

**Comments of the National Foreign Trade Council
to the Office of the U.S. Trade Representative
Concerning the Free Trade Agreement with the Republic of Colombia
September 15, 2009**

The National Foreign Trade Council (NFTC) is responding to a request for comments published in the Federal Register on July 29, 2009 by the Office of the U.S. Trade Representative concerning the free trade agreement with the Republic of Colombia. The NFTC, organized in 1914, is an association of some 300 U.S. businesses engaged in all aspects of international trade and investment. Comprised of companies representing a broad cross section that drives the U.S. economy, we are dedicated to an open rules-based international trading system.

The NFTC believes the most important step the U.S. government can take to secure continued progress in ensuring that Colombia's workers can exercise their fundamental labor rights is to pass the pending free trade agreement (FTA) between the United States and the Republic of Colombia signed on November 22, 2006 and amended on June 28, 2007. Implementing this economic agreement negotiated and signed in good faith by both the U.S. and Colombian government will create the momentum and capacity to further strengthen democracy, rule of law, economic opportunity, and ongoing Colombian government efforts to strengthen justice and end impunity.

Immediate passage of the FTA recognizes the achievements to date of the comprehensive strategy of the government of Colombia, developed in consultation and cooperation with the U.S., to bring this country from the brink of becoming a failed state threatened by a terrorist insurgency and powerful drug cartels, to a vibrant nation with the restored institutional integrity capable of implementing the continued labor rights progress being sought by both the U.S. Administration and the current government of Colombia.

Prior to 2002, Colombia's workers, as well as its professionals, jurists, families and most citizens were at great risk of violence and intimidation, directly from illegal groups on both the left and the right, associated with illegal drug trafficking, and indirectly from the erosion of the rule of law and state control of complete sections of territory within the country. Since the implementation of a holistic military, economic and political strategy to combat this decline, over 30,000 former members of paramilitary organizations and over 18,000 guerrillas have been demobilized, leading to a 44% decline in overall homicides and an 80% decline in homicides against members of trade unions. Kidnappings declined from 2,882 in 2002 to 437 in 2008, and 101 in the first six months of 2009. These statistics illustrate that the measures taken by the Colombian government have provided relief and hope for Colombia's workers and the most vulnerable in their society.

In addition to stopping immediate violence, Colombia has taken specific steps to restore the rule of law and the integrity of the judicial process. Significant investment has been made in the judicial system, and the budget for the judicial sector has been increased by 266 percent between 2003 and 2008. One of the most fundamental and far reaching changes, implemented with the support of the U.S. Department of Justice, has been moving from a closed-door inquisitorial system to an open-court oral procedure with public trials assuring impartiality and transparency

for all citizens and reducing case times by an estimated 39-87 percent, depending on the type of case.

The constitutional and statutory protections that protect Colombian workers are based on the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work. Colombia has ratified 60 ILO Conventions, including all eight fundamental labor rights conventions. Among these rights are freedom of association and the effective right to collective bargaining, prohibition of forced labor, effective abolition of child labor, and non-discrimination in employment. Detailed legal and regulatory reform continues to implement these fundamental workers rights, and this year the ILO recognized Colombia as a case of progress.

A democratically elected ruler who has experienced approval ratings over 80%, President Alvaro Uribe first took office in 2002 and has since led Colombia on a path towards combating terrorism, corruption, drug cartels, and violence. He is committed to the effective enforcement of labor rights in his country by acknowledging that, "for security to be democratic, it must provide equal protection to businessmen, union leaders, farm-owners, and workers, and those who express their opinions; whether in favor or against the Government." In particular, he credits two specific policies, the National Development Plan and the Democratic Security Policy, with helping to reduce the level of violence in Colombia.

The first helps to allocate government spending in areas where it will be most effective, while the latter protects individuals by strengthening the rule of law in order to combat drug trade and organized crime. In addition, The Democratic Security Policy seeks to promote social development and provide greater protection for human rights, especially unionists and activists. As a result, under this policy the Colombian Ministry of Defense offers increased protection to high risk members of society, such as unionists. Under President Uribe's administration the judicial system has been reformed and strengthened to deal with the high number of paramilitary persons in Colombia and protect innocent Colombian citizens.

