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The U.S.-Colombia Free Trade Agreement: Economic and Political Implications

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The U.S.-Colombia Free Trade Agreement: Economic and Political Implications

Summary

Implementing legislation for a U.S.-Colombia Free Trade Agreement (CFTA) (H.R. 5724/S. 2830) was introduced in the 110th Congress on April 8, 2008 under Title XXI (Bipartisan Trade Promotion Authority Act of 2002) of the Trade Act of 2002 (P.L. 107-210). The House leadership considered that the President had submitted the implementing legislation without sufficient coordination with the Congress, and on April 10 the House voted 224-195 to make certain provisions in § 151 of the Trade Act of 1974 (P.L. 93-618), the provisions establishing expedited procedures, inapplicable to the CFTA implementing legislation (H.Res 1092). The CFTA is highly controversial and it is currently unclear whether or how Congress will consider implementing legislation in the future.

The agreement would immediately eliminate duties on 80% of U.S. exports of consumer and industrial products to Colombia. An additional 7% of U.S. exports would receive duty-free treatment within five years of implementation and all remaining tariffs would be eliminated within ten years after implementation. The agreement also contains provisions for market access to U.S. firms in most services sectors; protection of U.S. foreign direct investment in Colombia; intellectual property rights protections for U.S. companies; and enforceable labor and environmental provisions.

The United States is Colombia's leading trade partner. Colombia accounts for a very small percentage of U.S. trade (0.6% in 2007), ranking 26th among U.S. export markets and 33rd as a source of U.S. imports. Approximately 90% of U.S. imports from Colombia enter the United States duty-free, while U.S. exports to Colombia face duties of up to 20%. Economic studies on the impact of a U.S.-Colombia free trade agreement (FTA) have found that, upon full implementation of an agreement, the impact on the United States would be positive but very small.

Numerous Members of Congress oppose the CFTA because of concerns about the violence against labor union activists in Colombia and because of the perceived negative effects of trade on the U.S. economy. The Bush Administration believes that Colombia has made significant advances to combat violence and instability and views the pending trade agreement as a national security issue in that it would strengthen a key democratic ally in South America.

For Colombia, a free trade agreement with the United States is part of the overall economic development strategy of Colombian President Alvaro Uribe's Administration. President Uribe has made a trade agreement with the United States a key element in his vision to promote economic growth in Colombia and to help bring more economic stability in the country. In his response to U.S. congressional concerns, President Uribe has stated on several occasions that he would make every effort to ensure that these concerns were addressed and that the situation in Colombia had improved substantially under his administration. Some Members of Congress have stated they would like to see evidence of progress in this area before supporting the agreement. This report will be updated as events warrant.

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The U.S.-Colombia Free Trade Agreement: Economic and Political Implications

Introduction

The proposed U.S.-Colombia Free Trade Agreement (CFTA) is a bilateral free trade agreement between the United States and Colombia which, if ratified, would eliminate tariffs and other barriers in goods and services between the two countries. The CFTA negotiations grew out of a regional effort to produce a U.S.-Andean free trade agreement among the United States, Colombia, Peru, and Ecuador in May 2004. After negotiators failed to reach an agreement for an Andean FTA, Colombia continued negotiations with the United States for a bilateral trade agreement. On February 27, 2006, the United States and Colombia concluded the U.S.-Colombia FTA, and finalized the text of the agreement on July 8, 2006. On August 24, 2006, President Bush notified the Congress of his intention to sign the U.S.-Colombia FTA. The two countries signed the agreement on November 22, 2006.

