

Date of Hearing: April 20, 2010

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE  
ECONOMY

V. Manuel Perez, Chair

AJR 27 (Torrico) – As Amended: April 13, 2010

SUBJECT: Columbia-U.S. free trade agreement

SUMMARY: Memorializes Congress that the California Legislature opposes the United States-Colombia Trade Promotion Agreement (CTPA), which was signed on November 22, 2006, and is currently being reviewed by the Office of the United States Trade Representative (USTR). Among other things, the resolution declares that:

- 1) Violence against trade unionists persists to this day, with over 500 unionists having been murdered during the administration of current Colombian President Alvaro Uribe;
- 2) The continued murders and death threats have a chilling effect on union activity, as workers continue to have good reason to fear for their lives when they exercise their fundamental labor rights, especially the crucial rights to organize, bargain collectively, and strike;
- 3) The Office of the Attorney General of Colombia has secured convictions in only about 5% of the over 2,700 cases of murder of trade unionists, and only following significant international pressure to do so;
- 4) In the vast majority of cases, the person convicted of the crime is not the originator of the crime, but rather carried out the order to kill and, in roughly 40% of the sentences, the person found responsible for the crime was either tried in absentia or is otherwise not in custody and thus potentially still at large;
- 5) Many of the groups carrying out the murders and intimidation are associated with powerful local or regional economic and political interests and continue the violent legacy of the paramilitaries, including narcotics trafficking and targeted assassinations;
- 6) Defamatory remarks regarding trade unionists and human rights defenders in Colombia delegitimize the important and valued work of human rights defenders and place individuals and entire organizations at the grave risk of physical retaliation from members of illegal armed groups;
- 7) According to a 2008 Human Rights Watch report, numerous politicians, including members of the Colombian Congress, have come under criminal investigation for collaborating with paramilitaries--the groups responsible for the majority of crimes against trade unionists;
- 8) According to Human Rights Watch, there is overwhelming evidence of broad, systematic, and illegal surveillance conducted by the Administrative Security Department, the national intelligence service of Colombia, against hundreds of members of human rights organizations, political opposition parties and unions, as well as Supreme Court justices, journalists, and even clergy; and

- 9) The United Nations Special Rapporteur on Extrajudicial Executions, Phillip Alston, recently found that killings of innocent civilians by the armed forces have occurred throughout the country.

FISCAL EFFECT: None

COMMENTS:

- 1) Author's purpose: "Across the globe there continue to be civil struggles that impact our daily lives in the United States. This resolution is about fundamental workers' rights. It's about international trade and the excessive power of corporations and about justice.

In Colombia, those who advocate for worker rights must fear for their lives. Over 500 unionists have been murdered during the administration of current Colombian President Alvaro Uribe. The Office of the Attorney General of Colombia has secured convictions in just 5 percent of the murder cases involving trade unionists and only after international pressure to do so.

Paramilitary organizations associated with powerful local and regional economic and political interests make the threat of death all too real for workers who are simply exercising their right to organize, bargain collectively, and, if necessary, to strike.

Human rights violations frequently occur and there is widespread, systematic, illegal surveillance conducted by the national intelligence of Colombia. The International Labor Organization says Colombia's labor laws fall far short of minimum labor standards.

The Colombia Free Trade agreement was signed on Nov. 22, 2006 and is currently under review by the USTR. Those of us who are friends of labor must unite and urge Congress to oppose this trade agreement. It is the right and just thing to do. It is imperative that we send a message to Congress and other countries that we do not support doing business with a country who commit unjust crimes."

- 2) U.S. trade policy and state consultation process: The US Constitution grants the federal government the power to enter into treaties and trade agreements and provides that these treaties and agreements are laws of the US and, as such, are supreme over the laws of states. By Executive Order, the USTR was created within the Executive Office of the President and is assigned the responsibility for international trade negotiations.

Due to the broad impact of federal trade actions, Congress directed the USTR to seek advice from states through several avenues, including the Intergovernmental Policy Advisory Committee (IGPAC). IGPAC is one of 28 advisory committees currently supported by the USTR. IGPAC is comprised of state and local officials, including members of state legislatures, state trade directors, and related national associations. California state government does not have a position on IGPAC, however, there is one California member, Carlos J. Valderrama, who represents the Los Angeles Area Chamber of Commerce.

