA)

As the fifth-largest economy in Latin America with a population of 45 million, Colombia ranks 22nd among U.S. export markets and 27th in the world as a source of U.S. imports. U.S. exports to Colombia totaled $9.4 billion in 2009, while U.S. imports totaled $11.3 billion.[1] Within Latin America, Colombia is the third-largest exporter of oil to the United States (after Mexico and Venezuela) and the third-largest destination for U.S. products (behind Mexico and Brazil). Colombia, which has the third-largest population in the region and a growing middle class, is an increasingly attractive foreign investment market.

About 90 percent of U.S. imports from Colombia already enter the United States duty-free under the Andean Trade Preference Act (ATPA), a unilateral trade preference program designed to promote alternatives to illegal drug production as sources of economic growth. Many U.S. exports to Colombia, on the other hand, face duties as high as 35 percent, leading the U.S. business community to argue that an FTA with Colombia would level the playing field by providing U.S. producers equal access to the Colombian market.[2]

[1] Villareal, M. Angeles. The Proposed U.S.-Colombia Free Trade Agreement. Congressional Research Service Report for Congress, October 1, 2010.

[2] For example, see witness testimony from the January 25, 2011, Hearing at the House Committee on Ways and Means on Hearing on the Pending Free Trade Agreements with Colombia,

Continued

The United States-Colombia Trade Promotion Agreement (CTPA) would immediately eliminate duties on 80 percent of U.S. exports of consumer and industrial products to Colombia. An additional 7 percent of U.S. exports would receive duty-free treatment within 5 years of implementation, and most remaining tariffs would be eliminated within 10 years of implementation. The agreement also contains provisions on customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

Regarding agricultural trade, Colombia currently applies tariff protections on all agricultural products, including some that exceed 100 percent. The pending CTPA, upon implementation, would provide immediate duty-free access on 77 percent of all agricultural tariff lines, accounting for 52 percent of current U.S. exports to Colombia. Colombia would eliminate most other tariffs on agricultural products within 15 years, while the United States would make permanent the ATPA preferences for Colombia's agricultural exports.

A congressionally mandated report by the United States International Trade Commission (USITC) concluded that the primary impact of a free trade agreement with Colombia would be increased U.S. exports to Colombia as a result of enhanced U.S. access to the Colombian market.[3] The largest estimated increases in U.S. exports to Colombia, by value, would be in chemical, rubber, and plastic products; machinery and equipment; and motor vehicles and parts. In terms of percentage increases, the largest increases in U.S. exports would be in rice and dairy products.

Some of the congressional debate surrounding the U.S.-Colombia FTA has centered on concerns about violence against union members in Colombia. Members who support the CTPA argue that Colombia has made significant progress in recent years to curb violence and address the country's most pressing human rights issues. (*See* Appendix II for a detailed list of advancements in human rights and labor issues. This information was gathered by staff from multiple sources, including the Government of Colombia, Colombia's Vice Presidency, the Colombian Ministry of Interior and Justice, Office of the Prosecutor General, and the Ministry of Social Protection. The International Labor Organization served as an additional source.)

THE PANAMA-UNITED STATES TRADE PROMOTION AGREEMENT (TPA)

With a population of 3.5 million people, Panama represents a much smaller market for the U.S. than Colombia. Nevertheless, it maintains a stable economy and historically close ties to the United States, even following the transfer of the Canal to Panama in 1999. The United States is Panama's single largest source of imports, while Panama is one of the few Latin American countries with which the United States has a merchandise trade surplus.[4]

Panama, and South Korea and the Creation of U.S. Jobs: http://waysandmeans.house.gov/Calendar/EventSingle.aspx?EventID=220430.

[3] United States International Trade Commission (USITC), *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects,* Publication 3896, December 2006.

[4] Hornbeck, J.F. The Proposed U.S.-Panama Free Trade Agreement. Congressional Research Service Report for Congress, January 6, 2011.

