

TRADE & THE U.S.-COLOMBIA PARTNERSHIP

The Obama Administration is committed to pursuing an ambitious trade agenda that will help grow our economy and support good jobs for American workers by gaining access to markets with growing middle classes and more broadly shared economic growth. To achieve that objective, we seek to provide a level playing field that creates economic opportunities for U.S. workers, companies, farmers, and ranchers and that ensures our trade partners have acceptable working conditions and respect fundamental labor rights.

As part of this broader trade agenda and our enduring partnership with Colombia, the Obama Administration has been committed to deepening bilateral economic ties in a manner that is true to our values. To that end, President Obama identified a number of serious and immediate labor concerns that needed to be addressed before he was prepared to submit the U.S.-Colombia Trade Promotion Agreement (the “Agreement”) for Congressional approval. These concerns included insufficient protection of internationally recognized labor rights under Colombian laws, regulations, and enforcement efforts; violence against Colombian labor union leaders; and inadequate efforts to bring to justice those responsible for killing labor union leaders.

The Obama Administration has worked closely with the Government of Colombia and interested stakeholders, including Members of Congress, to address these concerns. The result is an agreed Action Plan Related to Labor Rights (the “Action Plan”) that will lead to greatly enhanced labor rights in Colombia. The Action Plan includes major, swift and concrete steps by the Colombian Government that will create necessary improvements on the ground. In addition, successful implementation of key elements of the Action Plan will be a precondition for the Agreement to enter into effect. To assess progress in implementing the Action Plan, the U.S. and Colombian Governments have agreed to intensify and sustain their engagement at both technical and senior levels.

Fundamental social and economic changes that extend far beyond our trade partnership are needed to help Colombia reach its full potential and heal its social, economic, and political divisions. Under the leadership of President Juan Manuel Santos and Vice President Angelino Garzon, the Colombian Government has begun vital structural reforms. These reforms involve improving the security environment for all Colombians, including vulnerable citizens like trade unionists; addressing the needs of the victims of decades of violence, including victims of state violence; tackling the underlying economic and social divides that have fed conflicts in Colombia; and enhancing the rule of law.

The Action Plan reinforces broader efforts by the Obama Administration to support these reforms and others to help consolidate the gains of the last decade to help build a more fair and just Colombia. These efforts will strengthen an important strategic and economic partner of the United States and help promote economic opportunities for Americans in an increasingly important market in a dynamic region of the world by enabling us to advance this Agreement to Congress.

The Context of Labor Issues

Just a decade ago, despite being one of Latin America's oldest democracies, Colombia stood on the verge of becoming a failed state. It was beset by powerful drug trafficking organization and illegal armed groups, including three Department of State-designated Foreign Terrorist Organizations (the FARC, the ELN, and the AUC) that undermined the country's political, social, and economic fabric.

Through the courageous actions of the Colombian government and the Colombian people and with significant, bipartisan U.S. support through Plan Colombia, the security situation has markedly improved. Now democratic institutions thrive, and Colombia has one of the region's most resilient and vibrant economies.

In the past decade that cooperation has contributed to a 46 percent reduction in homicides in Colombia between 2002 and 2010. The incidence of violence against labor unionists has dropped even more significantly in the past decade -- from 194 homicides in 2001 to approximately 51 in 2010 according to the National Union School (ENS). In addition, there has been a 90 percent reduction in kidnappings, a 71 percent decline in terrorist attacks, and an 88 percent drop in attacks on infrastructure. Conviction rates in the Prosecutor General's Human Rights Unit have increased by 80 percent from 2008 to 2010, and over 1,100 criminals have been extradited to face justice in the United States since 2002.

Recognizing that while progress has been made, more must be done to build a just and durable peace in Colombia. The Santos Administration, with support from the Obama Administration, is undertaking concrete actions to consolidate the gains of the past decade.