The USTR also maintains a state point of contact (SPOC) system in which the governor of each state designates a single point of contact within the state that is responsible for transmitting information to the USTR and disseminating information from the USTR to state

officials. Pursuant to the statutory provisions in SB 1513 (Chapter 663, Statutes of 2006), the SPOC serves as the official liaison between the USTR, the Administration, and the Legislature.

The US has trade agreements in force with 17 countries including Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore.

The US has negotiated and signed trade agreements with [Colombia](#), Korea, and Panama. In order for these agreements to go into effect, however, Congress is required to demonstrate its support through the enactment of legislation. When considering approval of a trade agreement, Congress may not make amendments to the agreement, but must agree to support the trade agreement in its entirety.

The US also has a number of trade preference programs that allow special access to US markets for countries that are considered developing markets and/or where the US wants to develop a stronger relationship. Colombia currently has access to US markets through the nation's general preference provisions and the Andean Trade Preference Act (ATPA). The ATPA (enacted in 1991) is designed to assist Bolivia, Colombia, Ecuador, and Peru in their fight against drug production and trafficking by expanding their economic alternatives.

- 3) California's role in foreign trade agreements: Over the years Members have expressed concern regarding the California Legislature's involvement in what they deem to be federal issues. Some have commented that these types of discussions, international trade agreements as an example, distract Members from their core responsibilities of approving and overseeing the implementation of legislation and the state budget.

Other Members, however, believe that the US trade model clearly envisions a state role and provides the opportunity through IGPAC and the SPOC for states, including Legislatures, to engage the USTR. Further, given the ever expanding scope of trade agreements, it is important that states remain vigilant to ensure that agreements which disadvantage their communities do not go into force. As more California companies seek new foreign markets for their products and services, ensuring that trade agreements commit nations to basic human rights, workers rights, investor rights and environmental standards also helps to maintain a more level playing field.

- 4) Background on Colombia: Colombia has a population of over 43.6 million with a literacy rate of 90.2%. The country is located in the north-west corner of South America. It borders the Caribbean Sea between Panama and Venezuela and borders the Pacific Ocean between Ecuador and Panama. As a size comparison, Colombia is slightly less than twice the size of the state of Texas. In 2009, Colombia's GDP was estimated at \$400 billion.

According to the CIA Fact Book which provides national profiles on countries, "a four-decade conflict between government forces and anti-government insurgent groups, principally the Revolutionary Armed Forces of Colombia (FARC) heavily funded by the drug trade, escalated during the 1990s. The insurgents lack the military or popular support necessary to overthrow the government, and violence has been decreasing since about 2002, but insurgents continue attacks against civilians and large swaths of the countryside are under guerrilla influence or contested by security forces." In 2003, the Colombian government

started a process of collective demobilization of paramilitary groups, which led to the adoption of what is commonly referred to as the Justice and Peace Act, under which more than 31,000 members of paramilitary groups were reportedly demobilized. However, according to the CIA Fact Book, following demobilization a number of criminal groups emerged with some of their membership being those formerly in the paramilitary. The CIA Fact Book confirms that the Colombian government has stepped up efforts to reassert government control throughout the country and now has a presence in every one of its administrative departments.

The CIA Fact Book also reports that Colombia's economy has experienced positive growth over the past five years despite the ongoing armed conflict. Foreign direct investment hit a record \$10 billion in 2008 due to, according to the CIA Fact Book, a series of pro-business and open market reforms advanced by President Uribe and the opportunities provided by the Andean Trade Promotion and Drug Eradication Act.

Ongoing economic problems facing the Colombian government, as cited by the CIA, include inequality, underemployment, and narcotrafficking. Colombia remains a key producer of illegal drugs, according to the CIA Fact Book, being the world leader in coca cultivation with a significant portion of narcotics proceeds being either laundered or invested in Colombia through black market peso exchanges. While coca cultivation was up 6% in 2007, opium cultivation fell 25% in Colombia.

The World Trade Organization's (WTO) most recent trade policy review states that "Colombia has made definite progress [since the 1996 review] in the modernization and liberalization of its trade regime; non-tariff barriers to trade have been significantly reduced, although average tariff protection has increased slightly. In parallel, Colombia has embarked on ambitious reforms of many economic sectors, particularly services, resulting in increased competition, lower prices, and an expanded choice for consumers."

