

Dear Member of Congress,

We, the undersigned organizations, communities, and concerned individuals in the United States and Colombia, respectfully urge you to oppose ratification of the U.S.-Colombia Free Trade Agreement (FTA). The agreement fails to recognize the serious labor, human rights, Afro-Colombian, indigenous, and environmental concerns in Colombia. This situation is further exacerbated by the continuation of a five-decades-old internal armed conflict that has caused over 5 million Colombians to abandon over 6.6 million hectares of land since 1980, an area of land larger than West Virginia. These precarious conditions, in addition to unjust trading practices, create an unfair trading environment for the people of the United States and Colombia.

Labor rights in Colombia were subject to serious scrutiny long before the debate over the FTA began. Colombia continues to be the most dangerous country in the world for trade unionists; 51 unionists were murdered in 2010 alone. Only 6 percent of investigations into the cases of murdered unionists since 1986 have reached a conviction, which signifies a 94% impunity rate for the perpetrators. (i) Meanwhile, the intellectual authors of these crimes profit from a business environment that leaves workers voiceless. U.S. workers will be unable to compete with a job market that does not provide guarantees for union organizing. By not addressing the root causes of labor-related violence in Colombia, the FTA will sacrifice the possibility of a fair workplace for workers in the U.S. and Colombia.

Workers in Colombia are subjected to an exploitative workplace. For example, over 2 million Colombians are employed through Associative Labor Cooperatives (CTAs) in the sugar, palm oil, health, mining and port industries, among others; all of these will be affected by the implementation of the FTA. CTAs enable companies to subcontract workers through third-party intermediaries in labor-intensive industries without the responsibility of providing contracts and basic benefits to employees. Workers in CTAs have no collective bargaining rights, and companies have no incentive to uphold basic labor standards.

The Labor Action Plan signed by the Colombian and U.S. governments, while securing some welcome commitments, falls far short of meeting the expectations of a 21st century workplace. The "Labor Action Plan" calls for Colombia to advance in protecting unionists and ending impunity for violence against trade unionists, but it does not actually require a reduction in such violence. It promises to designate 100 labor inspectors to investigate abuses in the CTAs and the creation of a Ministry of Labor that should be better equipped to handle labor abuses in Colombia; however, the plan does not require companies to provide direct contracts with employees. Despite assurances from the Obama administration and the Colombian government that the Action Plan commitment would be taken seriously, there are already indications that the Colombian government is failing to uphold the spirit of the agreement. Workers in the palm and ports sector (named as priority sectors in the Action Plan) have appealed to the Colombian Ministry of Social Protection (MoSP) to support their efforts to protect direct hiring and eliminate illegal cooperative use, to no effect. Palm workers from the *Palmas de Cesar* company have been on strike for more than 30 days over the use of CTA cooperatives, and though the MoSP attended a meeting between the company and workers, it did not intervene to encourage the company to comply with the new Action Plan. Similarly, the government has fallen through

on its April 2011 commitment to convene a meeting of port operators to discuss the elimination of illegal subcontracting. Moreover, the plan is not legally linked to the FTA; if the Colombian government were to abandon its commitments once the FTA is implemented, Colombian workers would have no recourse.

Millions of Colombians suffer from the very real consequences of the ongoing armed conflict even as companies and individuals interested in exploiting Colombia's vast natural resources promote the idea of a country in transition to peace in order to secure investment opportunities. Guerrillas, paramilitaries, narcotics traffickers, and the military are parties to a conflict that has left Colombia with over 5 million internally displaced people, over 500,000 refugees, and countless victims. Economic necessity and the neglect of the state continue to push new generations of recruits into the ranks of illegal armed groups. Paramilitaries continue to operate despite a greatly flawed demobilization process. Between 2008 and 2010, paramilitaries consolidated their presence in at least 14 of Colombia's 25 departments. (ii) They maintain close ties with licit and illicit economies and benefit from relationships with economic elites, narcotics traffickers, politicians, the military and even guerrillas.

The FTA was signed under Presidents Bush and Uribe on November 26, 2006 in the midst of a widening scandal that implicated more than a third of Colombia's Congress for directly supporting right-wing paramilitary groups responsible for crimes against humanity. The high level of elite support for illegal paramilitary groups was not limited to the simple desire of ridding the country of left-wing guerrillas. Politicians, economic elites, narcotics traffickers, members of the military and entrepreneurs used the freewheeling paramilitaries to violently displace populations in order to acquire valuable lands. The consequences of this reverse land reform further concentrated the possession of land in Colombia. In 2011, the top 1 percent of landowners in Colombia own 45 percent of the land, and Colombia has the largest internally displaced population in the world. As U.S. investment increases in the wake of FTA's implementation, the United States risks investing in companies connected to paramilitary and other illegal armed groups that continue to violently displace people from their lands, export illegal drugs to the United States and commit other crimes.

Colombian small-scale farmers would be devastated by the implementation of the FTA. The FTA would force Colombian agricultural products to compete without any protection against U.S. subsidized commodities. As a result, Colombia's 1.8 million small farmers would see their net agricultural income fall by over 16 percent on average. Nearly 400,000 small farmers would lose between 48 and 70 percent of their income, when the majority of them now earn less than the minimum wage.(iii) The FTA could contradict the goals of U.S. counter-narcotics efforts in the country by pushing small farmers to cultivate coca, a far more lucrative crop, undercutting alternative development programs in which the United States has invested for more than a decade. Armed groups are also likely to benefit from increased recruitment from an impoverished peasantry with few economic opportunities.

