

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 additional 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 labor rights under Colombian laws, regulations, and enforcement efforts; violence against Colombian labor activists and union members; and inadequate efforts to bring to justice those responsible for killing such persons.

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”) announced on April 7, 2011, that is leading to greatly enhanced labor rights in Colombia. The Action Plan calls for major, swift and concrete steps by the Colombian Government, many of which it has already taken since the Action Plan was announced. 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 intensified their engagement at both technical and senior levels and will continue to do so.

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 Garzón, 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 are strengthening an important strategic and economic partner of the United States and helping to 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 organizations 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 improved markedly. 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 193 homicides in 2001 to approximately 22 in the first nine months of 2011 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 increased by 80 percent from 2008 to 2010, and over 1,230 criminals have been extradited to face justice in the United States since 2002.

Recognizing that 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 and Victim Reparations:** On June 10, 2011, President Santos signed the landmark Victims and Land Restitution Law in the presence of the UN Secretary General. The law offers reparations to four million victims and restitution of two million hectares of land to over 460,000 families displaced due to the internal armed conflict. It defines victims to include victims of state agents, puts reparations in the framework of reconciliation and transitional justice, outlines the rights of victims in judicial processes, establishes assistance mechanisms to victims outside of reparations, inverts the burden of proof in land restitution cases in favor of displaced victims, and creates expedited channels for restitution. This law, introduced personally by the President, was a top priority for the Santos Administration and its congressional coalition partners.
- **Government Reorganization.** The Colombian Government is in the process of creating six independent ministries of Labor, Interior, Justice, Environment, Health, and Housing and Territorial Development from three existing ministries. The ministries of Interior and Justice have already been established, and the Colombian Government is currently finalizing plans for the creation of the remaining four. In May 2011 the Colombian Congress granted the Santos Administration six 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, the U.S. Agency for International Development (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 are 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 help prevent labor violence and prosecute perpetrators. It also puts in place stronger measures to protect labor rights and 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.

During Vice President Garzón's February 2011 visit to Washington, he met with Secretary of Labor Solis and discussed prospects for enhanced, ongoing engagement between the Department of Labor (DOL) and Colombia's new Ministry of Labor. Such engagement between DOL and the Ministry of Social Protection is already underway and will intensify once the new Ministry of Labor is established.

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 better protected by the rule of law, anchored by a stronger legal and regulatory regime.

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

- The 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.

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 Benefits of Agreement Fact Sheet Link) Eventual approval of the U.S.-Colombia Trade Promotion Agreement 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 the 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 Garzón, 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 important hemispheric partner, the U.S.-Colombia Trade Promotion Agreement also reinforces President Obama's commitment to the Americas highlighted during his March 2011 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 labor rights and the rule of law in Colombia prior to the Action Plan and will continue to do so:

- USAID has allocated \$13.7 million over ten years (2001-2011) to support the Ministry of Interior and Justice's protection program, which covers 17 at-risk groups, including labor leaders and activists.
- USAID has provided a total of \$3.2 million 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 percent of program costs and USAID contributes 15 percent. From 2001-2010 the EWS issued 577 Risk Reports, covering 460 municipalities in over 30 departments, resulting in the issuance of 424 Early Warnings to prevent human rights violations.
- The Department of 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 \$283,000 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 that unions play.

The Action Plan also builds on prior reforms to Colombia's criminal 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 over 126 investigators who work with local prosecutors around the country.
- Viviane Morales took office on January 13, 2011, 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).
- The Prosecutor General's Office reports that, since the labor sub-unit's establishment in 2006, at least 523 individuals have been convicted for crimes against labor leaders.

- USAID has supported the Colombian Government in creating a national network of over 75 local “Justice Houses” that provide resolution of everyday legal issues in areas where legal services are lacking, and thereby expand access to justice. From 1995 to date, over nine million people have sought services and assistance from those Justice Houses.

U.S. efforts to support changes in Colombia’s criminal justice system have been spearheaded by the Department of Justice (DOJ), and DOJ will continue an active role in these efforts going forward.

- For the time period 2000 - 2011, DOJ will have provided over \$192 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 110,000 investigators, prosecutors, judges, public defenders, protection personnel, and forensic experts.
- DOJ is providing \$21.75 million in assistance to the Colombian justice sector for Fiscal Year 2011, of which \$6.3 million is directed to assist the Prosecutor General’s Office Human Rights Unit, which includes the labor sub-unit. Since 2000 the total amount of DOJ assistance to the Human Rights Unit has been more than \$36 million (19 percent of total DOJ assistance to the Colombian justice sector).

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