Date of Hearing: August 23, 2011

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY
V. Manuel Pérez, Chair
AJR 15 (Alejo) – As Introduced: August 15, 2011

SUBJECT: Colombia Free Trade Agreement and the California Cut Flower Industry

SUMMARY: Memorializes to the U.S. Congress and the President of the U.S. that California encourages the federal government to consider the jobs and economic role the California floriculture industry provides California when advancing free trade agreements, specifically with Colombia. Specifically, this bill makes the following findings and declarations:

1) Over 75% of domestically grown flowers are grown in California, accounting for almost 20% of all flowers sold in the United States, directly supporting more than 10,000 jobs in the state, and having a $10.3 billion economic impact on the economy;

2) The number of our state's flower farms is shrinking rapidly due to federal trade policies beyond their control, specifically with countries like Colombia that have benefitted from the Andean Trade Preference Act and Colombian and U.S. government subsidies for the past two decades;

3) ATPA countries, primarily Colombia, supplied 82% of the total value of United States imports of fresh cut flowers in 2009, being supported by roughly $210 million in subsidies and other supports from the Colombian government from 2005 to 2009, as well as millions of dollars provided through the U.S. Agency for International Development. Colombian exports to the U.S. increased 89% between 2002 and 2010, resulting in a rapid decline in the number of domestic flower growers;

4) One of the 2010 Appropriations Conference Reports included language urging the United States Secretary of Agriculture to "use all available resources to support domestic flower growers in their efforts to develop an efficient and environmentally friendly transportation, storage, and distribution system to better compete with foreign producers"; and

5) Working with the California Cut Flower Commission, the state agricultural commission that advocates on behalf of California flower farmers, California floriculture has worked to remain competitive by offering higher end products produced in an increasingly environmentally sustainable manner and that floriculture is an important California industry that must be considered as the U.S. works to advance the pending U.S. - Colombia Trade Promotion Agreement (CTPA).

FISCAL EFFECT: None

COMMENTS:

1) Author's purpose: According to the author, "AJR 15 would encourage our federal government to consider the adverse effects Free Trade Agreements have on California's floriculture industry. Policies that promote Free Trade Agreements have trumped

California's floriculture industry's position in the international market as well as domestically. As a result, California continues to lose jobs in this industry and the opportunity to generate millions of dollars to our economy. AJR 15 recognizes that California growers are working aggressively to overcome trade challenges through innovation, diversification, and sheer determination. AJR 15 highlights that floriculture is an important California industry that must be considered as the United States works to advance the pending CTPA."

2) U.S. trade policy and state consultation process: The U.S. Constitution grants the federal government the power to negotiate treaties and trade agreements. Ratification, however, is vested in the U.S. Congress upon a two-thirds vote of approval. Congress is prohibited from making amendments to the trade agreement, however, it is not uncommon for related bills to accompany the passage of a trade agreement that include mitigation provisions for economically impacted communities, workers and businesses.

   In recognition of this inability to modify specific elements of trade agreements once negotiated and their far reaching impact on state and local economies, Congress directs the U.S. Trade representative (USTR) to seek advice from states throughout the negotiation process. Among the 29 trade-related advisory committees, the USTR provides administrative support to the Intergovernmental Policy Advisory Committee (IGPAC). The 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 U.S. 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. Congressional approval has not been provided for trade agreements with Colombia, Korea, and Panama.

   Besides trade agreements, the U.S. has a number of trade preference programs that allow special access to U.S. markets for countries that are considered developing markets and/or where the U.S. wants to develop a stronger relationship. Colombia currently has access to U.S. markets through the nation's general preference provisions and the Andean Trade Preference Act and the Andean Trade Promotion and Drug Eradication Act. The purpose of these two acts is to assist Bolivia, Colombia, Ecuador, and Peru "promote broad-based economic development, diversification of exports, consolidation of democracy, and to help defeat the scourge of drug trafficking by providing sustainable economic alternatives to drug-crop production in beneficiary countries."

