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Office of the United States Trade Representative Ron Kirk
Washington, D.C.

Dear Sirs:

I write on behalf of the Colombia Support Network, a non-governmental, non-profit human rights organization based in Madison, Wisconsin, with chapters in several cities in the United States, which are matched with Colombian sister communities. Our organization has as a fundamental purpose to educate people in this country, including Members of Congress, about Colombia and its current situation in order to seek a positive United States government policy for Colombia, which will reflect the interests of the sister communities with which we have relations. In this light, I submit on behalf of our organization the following comments on the proposed United States-Colombia Free Trade Agreement in response to the request for comments which we received from your office. We appreciate your attention to our concerns.

Questions for Comment:

(1) Are there gaps in Colombia's labor law regime, including its enforcement mechanisms, with respect to providing for the fundamental labor rights of its citizens? If there are gaps, please identify them and provide specific suggestions for improvement.

Comment:

There are important gaps in Colombia's labor law regime. One of these is the authorization to employers to hire workers for a limited term and then fire them upon the completion of six months of work, even though their job performance has been satisfactory, or even excellent. By engaging in this behavior, Colombian employers are able to avoid paying any benefits to workers. The Colombian Chamber of Commerce has considered this to be an opportunity

for Colombian employers and has advertised this means of avoiding paying benefits to workers, including unemployment compensation and any other benefits, in business publications in the United States seeking investment in Colombian business.

We believe Colombian legislation, and particularly enforcement of labor rights, should provide for unemployment compensation for workers, even those employed for only six months, and establish paid sick leave, maternity leave, and compensation for injuries on the job. In all these areas, the practice in Colombia is to deny such rights. In the case of women working in the cut-flower industry, those who become pregnant are often discharged, rather than provided maternity leave. And they, as well as other workers in the flower industry, are not properly protected from the toxic chemical herbicide and insecticide sprays used to combat pests and flower infections in the flower plantations.

The most substantial problem facing Colombian workers is the continued paramilitary activity throughout most rural areas of Colombia. These paramilitary forces, the largest of which are known as “Aguilas Negras” (“Black Eagles”), maintain a structure throughout the country, and the Administration of Colombian President Alvaro Uribe has not sought effectively to dismantle this paramilitary structure, instead collaborating through the Colombian Armed forces in the support of the Black Eagles’ violent attacks on peasant communities and labor leaders in the banana, oil, coal mining, and other industries. Remarkably, there are more internally displaced people in Colombia – some 4.5 million, 10% of the country’s population – than in any other country in the world! The Colombian government has encouraged displacement of laborers in rural areas, rather than protected their rights to hold a job and maintain their residence – particularly in areas where the Colombian government is promoting large – scale, export-directed African palm plantations or multinational mineral extraction. Additional protections in Colombian labor law are needed for farm workers.

(2) Is the Colombian government taking adequate steps to protect Colombia’s workers from acts of intimidation or violence that impede the exercise of their fundamental labor rights? If there are gaps, please identify them and provide specific suggestions for improvement.

Comment:

The Colombian government has not taken sufficient steps to protect Colombian workers from the perpetrators of violence and intimidation against union members. The number of murders of Colombian union members, and particularly labor leaders, continues to exceed those of any other country in the world. In this case it is not so much a problem of laws not on the books, but rather of a will to enforce those laws by the Colombian government. The continued country-wide activity of paramilitary forces, often assisted by the

Colombian Army, is totally inconsistent with protection of laborers' rights. Until the Colombian government makes a meaningful commitment to dismantle these illegal structures, no Free Trade Agreement (FTA) with Colombia should be implemented.

We are not speaking here of "gaps" in the protection of labor rights in Colombia; we are speaking of the fundamental approach of the Colombian government, which needs to change before the United States government agrees to the implementation of an FTA with Colombia.

(3) Has the government of Colombia made sufficient progress in its efforts to prosecute the perpetrators of violence and intimidation against unionists exercising their fundamental labor rights? If there are gaps, please identify them and provide specific suggestions for improvement.