The U.S.-Panama TPA would result in significant liberalization of trade in goods and services, including financial services. Over 88 percent of U.S. exports of consumer and industrial goods to Panama would become duty-free immediately, with remaining tariffs to be phased out over 10 years. Like the FTA with Colombia, it also includes provisions relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

A USITC study found that the likely main trade effect of the FTA would be to increase U.S. exports, given that 96 percent of U.S. imports from Panama already enter duty-free. Detailed estimates suggest that when fully implemented, the largest growth will accrue to U.S. exports of rice, pork, beef, and passenger vehicles.[5]

Congressional concerns have focused on Panama's alleged status as a "tax haven." This issue was addressed with the signing of a U.S.-Panama Tax Information and Exchange Agreement (TIEA) on November 30, 2010. The TIEA permits either country to request information on most types of federal (U.S.) or national (Panama) taxes. Its purpose is to enhance tax information transparency, an important element in combating illegal financial transactions, including those linked to drug smuggling and money laundering. The agreement does not enter into force until Panama changes its tax code, which it has committed to do by the end of 2011.[6]

OBSERVATIONS

Staff believes that three U.S. policy priorities will be affected if Congress does not ratify the U.S.-Colombia and U.S.-Panama Free Trade Agreements. First, in an ailing economy, our ability to create jobs depends largely on expanding domestic and international commerce. The FTAs would create jobs, while the failure to approve the FTAs would lead to a loss of U.S. jobs and market share. Second, if we fail to pursue ratification of the Colombia FTA, we will likely miss an opportunity to expand on gains achieved through Plan Colombia on issues of human rights and labor in Colombia. Lastly, without the FTAs, the U.S. loses credibility and diminishes its ability to influence countries in Latin America.

LOSING MARKETS IN COLOMBIA

Colombia buys more U.S. products than many important U.S. trade partners, including Russia, Spain, and other mid-sized economies. In the past 2 years, however, the United States has lost $1 billion in agricultural exports to Colombia due to regional accords and international commercial competition.[7] Staff believes that despite strong historical ties between our two countries, and with heightened demand for commodities produced in Colombia, other trading opportunities are presenting themselves. Colombia, like the

[5] USITC, *U.S.-Panama Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects,* Publication 3948, September 2007.

[6] Hornbeck, J.F. The Proposed U.S.-Panama Free Trade Agreement. Congressional Research Service Report for Congress, January 6, 2011.

[7] Information provided by U.S. Embassy in Colombia.

rest of Latin America, has not waited for the U.S. to ratify trade agreements while other attractive options have become available.

Because of its own trade accord with Colombia, MERCOSUR (the Southern Common Market, made up of Argentina, Brazil, Paraguay, and Uruguay) continues to expand its exports and make significant market-share gains in Colombia's agricultural sector [see Appendix III for Colombia's agricultural import statistics]. For the first time in U.S.-Colombian agricultural trade history, the U.S. has lost its position as Colombia's number one agricultural supplier to Argentina. Total U.S. agricultural exports to Colombia decreased from $1.8 billion in 2008 to $827 million in 2010, while Argentina's total agricultural exports to Colombia increased from $457 million in 2008 to $1 billion in 2010.

The dramatic loss of U.S. market share is primarily in grains (corn, wheat, and soybean meal) and is likely to continue as evidenced by agricultural trade gains made by most countries in the region (Brazil, Canada, Chile, Ecuador, Bolivia, Peru, and Mexico). According to senior officials at the U.S. Embassy in Bogotá, MERCOSUR countries currently receive a 9-percent tariff discount for their grain exports, while U.S. grain exporters pay the full price under a price band system. The WTO-inconsistent price band system would be eliminated immediately upon implementation of the U.S.-Colombia FTA.

Moreover, Colombia and Canada have approved a free trade agreement that will enter into force this year. According to the Government of Canada, the FTA with Colombia "will stimulate the growth of our commercial relationship and help level the playing field for Canadian business vis-a-vis competitors who have or are seeking preferential market access in Colombia."[8] In contrast, U.S. business will continue to lose market share. For example, in staff's meetings with representatives of Archer Daniels Midland Company (ADM) in Bogotá, ADM representatives indicated that the United States could lose its entire wheat-market share in Colombia following implementation of the Canada-Colombia FTA—a scenario of great concern to the U.S. wheat industry.

The U.S.-Colombia trade relationship does not exist in a vacuum. In South America, China has replaced the United States as Brazil's largest trading partner. According to an analysis of trade statistics by the Private Sector Competitiveness Council, China has increased its exports to Colombia by 224 percent during the first 9 months of 2010. Today, China is Colombia's second largest trading partner after the United States [see graph in Appendix IV of the projected market share gain of China in Colombia]. The Council predicts that China will supplant the United States as the leading trade partner within 10 years if current trends continue without a U.S.-Colombia FTA. In addition, Canada, Chile, Mexico, and many European nations are expanding their presence in Colombian markets as a result of their own trade accords. According to Colombian Government officials, the U.S. is losing to Brazil in mega-construction projects both in Colombia and in neighboring countries. Colombia is currently negotiating trade deals with South Korea and

[8] Foreign Affairs and International Trade Canada, http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/andean-andin/can-colombia-colombie.aspx

Panama and has plans to conclude other trade agreements, including one with Japan.