One important element in the country's trade liberalization policies was a 1999 Constitutional amendment that eliminated the government's power to expropriate private property for "equity reasons" without compensation. Colombia's investment statutes, however, still allow the government to limit foreign investment in any sector, although this has never been exercised to date. The WTO report recommended that Colombia address a number of issues, including certain practices related to customs, import licensing, local content requirements, internal taxes, and the regulation of certain services. Also noted in the WTO report is the need to reassess export promotion and incentive schemes to ensure they are consistent with open market standards.

According to the International Monetary Fund (IMF), Colombia has survived the current economic crisis fairly well considering the scope of global recession. This is due, in part, to the quick actions taken by the government to address the crisis. As an example, in April 2009, Colombia requested and was given access to a special \$10.4 billion line of credit. The Flexible Line of Credit initiative was established by the IMP for the exclusive use of countries that have strongly performing economies with a sustained record of sound economic policies and a track record of policy implementation. Access to the line of credit is limited to countries meeting the criteria, rather than contingent upon fulfilling performance criteria after receiving the money.

- 5) Human rights violations: The United Nations' Office of the High Commissioner for Human Rights (OHCHR) has had an official presence in Colombia since 1997. The Colombia OHCHR office plays a number of roles, including serving as an observer and reporter on human rights and international humanitarian law violations. In addition to the country level-efforts of the OHCHR, the Human Rights Council of the General Assembly of the United Nations has sent representatives to Colombia.

Most recently, the Special Rapporteur on the situation of human rights defenders, i.e. people who advocate for human rights, released a summary report on her September 2009 onsite review. During the trip, she met with senior government officials, human rights defenders and people in the communities. In her findings, she acknowledges that Colombia has made significant progress in improving the overall security of the country between 2002, when President Uribe took office, and 2008, including having a measurable decrease in the number of homicides.

She also states, however, that she is deeply concerned about the widespread phenomenon of threats being made against human rights defenders (including unionists) and their families, often through pamphlets, obituaries, emails, phone calls and text messages. She states that she received numerous accounts of threats in all places she visited in the country. This phenomenon has reportedly worsened since the beginning of 2009 and this fact was corroborated to her by the Head of the National Police.

The report specially addresses the plight of trade unionists and the increased threats and especially the continued practice of "enforced disappearance and execution." Also included in the report are concerns raised about the treatment of indigenous leaders; Afro-Colombian leaders; activists for displaced persons; women human rights defenders; journalists; youth activities; church workers; lesbian, gay, bisexual and transgender; and magistrates.

Her report concludes with 25 recommendations for improving the safety of human rights defenders, including such things as "the Government should fully guarantee that personnel assigned to the protection of human rights defenders do not gather information for intelligence purposes" and "the Attorney-General's Office should review all criminal investigations against human rights defenders, close immediately all cases found to be baseless, and prosecute State officials, including prosecutors, who maliciously investigated defenders."

Her recommendation to the international community is that it should continue monitoring the situation of human rights defenders, in particular the most targeted and vulnerable ones.

- 6) Concern for Colombian workers: International labor leaders and those in the US and California have repeatedly raised concerns that the Colombian government does not have sufficient laws, nor does it systematically enforce the laws it does have, in order to protect the rights and lives of trade unionists.

According to the California Labor Federation, 40 people were murdered in Colombia in 2009 because of their status as trade unionists. Among other criticisms, a number of labor leaders have stated that the Colombian government has been slow to arrest and bring to trial the

people who were responsible for the more than 2,500 murders of Colombian trade unionists since 1986.

Labor groups agree that international trade agreements can provide great economic opportunities for workers, however, they also believe that trade agreements can create a "race to the bottom" by increasing unemployment and lowering wages for all workers. A key indicator of success, they say, is whether or not the trade agreement is premised on enforceable labor standards. Without enforceable standards, that are actually enforced, corporations will leave countries with worker protections for those that allow workers to be exploited.

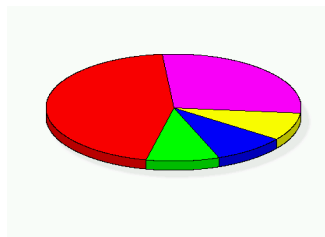
Union leaders in the U.S. are strongly opposed to an affirmative vote from Congress on the CTPA. Based on the documented human right abuses in Colombia, they ask that the US not ratify the CTPA until a basic level of human rights is available to the workers of Colombia.

- 7) Colombia and California trade relations: The current recession, like in many countries, has weakened demand for Colombian exports. In 2009, Colombia exported approximately \$31.3 billion in products, primarily comprised of petroleum, coffee, coal, nickel, emeralds, apparel, bananas, and cut flowers. The US is Colombia's top export market followed by China.