The lack of political will in Colombia to protect the constitutionally-guaranteed rights of Afro-Colombian and indigenous groups in the context of the FTA will ensure the continued

victimization of these extremely vulnerable populations. Afro-Colombian and indigenous communities possess legally-granted collective land rights to more than 36 million hectares (at least 31 million for indigenous groups and 5.2 million for Afro-Colombians) of some of the most fertile, bio diverse and resource-rich land in Colombia. However, despite the fact that these ancestral territories are legally protected, for example by Colombian Constitutional Court Orders 004 and 005 of 2009, these rights are not protected and many lands have not been titled. Their lands have become the site of often violent speculation and conflict between paramilitaries, investors, guerrillas, narcotics traffickers, and the military. Members of the communities are frequently threatened and targeted with the objective of expelling them from the land and silencing resistance. More than 66 of Colombia's 102 indigenous groups are at risk of extinction, 32 of which have less than 500 members. (iv) Both Afro-Colombians and indigenous groups are disproportionately affected by forced displacement. By the end of 2010, Afro-Colombians made up 23 percent of the nearly five million displaced Colombians. However, according to the census, Afro-Colombians only make up 11 percent of Colombia's population. (v)

Prior to the exploration of any economic project on Afro-Colombian or indigenous lands, the Colombian Constitution requires that the governing bodies of the communities (Afro-Colombian community councils and indigenous *cabildos*) must be consulted in a free and informed manner. The government did not respect the right to previous consultation with either group during the negotiation of this FTA. In the past, Colombia's Constitutional Court overturned legislation including the Mining Code (Law 1392), the Rural Development Statute and the Forestry Law for not complying with the groups' rights to previous, free and informed consultation and consent. In the absence of the consultation process and in the context of economically-driven conflict, the FTA threatens the survival of Afro-Colombian and indigenous communities' traditional practices and their relationship with the environment.

Colombia is home to one of the world's most biologically diverse ecosystems. The Colombian government, however, has not always enforced its own domestic laws that protect the environment and has been complicit in environmental degradation. It has allowed for the expansion of agriculture into nature reserves, national parks, and ancestral Afro-Colombian and indigenous territories. Furthermore, clearing land for large-scale agriculture and mining projects increases deforestation and pollution and endangers local ecosystems. Colombia is already being affected by climate change as evidenced by increasingly damaging natural disasters that have exacerbated the displacement crisis in Colombia. As government policies in Colombia pursue the exploitation of natural resources, the FTA must ensure that environmental standards keep up in order to protect the environment. This, however, is not the case, and lack of political will, in addition to weak environmental protection mechanisms in the trade agreement, are putting one of the world's most important ecosystems at risk.

Examining the experiences of past Free Trade Agreements is instructive. Labor conditions in the DR-CAFTA countries have not improved and violations continue unabated.^{vi} For example, in Guatemala the murder of trade unionists came to a halt in 2006, the year it ratified DR-CAFTA; however, in 2009, 16 unionists in Guatemala were murdered. (vii) In Mexico, post-NAFTA conditions are not much better, as evidenced by the loss of 5.2 million manufacturing jobs in the U.S. and 1.3 million Mexican farmers lost their livelihoods. (viii) One of the most compelling

consequences of “free trade” is the swelling population of migrant workers arriving from FTA partners to the United States. Colombia can expect to see the same.

One major condition sets the U.S.-Colombia FTA apart from CAFTA, NAFTA, and other trade agreements: the presence of an internal armed conflict. In Colombia, the world’s largest internally displaced population and the workers and communities intimidated by violence will see the most damaging effects of a FTA that provides no guarantees for their livelihoods or security.

For these compelling reasons, we urge you to vote against ratification of the U.S.-Colombia Free Trade Agreement.

i Escuela Nacional Sindical. “Cuaderno de Derechos Humanos no.22”. October 2010

ii INDEPAZ. “V Informe sobre los narcoparamilitares en 2010.” March 15, 2011.

iii Luis Jorge Garay, Fernando Barberi, and Iván Cardona “Impact of the US-Colombia FTA on the Small Farm

Economy in Colombia.” Sept 2009 (<http://www.oxfamamerica.org/files/colombia-fta-impact-on-small-farmersfinal-english.pdf>)

iv ONIC. “Palabra dulce, aire de vida.” 2010

v AFRODES and Global Rights. “Bicentenario: ¡Nada que celebrar!”. July 2010

vi Washington Office on Latin America (WOLA). “DR-CAFTA and Workers’ Rights: Moving from Paper to Practice.”

May 2009

vii US Labor Education in the Americas Project (USLEAP). “Talking Points on Violence against Trade Unionists and

Impunity.” 2011 (http://www.usleap.org/files/FreeTrade_Colombia_Dec10.pdf)

viii Public Citizen. “Colombia NAFTA Expansion: Economic and Human Rights Nightmare.” 2011