



## LATIN AMERICA TRADE COALITION

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**VIA ELECTRONIC SUBMISSION**

<http://www.regulations.gov> – Docket No. USTR-2009-0021

**From:** The Latin America Trade Coalition

**To:** Office of the U.S. Trade Representative

**Re:** Request for Comments Concerning Free Trade Agreement with the Republic of Colombia (74 FR 37759, July 29, 2009)

The comments below are submitted in accordance with the Request for Comments published in the Federal Register by the Office of the U.S. Trade Representative on July 29, 2009. The 1,200-member-strong Latin America Trade Coalition (“LATC” – [www.latradecoalition.org](http://www.latradecoalition.org)) is a collection of U.S. companies, business and agricultural organizations, and other groups representing the largest and most dynamic sectors in our economy. We appreciate this opportunity to voice our strong support for the U.S.-Colombia Trade Promotion Agreement (“CTPA”).

The LATC believes that international trade plays a vital role in the expansion of economic opportunities for American workers, farmers, and businesses. Additionally, international trade underscores our deep commitment to promoting stability and growth in developing economies throughout the world. CTPA is a critical step in U.S. efforts to promote sustainable economic growth in the Western Hemisphere through trade rather than just economic aid, and it resembles highly successful trade agreements that have already been enacted with such countries as Chile and Morocco. Its provisions are virtually indistinguishable from those in the U.S.-Peru Trade Promotion Agreement (PTPA), which Congress approved by an overwhelming bipartisan majority in 2007. Like the agreement with Peru, CTPA is a comprehensive agreement that will accelerate Colombia’s progress as a resilient and strong democracy and a committed ally of the United States.

From the moment in 2003 when the Office of the U.S. Trade Representative announced trade agreement negotiations with Colombia, and throughout the negotiations, members of the LATC have been engaged with government officials in both countries to provide information about the existing business relationship between our two countries and to highlight market opening and enforcement priorities for the improvement of that relationship. We believe that the resulting agreement met critical negotiating objectives in a wide range of areas that will provide the framework for a mutually beneficial, open, and rules-based trade and investment relationship going forward. Accordingly, the LATC and its members have actively promoted Congressional approval of the agreement since its signing in November 2006.

U.S. exports to Colombia have more than tripled since 2003, exceeding \$11 billion in 2008. We estimate that since the agreement's signing those exports have been penalized by the imposition of over \$2 billion in tariffs that could have been eliminated by the implementation of the agreement (*see* [Colombia Tariff Ticker](#) — [www.latradecoalition.org](http://www.latradecoalition.org)). The benefit from U.S. exports to Colombia has been widespread both in terms of industry sectors and geographic diversity. A wide range of industries — including food and other agricultural products, chemicals, computers and electronic products, electrical equipment and appliances, and motor vehicles to name just a few — have seen exports grow into the hundreds of millions of dollars each year. On a local level, in 2008, 40 states plus Puerto Rico enjoyed at least \$10 million in exports to Colombia; 18 states surpassed the \$100 million export mark; and, exports from three states, Louisiana (\$1.4 billion), Florida (\$2.4 billion), and Texas (\$3 billion) reached ten figures. As of 2006 (latest available figures), more than 8,500 U.S. small and medium sized businesses were selling to Colombia, totaling 85% of all U.S. companies exporting their products to Colombia.

<b>CTPA Opens Markets</b>
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Notwithstanding the success of U.S. exporters, the trade relationship with Colombia has been fundamentally imbalanced from a market access standpoint. In 1991, Congress overwhelmingly approved the Andean Trade Preference Act (ATPA), which has been renewed by bipartisan majorities several times in recent years. ATPA allows 90% of all imports from Colombia into the U.S. market duty free. By contrast, Colombia's average duty on imports from the United States is 14% for manufactured goods and more than 50% for key agricultural exports such as corn and wheat. In short, Colombia enjoys nearly free access to the U.S. market while U.S. access to Colombia's remains limited. CTPA will put the U.S.-Colombia trade relationship on an even footing.

CTPA will eliminate all Colombian tariffs on U.S. products, ushering in a mutually beneficial, reciprocal partnership. The day the agreement enters into force, four-fifths of U.S. consumer and industrial products and more than half of current U.S. farm exports will enter Colombia duty-free. Remaining tariffs will be phased out, most in just a few years. Consider the following examples:

Without CTPA		Products	With CTPA	
We Pay	They Pay		We Pay	They Pay
35%	2.5%	Automobiles	0%	0%
20%	0%	Furniture	0%	0%
5-15%	0-3.9%	Audiovisual (film and DVDs)	0%	0%
5-15%	0%	Mineral fuels and coal	0%	0%
10%	0%	Cotton	0%	0%
5-15%	0-3.9%	Copper, zinc, gold, silver products	0%	0%
5-21%	0-1.9%	Cereals (oats, corn, soybeans)	0%	0%
10%	0%	Computers and related products	0%	0%

Additional CTPA provisions include:

**Services:** Service providers will also benefit significantly from the agreement. CTPA's services commitments cover both the cross-border supply of services and the right to invest and establish a local service presence, demonstrating a commitment to liberalization and internal market reforms. The agreement strengthens regulatory transparency and provides greater protection for services-related investment. The opening up of the services market will have a positive ripple effect throughout all Colombian markets and facilitate trade.