LOSING INFLUENCE IN COLOMBIA

Failure to gain approval of the FTA has broad implications. If the United States fails to ratify the FTA with Colombia, the U.S. Government is likely to lose an opportunity to further Colombia's progress in improving respect for human rights and lowering violence through enforceable commitments on trade-union protection and reforms of existing labor legislation.

While significant security gains were made during the administration of Álvaro Uribe, President Juan Manuel Santos has demonstrated with concrete measures that labor and human rights are top priorities of his government. In an unprecedented action, President Santos proposed legislation to offer reparations to victims of violence and land restitution to hundreds of thousands of Colombians who lost their land due to decades of armed conflict. Also, for the first time, the Colombian Government has committed to examine with human rights groups all labor homicides since 2000. Especially important to pro-labor groups in this country is President Santos's pending legislation to dissolve those Cooperative Work Associations (CTAs) that enable employers through sub-contract relationships to evade paying full benefits to workers.

In addition, Colombia's private sector is changing for the better. The country's largest companies today have stronger trade-union relations, overseas investment, and expanding corporate-responsibility programs. As noted by Camilo Reyes, the Colombian American Chamber of Commerce Executive Director in Bogotá, Colombian corporations have become advocates of labor and other regulations, consistent with the U.S.-Colombia FTA provisions. It is widely viewed that these reforms are improving employment conditions for Colombians. These same business enterprises are now regional multinationals and are investing hundreds of millions of dollars in the United States. Staff believes that it is an imperative to ratify the U.S.-Colombia FTA in order to fortify these job-creating relationships.

Absent the FTA, the U.S. Government will likely lose political leverage with Colombia apart from historical ties that count for less each day. Colombia—now a member of the United Nations Security Council—is increasingly looking outward for both new commercial relations and political support. As mentioned to staff by a senior Colombian Government official, "where the money goes, the political influence seems to go as well."

FRUSTRATION IN PANAMA

Senior Panamanian Government officials are feeling frustrated and betrayed after the publication of statements attributed to the U.S. Trade Representative indicating that a push to ratify the Panama FTA at the same time as South Korea's would be a "huge mistake." Senior government and private-sector officials informed staff that Panama has done everything asked of it, and they expressed their disbelief about the perceived unwillingness of the Obama administration to expand, or even maintain, a commercial relationship that grants the United States a $4 billion trade surplus.

In a conversation with staff, Foreign Minister Juan Carlos Varela expressed the view that Panama would be “very frustrated” if the FTA is not moved in the next 3 months. Noting that Panama had addressed FTA-related requests and has been a strong partner on security issues, he said Panama “has done everything you asked.”

Moreover, Minister of the President Jimmy Papadimitriu (third-highest government official) told staff that President Martinelli’s administration remains committed to resolving all of the issues that have been cited as reasons not to send the FTA to Congress. In this regard, legislation to implement the Tax Information Exchange Agreement (TIEA) was approved by the Cabinet on January 18, 2011. Staff was told by other senior Panamanian Government officials that it is expected to be passed by the National Assembly by mid-February, 2011.

The Martinelli administration has sent to Panama’s National Assembly legislation focusing on the importance of “knowing your client” (partially addressing tax-haven concerns), the right to collective bargaining in economic processing zones (addressing one of three labor concerns), and the right for unions to strike in companies less than 2 years old. Regarding the remaining labor concern, senior Panamanian Government officials reiterated that the Martinelli administration (supported by Panama’s business and labor movement) would not introduce legislation which would reduce the number of members needed to start a union from 40 to 20.

U.S. officials at the U.S. Embassy in Panama City explained that the Martinelli administration made a policy decision to extricate Panama from the tax haven notice process of the Organization for Economic Co-operation and Development (OECD) as part of its efforts to create an environment conducive to the passage of the FTA by the U.S. Congress. It has pursued with OECD members signature of 13 double-taxation treaties, which include fiscal information exchange clauses, and it signed on November 30, 2010, a Tax Information Exchange Agreement (TIEA) with the United States. According to Panamanian Government officials, the Martinelli administration’s interest in the country’s extrication from the notice process was necessary not only to remove a stigma from Panama’s financial sector, but also to build confidence and transparency in the banking sector.