   In addition to trade support, the U.S. funds Plan Colombia, a multi-year initiative to reduce drug trafficking and promote development. According to the Congressional Research Bureau, more than $7 billion has been provided to Colombia (2000 to 2009) pursuant to this initiative.

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 U.S. trade model clearly envisions a state role and provides the opportunity through IGPAC 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 are not ratified. 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) California Legislature opposes trade agreement with Colombia: In 2010, the California Legislature passed AJR 27 (Res. Chapter 145) that urged the U.S. Congress to oppose a free trade agreement with Colombia. The primary basis for this position, as documented through bill analyses, was Colombia's record on human rights, particularly at it related to trade unionists.

Since the adoption of AJR 27, there has been no action on the CTPA by the U.S. Congress, although it has been reported that Congress will take up all three unratified trade agreements (Colombia, Panama and Korea) in September 2011.

AJR 15 proposes that the Legislature transmit additional information to the U.S. Government and the President relative to the CTPA. In this case, the new information relates to the potential negative impact of implementing the CTPA to the cut flower industry, its workers and the communities in which they are located. The resolution is, however, unclear as to the purpose of the information sharing. Is it the author's intent to:

- Provide a second set of objections to the ratification of the trade agreement for the purpose of deepening the opposition to the passage of the CTPA;

- Provide a set of concerns to the ratification of the trade agreement for the purpose of gaining its passage by reopening the negotiations on the CTPA and/or to lobby for new mitigation measures that will benefit the cut flower industry; or

- Provide this new information on behalf of the California Legislature for some other purpose?

The committee may wish to make an amendment to the resolution to clarify its purpose.

5) U.S. Domestic Cut Flower Industry: The U.S. cut flower market originated in California in the late 1870s when a Ventura housewife, Theodosia Shepherd, began selling flowers she raised in her garden. According to the California Cut Flower Commission (CCFC) website, other women soon began to follow Ms. Shepherd's example by bringing their own backyard grown flowers to local markets, thereby establishing the retail florist profession in the U.S. At the turn of the twentieth century, most towns in the U.S. had just one florist. Today, retail florists number some 40,000 nationwide, in addition to thousands of supermarket cut flower departments and kiosks on city streets and in shopping malls.

Nationwide, consumers purchase an estimated $17 billion in floral items every year providing $5.5 million per day in economic impact to the U.S. economy, supporting 19,000 jobs and $2.4 million per day in salaries and wages. Roses remain the best-selling among fresh cut flowers in the U.S., with 1.3 billion stems of roses being bought each year. Many U.S. grown flowers, particularly roses, mums, and carnations, face strong competition from imports, largely from Colombia and Ecuador, according to the CCFC.

California is the top flower producing state in the country, accounting for 75% of all domestically grown cut flowers in the U.S. The state's top flower producing regions lie along the coastal plains where there are more than 250 cut flower growers. About 5,000 acres of land area is used to grow commercial cut flowers in California, including 38 million square feet of greenhouse area, 200 acres of shade cloth, and 4,000 acres of outdoor fields.

In 2007, sales of California cut flowers and foliage totaled $330 million. Currently, California supplies approximately 20-25% percent of all cut flowers sold in the U.S. with the balance being imported from South American countries, including Colombia. The California cut flower industry generates $64.7 million in taxes.

6) Background on Colombia: Colombia has a population of over 44.7 million with a literacy rate of 90.4%. 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. Colombia is the only South American country with coastlines on both the North Pacific Ocean and Caribbean Sea. As a size comparison, Colombia is slightly less than twice the size of the state of Texas. In 2010, Colombia's GDP based on purchasing power parity was estimated at $435 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 (FDI) 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 then President Uribe and the opportunities provided by the Andean Trade Promotion and Drug Eradication Act. While FDI dropped in

2009 to $7.2 billion due to the global recession, FDI rebounded in 2010 primarily through increases in foreign investments in Colombia's oil reserves and production.

Ongoing economic problems facing the Colombian government, as cited by the CIA Fact Book, 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.