Relative to products being imported to Colombia, top imports include industrial equipment, transportation equipment, consumer goods, chemicals, paper, fuels and electricity. Colombia was the US' 26<sup>th</sup> largest goods export market in 2008, for a total of \$11.8 billion. Top states for exporting to Colombia in ranked order are Texas, Florida, Louisiana, Illinois, Alabama and California (2006).

In 2009, California exported \$319.8 million in goods to Colombia. Below is a chart providing more detailed information on California exports to Colombia in 2009.

#### California Exports to Colombia in 2009



	Product	Value (\$)	Percent
<span style="color: red;">■</span>	334 _Computers & Electronic Prod.	96,813,070	30.3 %
<span style="color: green;">■</span>	325 _Chemical Manufactures	41,425,146	13 %
<span style="color: blue;">■</span>	336 _Transportation Equipment	38,276,120	12 %
<span style="color: yellow;">■</span>	324 Petroleum & Coal Products	31,884,175	10 %
<span style="color: magenta;">■</span>	All Others	111,402,388	34 %
	<b>Grand Total</b>	<b>319,800,899</b>	<b>100 %</b>

Source: TradeStats Express

Supporters of the CTPA state that the agreement offers tremendous opportunities for California exporters. Most significantly, they cite a number of tariffs, which will be immediately eliminated (80%); the remaining tariffs will be phased out over 10 years. Based on information from the U.S. Department of Commerce, the following are examples of current tariffs and their proposed reductions under CTPA:

- a) Computers and Electronic Products: Current tariffs are between 8 and 15%. The CTPA covers 100% of U.S. exports under the Information Technology Agreement, which will receive 100% duty free treatment immediately upon the effective date of the CTPA.
- b) Chemical Manufacturers: Current tariffs are between 8 and 20%. Upon the effective date of the CTPA, 82% of U.S. chemical exports will receive duty free treatment, with the remaining tariffs being phased out over 10 years. Examples of chemical and related products include pharmaceuticals, cosmetics, fertilizers, and agrochemicals. Strong economic opportunities cited in the literature include chloride, styrene, and polyethylene.
- c) Machinery Manufacturers: Current tariffs are as high as 20%. Upon the effective date of the CTPA, 70% of U.S. infrastructure and machinery products will receive duty free treatment, including pumps and compressors, filtration equipment, and earth sorting equipment. Ninety-two percent of agricultural equipment and 88% of construction equipment, including bulldozers, mechanical shovels, boring and sinking machinery, and dumpers, will immediately receive duty free treatment, with the remaining tariffs phased out over 10 years.
- d) Agricultural Products: Upon the effective date of the CTPA, 53% of tariffs on agricultural products will receive duty free treatment. As an example, this includes 100% elimination of the price band system that results in tariffs as high as 159% on U.S. dairy products. All Colombian duties on U.S. dairy products will be eliminated in 15 years.

According to the CIA Fact Book, the Colombian business sector continues to be concerned about the failure of the U.S. Congress to approve the signed CTPA. Canada also has a negotiated, but not ratified, trade agreement with Colombia.

- 8) Policy issue: The Colombian government, generally corroborated by such groups as the CIA and the WTO, state that Colombia has made great strides since President Uribe took office in 2002. Even worker rights organizations agree that progress has been made in many areas. The policy question is, however, whether progress is sufficient or is there certain basic standards of civil society and human rights that must be achieved in order for the US to fully embrace a nation as a free trade partner.

Opponents of the resolution, including the Government of Colombia, believe that demonstrated progress is sufficient. International trade organization leaders, such as Christy Thornton, executive director of the North American Congress on Latin America, have been quoted as saying that the CTPA represents not just a more open market for US goods but a reward offered by the Bush Administration to one of the US' last allies in Latin America.

The supporters of AJR 27, however, believe that while progress should be commended, civil society in Colombia has not yet achieved the conditions under which the US should move forward on a trade agreement. The AFL CIO, in its formal comments to the USTR on CTPA, in September 2009, state that many of the roots of the political, economic and social crisis in Colombia remain, that a country needs to first meet some set of minimum standards prior to the US entering into an agreement, and offers a suggestion for moving forward. The recommendation is to have the US commit to closely monitor Colombia's efforts over the next three years. At the close of that time period, if Colombia has achieved the key minimum civil society objectives, then the US could freely enter into the agreement. If

Colombia has not met the objectives in both law and in practice, the US could still agree to annually review its progress and move forward once standards are met.