Given the lack of movement on the FTA after Panama signed the TIEA, Panamanian officials were outraged. Minister Papadimitriu and Minister of Commerce and Industry Roberto Henriquez both explained that they had been given a list of conditions relating to the FTA, which were delivered by Dan Restrepo, President Obama’s senior aide for the Western Hemisphere, in June 2009. In reaction, Minister Henriquez said that “Panama has given what was requested and has received nothing in return.” He further noted that U.S. inaction on the FTA was “pushing Panama away” and that the current course would damage commercial relations. He also referenced the agreements with Canada and the European Union as potentially reducing U.S. sales in the short term.

Asking rhetorically, “where is the U.S.?”, Henriquez highlighted the mega projects that have been awarded to non-American firms.

Henriquez also pointed to Panama's growing economy (34 consecutive quarters of economic growth) and its increasing regional links (such as aviation expansion that led Copa Airlines to purchase over $2 billion of Boeing aircraft), and asked why the United States is isolating itself from this economic opportunity. He said that exports from Panama "will not take a single job" from the United States since virtually all of its exports already receive duty-free treatment, and that U.S. exports to Panama will only increase with the tariff reduction contained in the FTA.

Conclusion

In the 2011 State of the Union address, President Obama affirmed his support for free trade agreements as tools to improve U.S. competitiveness and to create jobs. Yet he neglected to offer a timetable for the long-delayed ratification of the accords with Colombia and Panama, in contrast to his call for approving the South Korea deal "as soon as possible." Nor has the President made an effective push in the U.S. Congress to persuade skeptical Members of the benefits of these accords. In an era of divided government, however, these two agreements provide an opportunity for bipartisan cooperation on the administration's stated goal of doubling exports in 5 years.

At stake are U.S. commercial and political interests in the Western Hemisphere. While many analysts have framed the FTAs in terms of benefits for the United States, the agreements are now vitally important for preventing further losses—in market share, jobs, and influence. Staff, therefore, strongly encourages the administration to invest the political capital needed to gain their ratification in the House of Representatives and the Senate.

Central to this effort will be addressing criticisms of Colombia's human rights record, which linger despite the dramatic improvements achieved over the past decade. When staff asked senior Colombian trade officials if they would consider meeting additional conditions, especially given that some of the opposition to ratifying the FTA is regarding human rights, they answered flatly, "Maybe before we would have. But the context has changed. Today, everybody wants this market, as is." Further delays on the FTA only reduce U.S. relevance regarding Colombia's labor reforms and other human rights issues. Even following congressional ratification, the U.S. Government will continue to maintain leverage during the implementation phase, when Colombia would be required to change its laws to comply with the FTA provisions. In the case of the U.S-Peru Free Trade Agreement, this implementation process took nearly 1 year.

The political implications of losing influence in Colombia are real—losing Colombia means losing an important ally who has demonstrated steadfast support for critically important U.S. policies in the region and around the world. With Canada and the European Union's economic interests in Colombia set for "take-off," and with MERCOSUR and China's growing economic and political interests looming, our delay on the FTA is helping to accelerate a broader realignment in regional affairs, one not necessarily in the U.S. interest.

While Colombia and Panama implement agreements with other trade partners, inaction leaves the United States at a competitive disadvantage precisely when our economy requires solutions that promote job creation and growth without deficit spending. Because the U.S. market is already largely open to both countries' imports due to unilateral trade preference programs, continued delay only hurts U.S. exports and services. It is not too late to reverse market-share losses, rescue relations with key allies, and regain our status in Latin America, but the clock is ticking. We must act now.

APPENDIXES

Appendix I

CONTRIBUTOR

Kezia McKeague, *Legislative Assistant, Committee on Foreign Relations, United States Senate*

MEETINGS WITH INDIVIDUALS IN COLOMBIA

U.S. DIPLOMATS

P. Michael McKinley, *Ambassador to Colombia*
Joe López, *Counselor for Agricultural Affairs*
Margaret Hanson-Muse, *Senior Commercial Officer, Foreign Commercial Service*
Tim Stater, *Economic Counselor*

COLOMBIAN GOVERNMENT OFFICIALS

Paula Caballero Gómez, *Foreign Ministry Director of Economic, Social, and Environmental Affairs*
Santiago Pardo, *Chief FTA Negotiator at the Trade Ministry*
Juan Carlos Pinzon, *Chief of Staff to the President*
Juan Mauricio Ramírez, *Deputy Director General, National Planning Department (DNP)*

