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The U.S.-Colombia FTA: Fuels the Fires of the Conflict

Negotiations for the proposed U.S.-Colombia Free Trade Agreement (U.S.-Colombia FTA)¹ were completed on February 27, 2006. The text was not released to the public until May 2006, three months later.

The U.S.-Colombia FTA and its links to militarization is yet another manifestation of the “one-size-fits-all” model that does not live up to the interfaith principles and the AFSC working party document entitled “Putting Dignity at the Heart of the Global Economy”. In addition, given the state of war and largely U.S. funded militarization in Colombia, a new principle is provided that states, “International trade and investment systems should be designed to diminish the likelihood and longevity of violent conflicts”.² Examples that the FTA does not measure up to the principles are highlighted below.

1) International trade and investment systems should be designed to diminish the likelihood and longevity of violent conflict.

We observe: The conflict in Colombia is deeply rooted in economic, social, and political inequalities. Wealth and land remain concentrated in the hands of a few and Colombia’s political system neglects the needs of the majority of the population—especially Afro-Colombians and Indigenous peoples. The government and those in power respond with violent repression to those who attempt to change the unequal situation.

Agriculture is the third most important sector in terms of employment in Colombia, with 22.7 percent (almost double the figures for employment in the industrial sector, which generates 13.5 percent), and provides 11.4 percent of GDP.³ Given that 12 years of NAFTA and the resulting flood of low-cost corn, wheat and beef imports from the U.S. that has been a major contributor to the displacement of 1.7 million small scale Mexican farmers, the potential negative impact on Colombian peasants, indigenous and Afro-Colombians is real. Since opening Colombia’s market to compete with the U.S. will actually lead to more human insecurity, U.S. trade policy in Colombia is inconsistent with the stated goals of the U.S. government’s drug war policy.

Political and economic marginalization has already stoked widespread protests and political insecurity. However, dissent has been met with harsh repression. For example, on May 15, 2006 a national summit was called by Afro-Colombians and Indigenous leaders across fourteen provinces in Colombia to protest against the FTA and militarization. Tens of thousands of people who came out were met with severe

repression, resulting in many deaths. As President Alvaro Uribe pushes the FTA through the Colombian Constitutional Court and legislature, voices of dissent will continue to be repressed, fueling the violence already felt in these communities of peaceful resistance.

2) International trade and investment systems should respect and support the dignity of the human person, the integrity of creation, and our common humanity.

We observe: Colombia continues to be the most violent place in the world for trade unionists. According to the National Labor School (ENS) in Colombia, 70 trade unionists were murdered in 2005.

The Colombian government has consistently failed to investigate and charge those responsible for the murders of Colombian trade unionists. According to a new study released by the AFL-CIO's Solidarity Center, of the 3,000 murders of trade unionist between 1986 and 2002, only 376 were even investigated by the government, and only five of those cases resulted in guilty verdicts.⁴

Wages and working conditions in all countries will be hurt if trade pacts continue to encourage corporations to race to the bottom in workers' rights. The U.S.-Colombia FTA lacks meaningful provisions to strengthen human rights protections. With regard to labor rights, the FTA only requires countries to effectively enforce their own labor laws, with no incentive to bring weak laws and enforcement up to the International Labor Organisation (ILO) core labor standards. Just like CAFTA, the enforcement and penalty mechanisms in the labor chapter of the U.S.-Colombia FTA are so weak that they provide no credible influence over the multinational corporations or Colombian government.

3) International trade and investment activities should advance the common good and be evaluated in the light of their impact on those who are most vulnerable.

We observe: A significant push behind the Colombian government's desire to have an FTA with the U.S. was to maintain access to the U.S. market granted to them through the Trade Preference and Drug Eradication Act (ATPA-DEA) since 1991. Reciprocity is a stated goal in U.S. trade policy, ending the era of preferences for countries of geopolitical interest. In order to keep these preferences, Colombia made significant concessions which could disproportionately affect the resource poor and vulnerable populations—especially the Afro-Colombian and Indigenous people—who make up the majority of the three million displaced peoples in Colombia.

Under the ATPA-DEA preference scheme, the goals were for Colombia to increase employment and new exports to the U.S. and decrease drug production. But the results have shown export diversification through the Act created little employment and the jobs that were created, were located outside coca growing zones.⁵ In addition ATPA-DEA and other U.S. policies had no effect on drug production. In April 2006, the U.S. government announced that coca cultivation in Colombia last year totaled 144,000 hectares, a level not seen since 2002 and exceeds the measures grown in 1999, the year before Plan Colombia began (122,500 hectares).⁶

Fifteen years with the ATPA-DEA failed to lift Colombia out of its economic, social and political crisis. Now with major concessions in the areas of intellectual property rights and agriculture the poor and vulnerable are likely to not only see few benefits from the deal, but actually be harmed.

4) International trade and investment policies and decisions should be transparent and should involve the meaningful participation of the most vulnerable stakeholders.