**Agriculture:** The inequities in our trade relationship with Colombia mentioned previously are especially profound in the agricultural sector. Over 99 percent of food and agricultural products exported by Colombia to the U.S. already enter duty free. Our exports to Colombia, on the other hand, face applied tariffs that range from 5 to 20 percent with WTO bound rates as high as 388 percent. With CTPA, we will receive immediate duty free treatment on 77 percent of all tariff lines accounting for more than half of our total agricultural exports, and Colombian import duties on all other farm products will ultimately be phased down to zero. Colombia has also committed to immediately eliminate the "price band" scheme that has obstructed imports of many U.S. agricultural products and it will immediately recognize the inspection system for U.S. meat and poultry as equivalent to its own.

**Intellectual Property:** The agreement will strengthen protection and enforcement of U.S. trademarks, patents and copyrights, creating new opportunities for U.S. innovation-based and creative industries in Colombia. In specific terms, CTPA includes strong intellectual property enforcement mechanisms, including the criminalization of end-user piracy and counterfeiting and the authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The agreement also provides necessary mechanisms to fight the problem of trans-shipment of counterfeit foods with specific provisions that are aimed at goods-in-transit.

**Investment Protections and Dispute Settlement:** U.S. investors in Colombia will benefit from the strong investment chapter in the agreement, particularly the sections dealing with investment protections and dispute settlement. The agreement provides for rights that are consistent with U.S. law and also contains fully transparent dispute settlement procedures that are open to the public and allow interested parties to provide their input. These protections are based on the principle of national treatment, which prohibits discrimination against U.S. companies active in Colombia.

**Information Technology:** As a result of the agreement, Colombia will become a full member of the World Trade Organization Information Technology Agreement, eliminating tariffs on information technology products and providing substantial new opportunities for U.S. high-tech exporters.

While the agreement clearly evens the terms of trade for U.S. workers and farmers, it is one with significant benefits for Colombia as well. Colombia's preferential access to the U.S. marketplace has typically been renewed for short periods of as little as six months,

significantly undermining the stability and predictability conducive to investment. CTPA makes Colombia's favorable access to our markets permanent, thereby establishing a solid ground for further economic development and investment.

However, despite these clear benefits that stand to accrue from the implementation of the agreement, at present it appears equally likely that the outlook for U.S. agricultural, manufacturing, and service exporters in Colombia is poised to deteriorate significantly. This is because while U.S. implementation of the agreement has been delayed other important trading partners are moving ahead. Canada has now signed a free trade agreement with Colombia, and the European Union is in ongoing negotiations for a similar pact. Meanwhile, South Korea and Colombia announced less than two weeks ago that they would begin talks on a South Korea-Colombia Free Trade Agreement by the end of the year. If these agreements with major trading partners and competitors go through ahead of the U.S. agreement, not only will U.S. producers have lost the competitive advantage that would have applied from a preferential tariff margin, they will actually be at an equivalent disadvantage to European, Canadian and South Korean competitors.

Likewise, Colombian producers are even now at a disadvantage to competitors in neighboring Peru, as Peru enjoys the first fruits of an enhanced trading relationship with the United States stemming from implementation of the U.S.-Peru Trade Promotion Agreement. Notably, notwithstanding the advantage currently enjoyed, the Government of Peru has been outspoken in its support for CTPA as an element critical to sustainable region-wide development. The governments of Canada, Mexico, Chile, Brazil, and many other Western Hemisphere nations have also urged the United States to implement CTPA.

#### **CTPA Supports Democratic and Social Institutions**

CTPA contains critical provisions to enhance transparency and accountability in governance, providing reformers with important tools to fight the scourge of corruption. For example, the agreement provides for the criminalization of bribery in government procurement, providing for better and more efficient procurement on the part of Colombian government entities as well as a more competitive marketplace. CTPA goes a long way toward bringing increased transparency to governance generally in Colombia by bringing greater transparency to the regulation of commerce and government's day-to-day interaction with business.

CTPA, along with the Peru agreement and the agreements negotiated with Panama and South Korea, also includes the most far-reaching commitments on labor and environment ever included in a U.S. bilateral free trade agreement. The labor and environmental provisions originally included in the body of the agreement signed by the United States and Colombia in November 2006 provided for enforceable commitments backed up by sanctions. They exceeded by a large margin the extent of commitments made in previous agreements, including the widely-hailed U.S.-Jordan Free Trade Agreement.

However, those provisions were later renegotiated to go even further, committing Colombia to the elements of the bipartisan May 10, 2007, Congressional-Executive Agreement on Trade Policy, an agreement which among other things made internationally-

recognized labor standards enforceable under the terms of the agreement. Speaker of the U.S. House of Representatives Nancy Pelosi described the agreement in these terms: “[W]here it comes down to labor standards and environment, this is enormous progress.”

CTPA also promotes U.S. security interests by forging a deeper partnership with Colombia through a framework for government-to-government relationships that is grounded in the tangible national interests of all parties. Such a framework is vital to enhancing cooperation in the fight against terrorism and narcotics trafficking; it also sets an example for other countries around the world as we pursue our global security goals. By promoting economic growth in Colombia, CTPA will help stabilize its economy and provide its citizens with long-term alternatives to narcotics trafficking or illegal immigration.

## **Conclusion**

We appreciate this opportunity to share our strong support for the U.S.-Colombia Trade Promotion Agreement. The U.S. government can lend a helping hand to workers and farmers in both the United States and Colombia by approving and implementing this landmark agreement. Doing so will send a clear signal of support for democracy and development, transparency in business and government, and internationally recognized worker rights. To reject the agreement would be to abandon America’s closest ally in Latin America; it would undermine Colombia’s recent economic progress while doing nothing to further reduce violence or protect human rights. For these reasons, we urge the Administration to send the U.S.-Colombia Trade Promotion Agreement to the Congress for an immediate vote.

Thank you.