The United States-Colombia Trade Promotion Agreement Implementation Act (H.R. 5724/S. 2830) was introduced in the 110th Congress on April 8, 2008. The bills were introduced under Title XXI (Bipartisan Trade Promotion Authority Act of 2002) of the Trade Act of 2002 (P.L. 107-210). Trade Promotion Authority (TPA) requires an expedited process, with limited debate, and a mandatory vote without amendment.[1] Under TPA, the Congress has 90 days of session to consider an agreement. The House leadership considered that the President had submitted the implementing legislation without sufficient coordination with the Congress, and on April 10 the House voted 224-195 to make certain provisions in § 151 of the Trade Act of 1974 (P.L. 93-618) inapplicable to the CFTA implementing legislation (H.Res. 1092). These provisions set up expedited legislative procedures applicable to implementing legislation for FTAs negotiated under authorities of the Trade Act of 2002. The Senate cannot act on the bill until it passes the House, which must act first because the bill would affect revenue.[2] The U.S.-Colombia free trade agreement is highly controversial and it is currently unclear whether or how Congress will consider implementing legislation in the future.

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[1] For more information on Trade Promotion Authority, see CRS Report RL33743, *Trade Promotion Authority (TPA): Issues, Options, and Prospects for Renewal*, by J.F. Hornbeck and William H. Cooper.

[2] The Senate could, nevertheless, take up and pass its own implementing bill, then hold it at the desk pending the arrival of the House companion. In that case, however, the expedited procedures of the statute (limiting debate, precluding amendment, etc.) would not be applicable for the Senate's consideration of its measure (except by unanimous consent).

The rules change in H.Res. 1092 effectively removes the obligation for the House to vote on the CFTA within 60 days of session as specified under TPA and allows the House leadership to schedule a vote at any time. The resolution suspends the TPA provision requiring that the bill be automatically discharged from the committees of jurisdiction within 45 days after the bill is introduced if the committees have not reported the bill by that time. In addition, the resolution removes the TPA provision that a motion to proceed to consideration of the bill is highly privileged and not debatable, which safeguards the leadership's control over the floor schedule if the trade bill were to be reported though the committees of consideration. The House resolution does not change the TPA provisions that the CFTA is not amendable once it comes up, nor does it change the Senate TPA rules.[3] Under TPA, it is the President's initial submission of a trade agreement that triggers the 90-day process under expedited procedures. For this reason, it is generally understood that the eligibility of the CFTA for expedited consideration under the statute would not carry over or be renewed in a subsequent session of Congress.

Rationale for the Agreement

Since the 1990s, the countries of Latin America and the Caribbean have been a focus of U.S. trade policy as demonstrated by the passage of the North American Free Trade Agreement (NAFTA), the U.S.-Chile Free Trade Agreement, the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), and the U.S.-Peru Trade Promotion Agreement. The Bush Administration has made bilateral and regional trade agreements key elements of U.S. trade policy. U.S. trade policy in the Western Hemisphere over the past few years has been focused on completing trade negotiations with Colombia, Peru, and Panama and on gaining passage of these free trade agreements by the U.S. Congress. The U.S.-Peru FTA was approved by Congress and signed into law in December 2007 (P.L. 110-138).[4]

An FTA with Colombia would increase market access for U.S. goods and services in the Colombian market, currently not the case under the Andean Trade Preference Act (ATPA). ATPA is a unilateral trade preference program in which the United States extends preferential duty treatment to select Colombian goods entering the United States. It is part of a broader U.S. initiative with Latin America to address the illegal drug issue (see section on ATPA later in this report). About 90% of U.S. imports from Colombia enter the United States duty-free under ATPA, under other U.S. trade preferences, or through normal trade relations.

The major expectation among proponents of the pending free trade agreement with Colombia, as with other trade agreements, is that it will provide economic benefits for both the United States and Colombia as the level of trade increases between the two countries. Another expectation is that it would improve investor

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[3] *Inside U.S. Trade*, "House Approves Fast-Track Rules Change for U.S.-Colombia FTA," April 11, 2008.

[4] For more information, see CRS Report RL34108, *U.S.-Peru Economic Relations and the U.S.-Peru Trade Promotion Agreement*, by M. Angeles Villarreal.

confidence and increase foreign direct investment in Colombia, which would bring more economic stability to the country.