The Santos Administration and Structural Reforms

The Santos Administration is pushing forward with fundamental reforms to advance its vision of "Democratic Prosperity." This plan will help turn Colombia into a more equitable society, where economic prosperity benefits all citizens. The cornerstones of the reform effort are:

- **Land Reform.** Pending legislation would restore at least two million hectares during the next 10 years to those displaced by illegal armed groups in Colombia with 1.5 billion USD budgeted to implementation over the next four years. Meanwhile, an Executive Branch restitution "shock plan" is restoring and formalizing by way of executive decree more than 380,000 hectares to more than 130,000 families by the end of spring (77% done as of March). A separate plan will also formalize another 500,000 hectares by the end of 2011. Legislation to facilitate formalizing 1.5 million hectares for 150,000 families during the next four years will soon be presented to the Colombian Congress. Additionally, a rural development law will be presented this summer outlining land use reforms and rural development programs targeting land restitution beneficiaries, small-to-medium scale producers, and Afro-Colombian and indigenous collective communities.
- **Victim Reparations.** Landmark legislation is also pending before the Colombian Congress to provide an estimated \$22 billion USD in reparations, guarantees of no-repetition, truth and

justice, and other provisions to millions of victims from decades of conflict, including to victims of state violence.

- **Government Reorganization.** Pending legislation would create 6 independent ministries of Labor, Interior, Justice, Environment, Health, and Housing and Territorial Development from three existing ministries. The legislation will also give the Santos Administration 6 months of special powers to modernize and reorganize the government to implement Democratic Prosperity, including dismantling the scandal-ridden Administrative Department of Security, DAS.

In the context of the U.S.-Colombia High-Level Partnership Dialogue, the Obama Administration has committed to support reform efforts, including the protection of land leaders and the importance of ensuring the rights of the most vulnerable are protected, including the displaced, Afro-Colombians and Indigenous communities. To that end, USAID is supporting the Santos Administration's land reform efforts by formulating a complimentary land and rural development strategy.

Protecting Workers

Worker protections agreed to by the United States and Colombia in the Action Plan is a meaningful and significant advancement for labor rights in Colombia (See Labor Fact Sheet Link). The Plan provides for specific actions by the Colombian government to prevent labor violence and prosecute perpetrators. It also puts in place stronger measures to protect labor rights, includes specific dates by which these changes will be made. It further provides for the Colombian government's budgeting process to supply the necessary resources to successfully implement the Plan.

In addition to the Action Plan, during Vice President Garzon's February 2011 visit to Washington, he met with Labor Secretary Solis and discussed prospects for enhanced, ongoing engagement between the Department of Labor and Colombia's new Ministry of Labor. Vice President Garzón has proposed to Secretary of Labor Hilda Solis that the Office of the Vice President and the Department of Labor (DOL) conclude a memorandum of understanding to work together in the future to advance labor rights in Colombia. DOL will work with Vice President Garzón toward that end.

These efforts are part of the larger Colombian effort to build a stronger, more just labor environment by bringing more workers into the formal economy where their labor rights will be protected by the rule of law anchored by a stronger legal and regulatory regime.

As Vice President Garzón has clearly recognized, even the murder of one unionist, political leader, judge, journalist, or businessman, is too many. In addition to the Action Plan, the Colombian Government has taken a number of independent steps that should reduce levels of violence and associated impunity, including:

- Presidential Office on Human Rights committed to work with ENS, for the first time ever, to review all labor homicides since 2000.

- The Colombian Congress passed a law in 2009 to increase prison sentences and the statute of limitations for homicides against labor union members. Similar penalty increases were made for threats and kidnapping.
- On September 22, the government announced it was increasing the Ministry of Interior and Justice's annual budget for its protection program increased by \$11 million to \$72 million. Of the more than 10,000 individuals enrolled in the program, 1,500 are labor leaders. No participants in the program have ever been killed.

Economic Integration and Opportunity

Colombia is the third largest recipient of U.S. exports in Latin America and our 20th largest export market worldwide. Colombia is a growing market of 45 million consumers -- the third largest population in Latin America. (See Economic Fact Sheet Link) Eventual approval of the U.S.-Colombia Trade Promotion Agreement (TPA) by Congress will support more American jobs, increase U.S. exports, and enhance U.S. competitiveness. The Agreement will also remove significant barriers to Colombia's market and is crucial to maintaining the U.S. share of this important market.

An Enduring Partnership

Colombia is a key partner in the Americas and beyond, and one that is overwhelmingly supportive of U.S. interests. Under President Santos' able leadership, Colombia is an important leader in regional organizations like OAS, UNASUR, and the Tuxtla Process with Central America and Mexico. Together, we work to advance shared values; to confront continued insecurity in Colombia and beyond; to build a just and durable peace in Colombia; and to tackle key bilateral, hemispheric, and global challenges. Colombia has fast become a key partner in regional security cooperation helping countries throughout the Americas, and particularly Mexico and Central America, more effectively confront transnational criminal organizations. It has made valuable contributions to post-earthquake efforts in Haiti and as a rotating member of the UN Security Council is ably chairing the Iran and Sudan sanctions committees.