OTHER INDIVIDUALS AND GROUPS

Imelda Restrepo, *Economic Studies Director at the National Industry Association (ANDI)*
Rosario Córdoba, *President of the Private Sector Competitiveness Council*
Ricardo Duarte, *attorney and former Vice Minister of Trade*
Rafael Mejia, *President of the National Agriculture Association*
Mauricio López and Eduardo López, *Partners with Archer Daniels Midland (ADM)*
Santiago López Jaramillo, *Legal Affairs Director at the National Association of Foreign Trade (ANALDEX)*
Camilo Reyes, *Executive Director of the Colombian-American Chamber of Commerce*
Ricardo Triana, *Council for American Enterprises (CEA) Executive Director*
Juan Pablo Jimeno, *Chicago, Bridge and Iron Country Manager*
Antonio Gómez, *Caterpillar Representative*
Sergio Clavijo, *President of financial think tank, ANIF*

Meetings With Individuals in Panama

U.S. Diplomats

Andrew Plowman, *Counselor for Economic Affairs*
William Muntean, *Economic Officer*

Panamanian Government Officials

Juan Carlos Varela, *Vice President and Foreign Minister*
Jimmy Papadimitriu, *Minister of the President*
Roberto Henriquez, *Minister of Commerce and Industry*
Francisco Alvarez de Soto, *Vice Minister of Commerce for International Trade*

Other Groups and Individuals

Mario Jaramillo, *Chairman of Concertación Nacional para Desarollo and Ambassador-designate to the U.S.*
Roberto Troncoso, *Chairman of APEDE's Committee on International Trade*
American Chamber of Commerce Board of Directors including President Juan Carlos Arias and Executive Director Maurice Bélanger

Appendix II

RECENT ADVANCES IN LABOR & HUMAN RIGHTS IN COLOMBIA

UNDER SANTOS ADMINISTRATION (SINCE AUGUST 7, 2010):

- President Santos selected Angelino Garzón, a long-time labor leader, as Vice President, tasked with human rights and labor issues, including oversight of land restitution. The VP is working tirelessly to inculcate the importance of respect for human and labor rights in all levels of government.
- Santos & VP have opened regular dialogue with labor and human rights groups, repairing the poisoned relationship under the previous administration. They and other GOC officials have already hosted or participated in dozens of meetings on human rights or labor.

Labor-Specific Advances under Santos Administration:

- Santos will soon receive congressional approval to create a separate Ministry of Labor (currently fused with Health). The VP said the separate Ministry would be better able to address critical labor issues such as inspection programs, pensions, gender equality, better salaries and working conditions, and improved social dialogue.
- The VP has been outspoken on combating violence against labor leaders and abuses in the workplace.
- The GOC committed for the first time ever to work with human rights groups and unions to review all labor homicides since 2000, and to conduct jointly a first-ever census of all Colombian trade unions.
- VP announced a plan to better protect teachers, based on a proposal from the national teachers' union. The plan would make schools safe havens against violence.
- Thanks to Santos administration efforts, a new law includes a dissolution mechanism for cooperative worker associations (CTAs, a top union concern because they allowed some employers to escape responsibilities to workers through informal subcontracting arrangements) that fail to adhere to labor law, and higher fines (up to $1.4 million) for CTAs and all methods of third-party contracting that violate the labor code. The law also provides a sanction mechanism for public officials that enter into a third-party contracting agreement with a company that does not adhere to labor law.
- The GOC has recognized it needs to triple the number of labor inspectors to 1,200.
- The GOC is aggressively building on important gains in reducing child labor in Colombia. In November, it announced an increase in government support to complement the 2008 national

strategy to prevent and eradicate child labor. The plan utilizes interagency coordination to promote the overall welfare of children—including access to education and health services. The GOC also supports the Families in Action program, which provides $360 per year to each of 2.6 million families that enroll their children in school rather than permit them to work illegally.

- The VP is in preliminary discussions with the Courts to assign about 30 judges to focus exclusively on a range of human rights and labor issues.
- Reducing informality (about 60 percent of the workforce) is a top Santos priority, and the GOC aims to formalize at least 500,000 jobs by 2014. The GOC has already submitted several initiatives, such as the "First Job Law," to this end.
- Despite private sector objections, Santos increased the minimum wage for 2011 by 4 percent and augmented transportation allotments for workers.