Comment:

The Colombian government has not made sufficient progress in prosecution of perpetrators of violence and intimidation against union members. It has done very little to combat illegal paramilitary forces; instead it has provided an export-directed agrarian policy which has in practice forced millions of people off their lands, through paramilitary sweeps through the countryside. The current presidential administration in Colombia is very corrupt, even going to the extent of inviting paramilitary members to the presidential palace to meet with Presidential representatives on a secret basis. President Obama did well in advising Colombian President Alvaro Uribe that two terms would be sufficient for him, suggesting in effect that he leave the government in August 2010. Given the corruption and paramilitary taint of Uribe and his administration, no FTA should be implemented until an honest government protective of human and labor rights is established in Colombia.

Additional Comments:

There are other specific concerns which we of the Colombia Support Network and our Colombian sister communities have. These sister communities are the Peace Community of San Jose de Apartado in Antioquia Department; the Small Farmer (Campesino) Movement of Cajibío in Cauca Department; the Embera Chami indigenous community in Putumayo Department; and the Citizens' Process for Tiquisio in Bolívar Department. The Embera Chami are concerned to have protections in the intellectual property part of any FTA for their access to medicinal plants in the Amazon basin region, where they have practiced their traditional medicine for many centuries. There should be specific reference to the rights of indigenous peoples to continued access to their traditional medicinal plants, either through patent protection for them or for denial of patent rights to such medicinal plants altogether. Article 16.9 (6) (c) of the

proposed FTA does not appear to provide the protections we believe to be vitally important to Colombia's indigenous communities.

There is also a need for protection of water rights. In Cajibío the small - scale farmers (campesinos) have experienced a substantial decline in the water table in their area as the Colombian government has protected the rights of the multinational corporation Smurfit-Kappa (owner in Colombia of Carton de Colombia) to develop huge plantations of pine and eucalyptus trees which use tremendous amounts of water, leaving small-scale farmers with dry wells and insufficient water for their crops. And in Tiquisio, mining proposals by multinational mining giant Anglo Gold Ashanti may, if implemented, severely affect the access of small-scale farmers and small-scale miners to water. Any FTA with Colombia should specifically protect the rights to water of these rural communities. Water is likely to be a major trade concern in future years of this 21st century; water rights need to be dealt with now.

In addition, the Peace Community of San Jose de Apartado should be able to develop its agricultural projects without Colombian government-sponsored violence against them. The Colombian Army collaborated with paramilitary forces to carry out a massacre on February 21, 2005 of 8 members of the Peace Community, including Luis Eduardo Guerra, one of its founders, who had met only a day or two earlier with Colombian Vice President Francisco Santos. No FTA with Colombia should be implemented until the Colombian government ends its rhetorical and armed attacks against the Peace Community.

There is one other great concern with the proposed FTA which we wish to bring to your attention. The FTA as drafted will permit entry of food crops from the United States. Several of these crops are subsidized by the United States government. Nothing we have seen in the proposed FTA would prevent these subsidies from continuing and their effect on small-scale farmers (campesinos) seems not to have been seriously considered. Their effect is likely to be catastrophic for small-scale Colombian farmers, who grow products such as rice or corn. The markets for these farmers' crops will likely disappear, making their continued farming untenable. They will then be added to the stream of displaced persons, forced by their disappearing markets to go to the cities to become beggars or prostitutes or to go to the rainforest areas to clear areas on which to plant coca, the only potentially profitable crop for them, given the Colombian government's utter neglect of farm-to-market roads, agricultural extension programs for small-scale farmers and credit for these farmers. The result will be increased instability in Colombia. Since the United States has historically celebrated "stability" of foreign nations as the fundamental goal of United States foreign policy, the FTA as drafted will very likely undermine this historical tenet of United States foreign policy.

For all of the reasons expressed above, we believe the proposed FTA as drafted is seriously flawed. We request that careful attention be given to correcting the problem areas we have outlined above.

Sincerely,

John I. Laun
President, Colombia Support Network