Across our partnership, we have a broad set of mechanisms to advance shared interests and values. A key mechanism created by President Obama and President Santos is the U.S.-Colombia High-Level Partnership Dialogue. First convened in October 2010, the High-Level Partnership Dialogue has created a forum to engage on a broad range of non-security issues.

Under the rubric of its Democracy, Human Rights, and Good Governance Working Group chaired by Vice President Garzon, the Dialogue provides an on-going avenue for pursuing enhanced respect for human rights and an end to impunity. In the Dialogue, the Santos Administration has underscored its prioritization of human rights. The Dialogue has also helped promote increased engagement between the Santos Administration and human rights defenders on issues of concern, such as protection for human rights defenders and prosecution of threats against them. Justice and impunity issues have been discussed, including the need for more progress on human rights cases; more resources for judges, prosecutors and investigators; and the

importance of ensuring the smooth transfer of human rights abuse cases from the military to ordinary justice system.

By reinforcing our relationship with another increasingly capable hemispheric partner, the U.S.-Colombia Trade Promotion Agreement also reinforces President Obama's commitment to the Americas highlighted during his recent visits to Brazil, Chile, and El Salvador.

Appendix: U.S. Support for Colombia's Reform Efforts

The U.S. Government has played an active role in supporting the rule of law in Colombia that extends beyond the Action Plan and will continue to do so:

- USAID has allocated \$13.7 million over ten years (2001-2011) to support the protection program.
- USAID has provided a total of \$3.2M from FY 2007 through FY 2011 to the Ombudsman's Office to support the Early Warning System (EWS), which monitors risk indicators so that authorities can respond quickly to threats against civilians, including trade unionists. The Ombudsman's Office currently pays 85% of program costs and USAID contributes 15%. From 2001-2010 the EWS issued 577 Risk Reports, covering 460 municipalities in over 30 departments and resulting in the issuance of 424 Early Warnings to prevent human rights violations.
- USAID provided \$1 million from 2005 to 2009 to the Ministry of Social Protection to support the design and implementation of a comprehensive risk-management model for preventive labor inspections.
- State's Democracy, Human Rights and Labor (DRL) bureau began funding a program through the ILO to promote tripartite social dialogue in 2008. Given continued concerns by unionists, NGOs, and others on violence and threats against trade unionists, DRL will continue funding its program through 2012.
- USAID provided \$283K to support a series of public outreach campaigns that challenge the negative stigma of unions and educate citizens about basic labor rights and the important advocacy role unions play.

The Action Plan also builds on improvements in the transformation of Colombia's justice system, and the ability of the state to expand access to justice and ensure the rule of law.

- 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 sub-unit currently employs 19 prosecutors, 19 assistant lawyers, and 76 investigators who work with local prosecutors around the country.

- Viviane Morales took office on January 13 as Colombia's first female Prosecutor General, restoring leadership to the most crucial independent institution for ending impunity in Colombia after an 18-month gap.
- 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).
- Since 2000, the Prosecutor General's Office has received 1,387 total cases and obtained 344 convictions, including 76 in 2010, over 80 percent of these convictions occurred since the initiation of the labor sub-unit.

U.S. efforts to support these changes have been spearheaded by the Department of Justice (DOJ).

- For the time period 2000 - 2010, DOJ will have provided over \$170 million in assistance for intensive and extensive training and technical assistance for prosecutors, investigators, judges, forensic experts, and protection personnel; as well as equipment, office and information system support, and operational funds. These efforts have helped train more than 100,000 investigators, prosecutors, judges, public defenders, protection personnel, and forensic experts. In addition, more than 2,000 law students and 400 private attorneys have been trained and, 64 "Justice Houses" have been established in areas of Colombia where judicial services are lacking, aiding nine million people.
- DOJ will be providing \$28 million in assistance to the Colombian Justice Sector for Fiscal Year 2010. Of the \$28 million for FY 2010 -- \$8 million is directed to assist the human rights unit (and related human rights cases). Since 2000 the total amount of assistance to the Human Rights Unit is more than \$30 million (18% of total assistance).
- DOJ assistance helped develop a software system within the Prosecutor General's Office, which will enable victim and witness assistance offices to better organize and track victims' cases, provide timely information to victims, and enhance the ability of prosecutors to interact with and encourage victims' participation in the legal process.

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