Other Human Rights-Related Advances Under Santos Administration:

- Santos moved quickly to repair the Executive's broken relationship with the Courts, meeting with all of the high justices on his first day in office and treating them with respect since.
- Santos expended significant political capital in convincing the Supreme Court to fill the 18-month vacancy at the helm of the independent Prosecutor General's Office by replacing former President Uribe's nominees with a new slate.
- Viviane Morales took office on January 13 as Colombia's first female Prosecutor General, and the new Deputy Prosecutor General and Director of Prosecutors are in place. This restores leadership to the most crucial independent institution for ending impunity in Colombia.
- Santos's legislative agenda has focused on human rights, and has included bold legislation that seeks to get at the core of Colombia's most problematic issues.
- Santos's proposed Victims' and Land Restitution Law offers reparations for the first time to millions of Colombians who have suffered from decades of violence, and aims to facilitate the return of lands to more than 400,000 families who lost their land to conflict, illegal armed groups and displacement. Santos overcame political opposition to include victims of state security forces in the definition of those who will receive reparations. The GOC has initially budgeted $22 billion for implementation of this law, and has programmed consultations with indigenous and Afro-Colombian communities over the first half of 2011 to ensure their concerns are addressed in implementation.
- In addition to the separate Ministry of Labor, Santos will soon receive congressional approval to create separate Ministries of Justice, Environment, and Housing, in order to increase focus on these issues.
- Santos has also requested congressional permission to dismantle the scandal-ridden Department of Administrative Secu-

rity (DAS), and replace it with a more focused and disciplined intelligence-only agency.

- Congress approved a Santos-supported law to increase the jail sentence to 30 years for killing human rights defenders or journalists.
- The GOC presented an integral anticorruption law to Congress (approved by Senate, pending in House), which includes administrative, penal and disciplinary penalties, and creates two national committees.
- The GOC presented a royalties reform law, which will share the royalty income from extractive industries with all of Colombia's departments, focusing on the poorest regions. The funds will be geared toward economic development, social, infrastructure, and other projects.
- Santos and VP have demonstrated their commitment to human rights defenders by improving their access to government institutions, expanding the program that provides them with physical protection, condemning threats against them, and publicly extolling their importance.
- The Ministry of Interior & Justice increased the annual budget for its protection program by $11 million to $72 million. The program protects about 10,000 journalists, labor leaders, human rights defenders, and opposition figures; and no one who has participated in the program has ever been killed.
- Following up on a commitment between Presidents Obama and Santos to broaden our relationship, Deputy Secretary of State Steinberg launched the High-Level Partnership Dialogue with Foreign Minister Holguín in October. The launch included the first meeting of the bilateral interagency working group on human rights, which discussed the Land and Victims' Law, fighting impunity, better protecting human rights defenders, intelligence reform, and other issues. The VP led the GOC's delegation, which included senior officials from the Foreign, Defense and Interior & Justice ministries, the Presidential Program on Human Rights, and the Prosecutor General's Office. The group will next meet in Washington in March.
- The VP promoted and signed in November a joint human rights declaration with civil society, independent state entities, and the international community. The declaration convokes the parties to prepare a Human Rights Conference for December 2011, which will establish a permanent multisector National Human Rights Commission to work on consensus human rights issues.
- For the first time ever, the GOC included a chapter on human rights in its 4-year agenda and budget-setting National Development Plan. In consultation with Afro-Colombian communities, the GOC also developed a chapter on Afro-Colombian issues in the Plan.
- Santos created new Presidential programs for Indigenous and Afro-Colombian affairs.
- The GOC will be supporting a number of events in 2011 to increase awareness of Afro-Colombian issues, such as: March 21 Conference against Racism and Racial Discrimination, May 21 Day of the Afro-Colombian, October 12 Celebration of the U.N.

Year of African Descendents, October 21 Day of the Afro-Colombian Woman.