According to a July 2011 assessment of Colombia's economy by the International Monetary Fund (IMF), Colombia's economic recovery is well-entrenched. The IMF reports that inflation pressures have been contained, the financial system is solid, international reserves are strong, the sovereign debt rating was raised to investment grade by all three rating agencies. While these are positive economic indicators, the IMF also reports that there remain high rates of structural unemployment and poverty (46.8%).

7) Colombian cut flower industry: The Colombian cut flower industry is considered by some as one of the major development success stories in an emerging economy of the last 50 years. Initially promoted and funded through the U.S. Agency for International Aid (USAID) as a substitute for coca, the cut flower industry grew from a small beginning in 1966 to what is now a major contributor to the Colombian economy.

   Cut flowers are the nation's leading nontraditional export and rank among the top earners of foreign exchange along with coffee, petroleum, and bananas. The industry is also sometimes touted as a major employer of the low-skill and largely female labor pool drawn from the low-income areas surrounding Bogota, however, more recently, concerns have been raised within the international aid and civil justice community over poor working conditions and low wages. In 2008, Colombian exported 85% of its flowers to the U.S., but in 2009, Colombian cut flowers began expanding their market shares in the European Union and Asia markets, reducing cut flower exports to the U.S. to 75% of total Colombian exports.

   While perhaps a Colombian success story, concerns have been raised by California flower producers that Colombian flower growers have been receiving special treatment and unfair economic advantages over domestic growers in the U.S. Among other things, the CCFC sites the ongoing financial assistance of the USAID and the open market advantages provided through the Andean Trade Promotion and Drug Eradication Act where Colombian flowers receive duty-free treatment when entering the U.S. As a result, Colombian exports to the U.S. increased 89% between 2002, when the Andean Trade Promotion and Drug Eradication Act was implemented, and 2010. During this same term U.S. acreage under cut flower cultivation declined by 22%.

8) Documented recent history of human rights abuses: As currently drafted, AJR 15 does not comment on the human rights abuses and ongoing intimidation that is occurring in Colombia. In discussing the merits of the CTPA, however, it would be negligent for the analysis to not document the basis for the California Legislature's official opposition to the ratification of the CTPA.

In 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 (HRC) has sent representatives to Colombia to assess conditions.

In March 2010, the Special Rapporteur on the situation of human rights defenders, i.e. people who advocate for human rights, released a summary report on her most recent 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 Colombian National Police.

The report especially 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 activists; church workers; lesbian, gay, bisexual and transgender people; and magistrates.

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, and to express support for the work of the human rights defenders, among other venues, before international and regional human rights compliance mechanisms. The HRC made similar recommendations in 2010.

9) Concern for Colombian workers: International labor leaders and those in the U.S. 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, to protect the rights and lives of trade unionists.

Fifty-one trade unionists were reported killed in Colombia in 2010, up from 48 in 2009. Labor leaders have repeatedly stated that the Colombian government has been extremely slow to arrest and bring to trial the people who were responsible for the more than 2,700 murders of Colombian trade unionists since 1986. Many of those that have been tried have been tried in abstentia, resulting in no real justice for those who have suffered at their hands.

Labor organizations say they can support trade if the terms of the agreement are fair and create good opportunities for workers in both countries. However, they believe that the U.S. should not commit to deep and more permanent economic integration, by way of a comprehensive trade agreement, with a country with such a poor record on trade union and human rights. These matters must be addressed as a precondition to evaluating the trade agreement on its own merits. Union leaders in the U.S. are strongly opposed to an affirmative vote on the Colombia FTA.

10) The question of ratification: The Colombian government, generally corroborated by reports by the CIA and the World Trade Organization, states that Colombia has made meaningful economic strides in the last two decades. The policy question is, however, whether progress is sufficient or whether there are certain basic standards of civil society and human rights that must be achieved in order for the U.S. to fully embrace a nation as a free trade partner.

Supporters of CTPA, including the Government of Colombia, believe that demonstrated progress is sufficient. Groups opposed to the CTPA, however, believe that while progress should be commended, civil society in Colombia has not yet achieved the conditions under which the U.S. 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, and that a country needs to first meet some set of minimum standards prior to the U.S. entering into any agreement.