We observe: Once again, the U.S.-Colombia FTA negotiating text was never available to civil society until months after the negotiations were completed. This is despite Colombian constitutional law that dictates such text must be published. In fact, in December 2005 in the province of Cundinamarca, a court ruled that the government should abstain from subscribing to negotiations and signing any accord that would be harmful to collective rights or any other right that would be linked to these collective rights.⁷ The court stated that permitting the patenting of living beings, animals or plants that belong to the Colombian environment, as well as allowing the importation of grains that are highly subsidized in the U.S., would be harmful to the collective rights. This ruling was overturned by the Colombian State Council in August 2006 claiming the trial was being pursued by the plaintiff (The Network Action on Trade - RECALCA) with the sole “desire” to have the Constitutional Court of Colombia declare the trade agreement unconstitutional. More importantly, the State Council also decided to void the legal process by which the formal complaint was made, that is, to remove the mechanism of “popular actions” which was established primarily to check the power of Colombia’s executive branch around collective rights and its role in the judicial system. The role of President Uribe in pressuring the State Council to repeal the complaint is also being questioned. And the expectation is that the trade pact will be sent to Congress for a vote in September, 2006.

In attempt to reclaim some meaningful participation in the process, Colombian leaders from the Nasa indigenous community organized a referendum on the FTA in the province of Cauca in which 51,330 out of 68,448 registered voters participated and 98 percent voted “no.” Not only were the results ignored and discredited, organizers of this referendum were accused of being organized by “dark forces of terrorism” by President Uribe.

5) International trade and investment systems should respect the legitimate role of government, in collaboration with civil society, to set policies regarding the development and welfare of its people.

We observe: The “one-size-fits-all” approach to U.S. trade policy with negotiations conducted in secret undermines the role of citizens in shaping their economic futures. Colombia is a unique case because the democratic institutions are currently weak and civil society groups, including indigenous and Afro-Colombians, face severe repression.

In the best of circumstances, this type of trade liberalization prevents the Colombian government from using the very same policies used by the U.S. to develop. These include subsidies, tariffs for protecting infant industries, and public provision of essential services such as education, water and healthcare. But in the case of Colombia, the agreement restricts future generations from charting their own development path—violating their national sovereignty.

6) International trade and investment systems should safeguard the global commons and respect the right of local communities to protect and sustainably develop their natural resources.

We observe: In an effort to prepare itself for the negotiation and implementation of the FTA, the Colombian government is “reforming” its constitution. The U.S. demands that laws be changed in order to accommodate trade agreements. In Colombia the government has preemptively changed the country’s laws to create a more secure investment environment eroding the inalienable constitutional rights granted to Indigenous and Afro-Colombian communities in the process. Now these reforms will be codified into trade rules that supersede the constitution.

The so called “forestry law” that recently passed in the Colombian Congress with significant support by the U.S. Agency of International Development (USAID)⁸ is a clear example of this. “The law creates the concept of “vuelo forestal” (forestry overflight), which separates the land from the trees and all else above ground level, opening the door to the forests’ exploitation by multinational companies,” states an analysis of the new law from Bogotá’s University of the Andes and German Development Agencies.⁹ While indigenous and Afro-Colombian communities collectively own some 28 million hectares of forest lands, under this forestry law they now only control the first three meters of the trees in their territory.

Conclusion

Guided by the principles of the “Interfaith Statement on International Trade and Investment” and the AFSC Working Party document “Putting Dignity at the Heart of the Global Economy”, fair trade in Colombia is an achievable goal. However, in its current form, the U.S.-Colombia FTA fuels the fires of the conflict and does not measure up to the principles of just trade and peace. For this reason, the AFSC once again rejects this “one-size-fits-all” model for trade and takes a stance against the U.S.-Colombia FTA.

¹ The complete US-Colombia FTA text is available at http://www.ustr.gov/Trade_Agreements/Bilateral/Colombia_FTA/Draft_Text/Section_Index.html

² This new principle was drawn from the AFSC document *Putting Dignity at the Heart of the Global Economy* adopted by the board in 2004.

³ Extracto de la parte resolutive de la providencia judicial emitida el 12 de diciembre de 2005, RECALCA.

⁴ Bob Perillo, “The Struggle for Worker Rights in Colombia”, AFL-CIO Solidarity Center, June 2006. <http://www.solidaritycenter.org/files/ColombiaFinal.pdf>

⁵ “The Cost of Doing Business,” American Friends Service Committee, 2004.

⁶ Adam Isacson, “Colombian coca cultivation in 2005”, Center for International Policy, April 15, 2006 <http://www.ciponline.org/colombia/blog/archives/000243.htm>

⁷ Extracto de la parte resolutive de la providencia judicial emitida el 12 de diciembre de 2005, RECALCA.

⁸ Adam Isacson, “Plan Colombia and Beyond: An ugly environmental law, with US-aided lobbying”, Center for International Policy, December 2005.