- The GOC is developing a specific law to address the unique social, economic, environmental, and security needs of Afro-Colombians in San Andres.
- The GOC is designing a new ambitious program to address the issues faced by displaced Afro-Colombian women, promoting their leadership and access to equal opportunity.
- Santos has called for the prosecution of sensitive cases involving security forces.
- Santos signed into law the new Military Penal Code, which will transition military justice to the oral accusatory system and increase transparency.
- The Ministry of Defense established a commission to revamp the Military Justice System, including streamlining case transfers to civilian courts and ensuring military judges are better trained and more independent.
- In December, the Ministry of Defense announced a new gender training and equality program, a significant step for the male-dominated armed forces.
- The Ministry of Interior & Justice meets regularly with human rights NGOs. The agenda for February's meeting is for the NGOs to present a list of priority cases involving impunity for GOC followup.
- In November, the GOC launched a new program against domestic violence.
- The Prosecutor General's Office created a Forced Displacement and Disappearance Unit in November, with 22 prosecutors and 85 judicial police (to be increased to 120 police in February).
- According to NGO CODHES, displacements in Colombia decreased by 8 percent in 2010 compared to 2009.
- In December, Colombia became the 20th country to join the International Convention against Forced Disappearance.
- The Santos administration in 2010 proposed several legislative initiatives to combat violent criminal bands (BACRIM) and bolster law enforcement:
    - Increase penalties for illegal possession of firearms
    - Criminalize gang membership and stiffen sentences for minors
    - Repeal the law that allows possession of small amounts of drugs
    - Allow search warrants to be executed at any time of day
    - Lengthen warrants to monitor communications
- The Colombian National Police will grow by 20,000 officers over the next 4 years, and the GOC has dedicated nearly $90 million for neighborhood policing programs.
- The Prosecutor General's Office has created a dedicated BACRIM unit with 28 prosecutors located throughout the country. The Santos Government and courts have designated 30 judges that will move around the country to adjudicate BACRIM cases, thereby reducing the prospects of corrupting local judges.

Recent Advances Preceding the Santos Administration:

- The security situation in Colombia has improved drastically over the past decade, with the homicide rate falling by half from 2002 (69.8 per 100,000 persons) to 2010 (33.5 per 100,000). Even with these improvements, Colombia remains a violent place, with 15,238 total murders in 2010.
- Homicides of unionists have decreased significantly: from 194 in 2001 to about 48 in 2010 according to the National Union School (ENS), or from 205 in 2001 to 27 (38 if nonunionized teachers are included) through November 2010 according to the GOC. Information is scarce as to how many of these homicides were due to the victims' labor affiliation and how many were not related to union activities.
- According to the major labor confederations, approximately 820,000 workers are currently union members. So the homicide rate for union members in Colombia in 2010 (5.8 per 100,000, using ENS figures) is almost six times lower than the national average for all Colombians (33.5 per 100,000). The homicide rate for union members in Colombia in 2010 (5.8 per 100,000) is also comparable to the overall homicide rate in the United States (5 per 100,000)
- The Prosecutor General's Office expanded its Human Rights Office in 2006 to include a labor sub-unit to investigate and prosecute cases involving crimes against union members. The subunit currently employs 19 prosecutors, 19 assistant lawyers, and 76 investigators who work with local prosecutors around the country.
- Since 2000, the Prosecutor General's Office has received 1,344 total cases and obtained 271 convictions involving 350 individuals in crimes against unionists, with 221 (81.5 percent) of these convictions since the initiation of the labor subunit. 177 additional cases are currently under investigation.
- Since 2008, three specialized judges have been assigned exclusively to hear 185 labor violence cases that were chosen by a tripartite agreement at the International Labor Organization (ILO). The current VP is working to increase the number of judges dedicated to labor violence cases.
- In 2009, Congress passed a law to increase prison sentences and the statute of limitations for homicides against union members.
- From 2008 to 2010, based on International Labor Organization (ILO) recommendations, the GOC doubled the number of labor inspectors to 423.
- The ILO's high-level mission (October 2009) reported some progress on violence issues as well as certain labor code reforms. An ILO Committee of Experts' 2010 report noted some continuing violations of labor standards, but recognized Colombia's efforts to combat violence in general and the decrease in violent acts against trade unionists. The ILO also commended Colombia for strengthening criminal penalties and prison sentences for perpetrators of violence against union members.
- In June 2010, the ILO announced its list of countries under observation by the Committee on the Application of Standards, and Colombia was not included. Colombia's exclusion is excep-

tional considering that it had been included almost every year since 1989.

- The National Administrative Department of Statistics reported an overall decrease in agricultural child labor from 17 percent in 2003 to 10.9 percent in 2007.
- In 2004 the Ministry of Interior & Justice created the Preventive Security Program to train unionists in self-protection and risk reduction.
- Colombia has ratified all eight of the core International Labor Organization (ILO) conventions. Unions are free to affiliate with international labor confederations. Forced or compulsory labor is prohibited by law.
- The dismantling of drug cartels and demobilization of paramilitaries created a void in drug and crime businesses that is being filled by new, violent criminal bands (BACRIM). The GOC has captured over 10,000 BACRIM members and detained several senior leaders since 2006, and created an Integrated Intelligence Center against BACRIM in 2009.