Key to sustaining accomplished reforms and implementing additional efforts to create a self sustaining "virtuous cycle" of rebuilding which will end the culture of violence and assure workers rights is increasing economic opportunity in Colombia. The United States should seize the opportunity to approve the FTA as a sign of unity with President Uribe's efforts to establish a safe and prosperous Colombia.

The U.S. and Colombian reasons for the timely approval of the U.S. - Colombia FTA are consistent with each other. According to both countries, it is in the United States' best interest to "level the playing field" by approving the FTA. Most Colombian goods already enter the U.S. market duty free under the Andean Trade Preference Agreement while U.S. goods face tariffs in Colombia. For example, Colombian bananas enter the U.S. duty free, but U.S. apples face up to a 15% tariff when entering the Colombian market. The FTA would provide American producers particularly in the agriculture sector immediate benefits.

The trade relationship between both is significant, as Colombia is presently the United States' 27th largest two way trading partner. In 2008, the total value of goods traded was 24.5 billion U.S. dollars. The value of exports in 2008 was up 33.7% from 2007 and 181% from 1994 before the Uruguay Round. With the FTA, over 80 % of U.S. exports of consumer and industrial

products to Colombia will be duty-free immediately upon entry into force of the Agreement, with remaining tariffs phased out over ten years.

Colombian citizens are already familiar with American goods; eliminating tariffs on goods exported to Colombia would reduce prices for Colombian citizens and the U.S. would experience increased competitiveness in the Colombian market. For instance, foreign made machinery faces tariffs up to 35% when exported to Colombia. With a FTA, the machinery tariff would be eliminated, allowing the U.S. to develop a market in Colombia for such items before other countries had the opportunity to do so. The U.S. must act in a timely manner because Colombia already has a FTA with Canada and is negotiating with the European Union. If either of these trading partners establishes a “first mover” advantage in the market for certain items before the U.S. can enter the market in a competitive manner, U.S. exporters stand to lose much in the growing market.

More than 200 American companies today operate in nearly every sector of the Colombian economy, including energy, manufacturing, telecommunications, transport, agro-business and business and financial services. The United States accounted for \$1.2 billion of foreign investment. The agreement would also provide increased security to American investors and strengthen intellectual property right protection between the two countries.

Colombia is the oldest democracy in Latin America and shares goals for democracy, free and open trade, labor protections, and global security with the U.S. In the past half decade, the state has been on an upward trajectory with the assistance of the U.S., which will continue to help Colombia stabilize and thrive. The expanded trade that would occur as a result of the U.S. – Colombia FTA would aid Colombia in defeating the remaining drug and terrorist activity in the nation by creating jobs and legitimate avenues to financial security for Colombian citizens. In addition to positively benefiting Colombian society, the U.S. reaps the benefits of decreased drug trafficking and peace in a developing region of the world.

The United States has given Colombia substantial developmental aid as it seeks to stabilize and develop into a successful society. Approving the U.S. - Colombian FTA would be a far more efficient way of assisting Colombian development. The FTA would promote economic growth by creating jobs and industries, therefore reducing unemployment and poverty levels. It also reduces the percentage of the population that sees little alternative to the pressure to engage in illicit activities that are detrimental not only to the Colombian state, but also the entire region. Even without the FTA, Colombia will likely continue to experience positive growth, though it will be slower and incorporate fewer financial benefits for the United States.

Aside from the financial, developmental, and security reasons to support Congressional approval of the FTA, there is the matter of U.S. credibility. After participating in negotiations, signing a free trade agreement, and witnessing it being overwhelmingly approved by the Colombian government, U.S. inaction affects the United States’ credibility as a trusted partner. Currently, the U.S. is in a position to dispel these fears and make significant financial and strategic gains by approving the United States – Colombian FTA. Therefore, the National Foreign Trade Council urges prompt approval of the U.S-Colombia FTA.