

**LEVELING THE PLAYING FIELD:
LABOR PROTECTIONS
AND THE U.S.-COLOMBIA TRADE PROMOTION AGREEMENT**

The Obama Administration is pursuing an ambitious trade agenda that will help our economy grow and support more and better jobs for American workers. At the same time, the President has made clear that our trade agreements must be consistent with our core values and interests, including effectively protecting workers' rights, and enable American workers and businesses to compete on a level playing field. To achieve these twin objectives, we must ensure that our trading partners meet basic labor standards and protect basic labor rights.

The U.S.-Colombia Trade Promotion Agreement ("the Agreement") includes strong protections for workers' rights, based on the May 10, 2007 bipartisan Congressional-Executive agreement to incorporate high labor standards into America's trade agreements. In addition, President Obama insisted that a number of serious and immediate labor concerns be addressed before he would be willing to send the Agreement to Congress. These concerns include violence against Colombian labor union members; inadequate efforts to bring perpetrators of murders of such persons to justice; and insufficient protection of workers' rights in Colombia. As a result, the U.S. and Colombian governments have agreed to an ambitious and comprehensive Action Plan that includes major, swift and concrete steps the Colombian government has agreed to take to address outstanding labor concerns. Successful implementation of key elements of the Action Plan will be a precondition for the Agreement to enter into force. Included below are major elements of the Action Plan.

Preventing Violence and Prosecuting the Perpetrators

The Colombian government will:

- Dramatically expand, by April 22, the scope of its existing protection program for union leaders to provide protection for labor activists (such as shop stewards and bargaining committee members), workers who are trying to organize or join a union, and former union activists who may be threatened because of their past union activities.
- Eliminate, by July 30, the current backlog of risk assessments for union members who have requested protection and to ensure that in the future the Colombian National Police will process all risk assessments within 30 days.
- Revise, by April 22, its teacher relocation and protection program to address the high risks to teachers and work together with the U.S. government to ensure that the program effectively protects them.
- Enact, by June 15, a reform of the Criminal Code to criminalize and penalize actions or threats that could adversely affect fundamental workers' rights, including threats

against labor organizers and otherwise interfering with worker's rights to organize and bargain collectively, with up to five years' imprisonment.

- Direct the Colombian National Police to assign 95 full-time judicial police investigators, by no later than December 2011, to support prosecutors handling cases of crimes against union members to address the backlog of cases and speed up prosecutions.

In addition, the Prosecutor General of Colombia has indicated that it will:

- Improve the handling of crimes against union members by implementing recently issued directives to judicial and investigative police and prosecutors to better detect, investigate and prosecute anti-union crimes.
- Undertake an analysis of past homicide cases to identify steps to be taken to improve future efforts to identify motives and intellectual authors and successfully prosecute such crimes.
- Develop an improved training program for police and prosecutors with the assistance of the U.S. Departments of Justice and Labor.
- Hold monthly meetings with each union confederation and the National Union School (ENS) to reconcile the list of outstanding cases of unionist homicide cases compiled by the ENS with that of the Prosecutor General, and to accelerate action on outstanding labor violence cases.
- Develop, by May 20, a plan to strengthen the capacity and number of prosecutors and judicial police investigators in regional offices. The Colombian government has indicated that it will respond favorably to the request.

Protecting Workers Rights

The Colombian government will:

- Accelerate the effective date from July 2013 to June 2011 of legal provisions, which include significant fines, to prohibit the misuse of cooperatives and other employment relationships that undermine workers' rights. Legislative action is expected by May 31.
- Issue regulations by June 15 that implement the 2010 cooperatives law, clarify earlier cooperatives laws, and ensure coherence among these laws. The regulations will also include significant fines for companies that violate cooperatives laws and refuse to create and maintain direct employment relationships with affected workers.

- Double the labor inspectorate by hiring 480 new labor inspectors over four years, including 100 new hires in 2011.
- Dedicate 100 labor inspectors exclusively to address abuse of cooperatives to deny workers' rights by the end of 2012. Preventive inspections will begin immediately in the following priority sectors: palm oil, sugar, mines, ports, and flowers.
- Conduct an outreach program, starting in June 2011, to inform workers of their rights under the relevant laws and the remedies available to them to enforce recognition of a direct employment relationship.
- Improve, by June 15, inspection and enforcement to prevent the use of temporary service agencies to circumvent workers' rights.
- Launch, by June 15, a robust enforcement regime to detect and prosecute the use of collective pacts to undermine the right to organize and bargain collectively and will conduct a public awareness campaign. The amendment to the Criminal Code referred to above will make it a crime, punishable by imprisonment, to offer a collective pact to non-union workers that is superior to terms for union workers.
- Seek the advice and assistance of the International Labor Organization (ILO) to implement and enforce these measures.

Labor Provisions in the U.S.-Colombia Trade Promotion Agreement

The U.S.-Colombia Trade Promotion Agreement includes a range of provisions to protect workers' rights and ensure a level playing field for U.S. workers. This includes a commitment to all of the elements agreed to in the May 10, 2007 bipartisan Congressional-Executive agreement:

- Commitment by the United States and Colombia to adopt and maintain the ILO's five fundamental workers' rights and to submit to legal proceedings if either side fails to meet that commitment. The fundamental rights are:
 - Freedom of association – the right to form and join a union;
 - The right to collective bargaining;
 - Elimination of all forms of compulsory or forced labor;
 - Effective abolition of child labor; and
 - Elimination of employment and occupation discrimination based on gender, race, or other factors.
- Commitment not to waive or otherwise fail to apply labor laws in a manner affecting trade or investment.
- Commitment to effectively enforce fundamental workers' rights as well as wage and hour and occupational safety and health laws.

- Commitment to establish procedures that allow members of the public to raise concerns about labor violations directly with either of the two governments, which must be reviewed and considered.
- Commitment to guarantee workers and employers access to tribunals where their rights can be enforced and to ensure that proceedings before those tribunals are fair, equitable, and transparent.
- Commitment to improve labor standards and to cooperate on a wide range of labor issues, including labor relations, labor inspection, employment opportunities and working conditions.
- Commitment to the same level of dispute settlement accountability for meeting labor obligations as for meeting commercial obligations. Available remedies for violations of labor commitments will include trade sanctions and fines.

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