- 9) California's trade-based economy: International trade is a very important component of California's \$1.8 trillion economy. If California were a country, it would be the 11th largest exporter in the world. Exports from California accounted for over 11% of total U.S. exports in goods, shipping to over 220 foreign destinations in 2009.

California's land, sea, and air ports of entry serve as key international commercial gateways for products entering the country. California exported \$120 billion in goods in 2009, ranking only second to Texas with \$163 billion in export goods. Computers and electronic products were California's top exports in 2009, accounting for 29.3% of all state exports, or \$35 billion.

<b>2009 Exports From California to the World</b>		
<b>Product</b>	<b>Value (\$)</b>	<b>Percent</b>
334 Computers & Electronic Prod.	35,182,767,377	29.3 %
36 Transportation Equipment	12,826,967,941	10.7 %
333 Machinery Manufactures	10,709,240,936	8.9 %
325 Chemical Manufactures	10,233,994,524	8.5 %
339 Misc. Manufactures	9,130,040,605	7.6 %
111 Crop Production	7,848,804,565	6.5 %
All Others	34,210,404,051	28.5 %
<b>Total</b>	<b>120,142,219,999</b>	<b>100%</b>

Manufacturing is California's most export-intensive activity. Overall, manufacturing exports represent 9.4% of California's gross domestic product. More than one-fifth (21.9%) of all manufacturing workers in California directly depend on exports for their jobs.

Small- and medium-sized firms generated more than two-fifths (43%) of California's total exports of merchandise. This represents the seventh highest percentage among states and is well above the 29% national average export share for these firms.

Mexico is California's top trading partner, receiving \$17.4 billion in goods in 2009. The state's second and third largest trading partners are Canada and Japan with \$14.2 billion and \$10.9 billion, respectively. Other top-ranking export destinations include China, South Korea, Taiwan, the United Kingdom, Hong Kong, Germany, and Singapore. In 2008, 2.7 million people were employed by business related to trade, transportation and utilities.

The economic crisis has had significant effects on top California trading partners. According to the International Monetary Fund's draft 2010 World Economic Outlook, global GDP is expected to be down from earlier estimates in January. Global GDP is forecast to be 4.1%, the US at 3.0, Euro Area at 0.8%, and China at 10.0%.

Overall, the export of California products to other counties was down in 2009 by \$24.8 billion from 2008 (\$120 billion v. \$144.8 billion). Exports to the state's top trading partners were down as follows: Mexico \$3.1 billion, Canada \$3.6 billion, Japan \$2.1 billion, and China \$1.2 billion less than the prior year.



The most recent trade numbers coming from the US Department of Commerce, however, indicate that California trade (exports and imports) is moving in a positive direction. In February, 2010, \$10.38 billion in products was exported from California. This was a 13.7% increase over the previous year and the fourth straight month increases were reported based on year-to-year gains. Imports through California ports also rose faster in February reporting a 38.3% increase (\$22.53) over the previous year. The number of loaded shipping containers leaving Long Beach, Los Angeles and Oakland was up by 27% from last year and similar increases were reported for outbound cargo tonnage.

10) Amendments: Staff understands that the author will offer amendments to:

- a) Increase the reported number of trade unionists who were killed in Colombia in 2009 from 24 to 40.
- b) Add co-authors.

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor Federation (sponsor)  
American Federation State, County, Municipal Employees, AFL-CIO  
California Conference Board of the Amalgamated Transit Union  
California Conference of Machinists  
California Federation of Teachers  
California Nurses Association  
California Teamsters Public Affairs Council  
Central Labor Council, AFL-CIO, of San Bernardino and Riverside Counties  
Engineers and Scientists of California  
International Longshore & Warehouse Union - AFL-CIO  
National Lawyers Guild, Labor & Employment Committee  
North Bay Labor Council - AFL-CIO  
Northern California District Council of the International Longshore and Warehouse Union  
Professional & Technical Engineers, Local 21  
San Diego-Imperial Counties Labor Council AFL-CIO  
UNITE HERE!  
United Food and Commercial Workers Union, Western States Council  
1 individual

Opposition

Bay Area Council  
California Chamber of Commerce  
Cange International, Inc.  
Chamber of Commerce of the United States  
Council for International Trade  
Gathers Strategies  
Palm Desert Chamber of Commerce  
USS-POSCO Industries

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