For Colombia, a free trade agreement with the United States is part of the overall development strategy of Colombian President Alvaro Uribe's Administration. President Uribe has made a free trade agreement with the United States a key element in his vision to promote economic growth in Colombia and to help bring more economic stability to the country. The Uribe Administration also views the pending agreement as a way of increasing its presence in the global economy and strengthening democratic conditions within the country.[5] The Colombian government recognizes that a free trade agreement in itself would be insufficient to alleviate the problem of poverty and has planned other economic complementary reform measures, such as a plan to lower corporate taxes to spur competition and create jobs. The government is also taking steps to reduce the regulatory burden and strengthen protection for foreign investors in Colombia.[6] The Uribe Administration believes that a free trade agreement with the United States is necessary to help move the country forward in its efforts on domestic reforms. If the U.S. Congress approves the U.S.-Colombia free trade agreement, the challenge for Colombia would be to continue domestic reforms so that the trade benefits from the agreement reach all segments of the population, especially the poorer regions of the country.

Review of the U.S.-Colombia Free Trade Agreement

Key CFTA Provisions[7]

The comprehensive free trade agreement would eliminate tariffs and other barriers to goods and services. This section summarizes several key provisions in the original agreement text as provided by the United States Trade Representative (USTR).[8]

Market Access. The agreement would eliminate duties on most consumer and industrial products. Some tariffs would be phased out over five years of implementation and all remaining tariffs would be eliminated within ten years of implementation. Colombia's average tariff on U.S. goods is 12.5% while the average U.S. tariff on Colombian goods is 3%.

The United States Trade Representative (USTR) notes that Colombia applies tariffs in the 0-5% range on capital goods, industrial goods, and raw materials; 10% on manufactured goods with some exceptions; and 15% to 20% on consumer and

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[5] *San Francisco Chronicle,* "The Struggle for Colombia," June 13, 2007.

[6] *The Wall Street Journal,* "Bogota Eyes the Irish Model," March 24, 2008.

[7] The text of the U.S.-Colombia Free Trade Agreement (CFTA) is available online at the Office of the United States Trade Representative (USTR) website: [http://www.ustr.gov].

[8] Office of the United States Trade Representative, *Trade Facts,* "Free Trade with Colombia: Summary of the United States-Colombia Trade Promotion Agreement," June 2007.

"sensitive" goods.[9] Upon implementation, the agreement would eliminate 80% of duties on U.S. exports of consumer and industrial products to Colombia. An additional 7% of U.S. exports would receive duty-free treatment within five years of implementation and all remaining tariffs would be eliminated within ten years after implementation.

Under a CFTA, Colombia would join the World Trade Organization's Information Technology Agreement (ITA), and remove its tariff and non-tariff barriers to information technology products. Colombia would allow trade in remanufactured goods under the agreement, which would increase export and investment opportunities for U.S. businesses involved in remanufactured products such as machinery, computers, cellular telephones, and other devices.

In agricultural products, the agreement would grant immediate duty-free treatment to a large number of U.S. farm exports to Colombia, including high-quality beef, cotton, wheat, soybeans, soybean meal, apples, pears, peaches, cherries, and many processed food products including frozen french fries and cookies. U.S. farm products that would receive improved market access include pork, beef, corn, poultry, rice, fruits and vegetables, processed products, and dairy products. The United States and Colombia worked to resolve sanitary and phytosanitary barriers to agricultural trade, including those on food safety inspection procedures for beef, pork, and poultry.

Colombia currently has a "price-band" import duty system on certain agricultural products. This system results in high duties, sometimes exceeding 100%, for certain U.S. exports to Colombia, including corn, wheat, rice, soybeans, pork, poultry, cheeses, and powdered milk. A CFTA would remove Colombia's price band system upon implementation of the agreement.