AJR 15 adds a second policy issue to the ratification question. What responsibility does the federal government have to support its domestic industries, workers and communities in negotiating trade agreements – especially when the foreign competition may have been developed though U.S. subsidies?

The current language in AJR 15 is unclear as to whether the California Legislature is calling on the U.S. Congress to mitigate the potential damage caused by implementation of the CPTA or to vote no on its ratification. The committee may wish to clarify this matter as well as the intent of the resolution in order to avoid any misunderstanding by the U.S. Congress that California is reconsidering its earlier position on the CFTA.

11) California's trade-based economy: International trade is a very important component of California's $1.9 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 226 foreign destinations in 2010.

California's land, sea, and air ports of entry serve as key international commercial gateways for products entering the country. California exported $143 billion in goods in 2010 (up from $120 billion in 2009), ranking second only to Texas with $163 billion in export goods. Computers and electronic products were California's top exports in 2010, accounting for 30.1% of all state exports, or $43 billion.

2010 Exports From California to the World		
Product	**Value ($)**	**Percent**
334 Computers & Electronic Prod.	43,075,351,414	30.1 %
333 Machinery (except electrical)	14,486,638,626	10.1 %
336 Transportation Equipment	12,957,683,521	9 %
325 Chemical Manufactures	11,590,683,001	8.1 %
339 Misc. Manufactures	11,502,854,621	8 %
111 Agricultural Products	9,353,709,931	6.5 %
All Others	40,301,943,159	28.1 %
Total	143,268,864,273	100 %

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 $21 billion (15%) in goods in 2010. The state's second and third largest trading partners are Canada and China with $16.1 billion (11%) and $12.4 billion (8.6%), respectively. Other top-ranking export destinations include Japan, South Korea, Taiwan, the United Kingdom, Hong Kong, Germany, and Singapore.

Relative to last year, the value of California products exported to other counties increased significantly in 2010 ($143 billion v. $120 billion). In California's highest export category, computer and electronic products, exports in 2010 almost reached their 2006 high ($43 billion v. $44.3 billion).

12) Colombia and California trade relations: Exports from Colombia were up nearly 30% in 2010 reaching $40.24 billion. Key Colombia exports include petroleum, coffee, coal, nickel, emeralds, apparel, bananas, and cut flowers. The U.S. is Colombia's top export market followed by China. Exports to China, Japan and Korea were noticeably up in 2010.

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

In 2010, California exported $408 million in goods to Colombia. The major California goods exported to Colombia were: computer & electronic products (34%); chemicals (12%); machinery, except electrical (12%); petroleum and coal products (10%). The remaining 32% percent was composed of all other types of exports.[i] Below is a chart providing more detailed information on California exports to Colombia in 2010.

2010 California Exports to Colombia	
All Commodities	408,677,764
334 Computer & Electronic Products	146,206,449
333 Machinery, Except Electrical	67,103,204
325 Chemicals	58,382,262
339 Miscellaneous Manufactured Commodities	37,336,852
111 Agricultural Products	20,332,127
336 Transportation Equipment	15,100,169
311 Food & Kindred Products	10,823,769
332 Fabricated Metal Products, Nesoi	10,725,167
335 Electrical Equipment, Appliances & Components	6,726,539
315 Apparel & Accessories	5,578,534
	[1] Source: http://trade.gov/fta/colombia/california.pdf

2010 California Imports from Colombia

All Commodities	1,255,908,632
211 Oil & Gas	977,422,352
111 Agricultural Products	105,165,654
324 Petroleum & Coal Products	51,747,344
315 Apparel & Accessories	49,235,351
311 Food & Kindred Products	25,130,175
[1] Source: http://trade.gov/fta/colombia/california.pdf	

Supporters of the CTPA state that the agreement offers tremendous opportunities for California exporters. Most significantly, they cite a number of tariffs that 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 only recently ratified, a trade agreement with Colombia.

REGISTERED SUPPORT / OPPOSITION:

Support
None received

Opposition
None received

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[i] http://trade.gov/fta/colombia/california.pdf