Appendix III

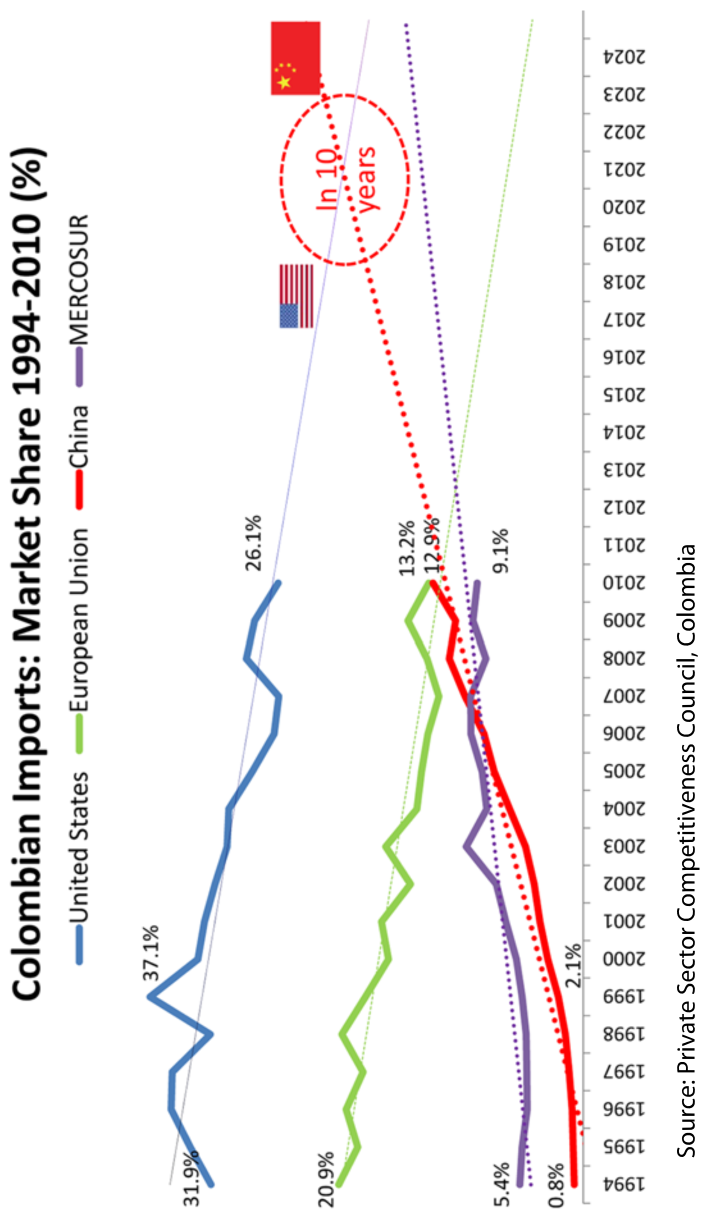
Colombia Agricultural Import Statistics

Year To date: January–September

Partner country	United States dollars			Percent share			Percent change
	2008	2009	2010	2008	2009	2010	2010/ 2008
World	3,997.3	3,643.4	3,891.4	100.0	100.0	100.0	–2.6
United States	1,879.0	1,032.4	827.5	47.0	28.3	21.3	–56.0
Argentina	456.8	736.2	1,011.2	11.4	20.2	26.0	121.3
Brazil	170.2	305.3	311.4	4.3	8.4	8.0	83.0
Canada	223.9	215.5	240.8	5.6	5.9	6.2	7.6
Chile	224.9	221.2	259.3	5.6	6.1	6.7	15.3
Ecuador	228.3	267.9	277.8	5.7	7.4	7.1	21.7
Bolivia	218.8	200.7	254.9	5.5	5.5	6.5	16.5
Perú	92.7	159.4	150.3	2.3	4.4	3.9	62.2
Mexico	75.8	87.8	91.5	1.9	2.4	2.4	20.8
Others	426.8	417.0	466.6	10.7	11.4	12.0	9.3

Source : Global Trade Atlas

Appendix IV


Colombian Imports: Market Share 1994-2010 (%)
United States
European Union
China
MERCOSUR
37.1%
31.9%
26.1%
20.9%
13.2%
12.9%
9.1%
5.4%
2.1%
0.8%
In 10 years
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
Source: Private Sector Competitiveness Council, Colombia