In textiles and apparel, products that meet the agreement's rules of origin requirements would receive duty-free and quota-free treatment immediately. The United States and Colombia have cooperation commitments under the agreement that would allow for verification of claims of origin or preferential treatment, and denial of preferential treatment or entry if the claims cannot be verified. The rules of origin requirements are generally based on the yarn-forward standard to encourage production and economic integration. A "de minimis" provision would allow limited amounts of specified third-country content to go into U.S. and Colombian apparel to provide producers in both countries flexibility. A special textile safeguard would provide for temporary tariff relief if imports prove to be damaging to domestic producers.

In government procurement contracts, the two countries agreed to grant non-discriminatory rights to bid on government contracts. These provisions would cover the purchases of Colombia's ministries and departments, as well as its legislature and courts. U.S. companies would also be assured access to the purchases of a number of Colombia's government enterprises, including its oil company.

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[9] See United States Trade Representative (USTR), *2008 National Trade Estimate Report on Foreign Trade Barriers*, March 2008.

Services. In services trade, the two countries agreed to market access in most services sectors, with very few exceptions. Colombia agreed to exceed commitments made in the WTO and to remove significant services and investment barriers, such as requirements that U.S. firms hire nationals rather than U.S. citizens to provide professional services. U.S. financial service suppliers would have full rights to establish subsidiaries or branches for banks and insurance companies. Portfolio managers would be able to provide portfolio management services to both mutual funds and pension funds in the partner country, including to funds that manage privatized social security accounts.

Investment. Investment provisions would establish a stable legal framework for foreign investors from the partner country. All forms of investment would be protected, including enterprises, debt, concessions and similar contracts, and intellectual property. U.S. investors would be treated as Colombian investors with very few exceptions. U.S. investors in Colombia would have substantive and procedural protections that foreign investors have under the U.S. legal system, including due process protections and the right to receive fair market value for property in the event of an expropriation. Protections for U.S. investments would be backed by a transparent, binding international arbitration mechanism. In the preamble of the agreement, the United States and Colombia agreed that foreign investors would not be accorded greater substantive rights with respect to investment protections than domestic investors under domestic law.[10]

IPR Protection. The agreement would provide intellectual property rights (IPR) protections for U.S. and Colombian companies.[11] In all categories of IPR, U.S. companies would be treated no less favorably than Colombian companies. In trademark protection the agreement would require the two countries to have a system for resolving disputes about trademarks used in internet domain names; to develop an on-line system for the registration and maintenance of trademarks and have a searchable database; and have transparent procedures for trademark registration.

In protection of copyrighted works, the agreement has a number of provisions for protection of copyrighted works in a digital economy, including provisions that copyright owners would maintain rights over temporary copies of their works on computers. Other agreement provisions include rights for copyright owners for making their work available on-line; extended terms of protection for copyrighted works; requirements for governments to use only legitimate computer software; rules on encrypted satellite signals to prevent piracy of satellite television programming; and rules for the liability of Internet Service Providers for copyright infringement.

In protection of patents and trade secrets, U.S. companies are concerned that the Colombian government currently does not provide patent protection for new uses of previously known or patented products. The pending CFTA would limit the grounds on which a country could revoke a patent, thus protecting against arbitrary revocation.

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[10] Office of the United States Trade Representative (USTR), *Trade Facts: Free Trade with Colombia, Summary of the United States-Colombia Trade Promotion Agreement,* June 2007.

[11] For more information, see CRS Report RL34292, *Intellectual Property Rights and International Trade,* by Shayerah Ilias and Ian F. Fergusson.

In protection of test data and trade secrets, the agreement would protect products against unfair commercial use for a period of five years for pharmaceuticals and ten years for agricultural chemicals. In addition, the agreement would require the establishment of procedures to prevent marketing of pharmaceutical products that infringe patents, and provide protection for newly developed plant varieties. The parties expressed their understanding that the intellectual property chapter would not prevent either party from taking measures to protect public health by promoting access to medicines for all.

The United States is concerned with music and motion picture property piracy in Colombia. The USTR states that although Colombia has made some progress in strengthening IPR protection, it needs to make further improvements.[12] The CFTA IPR provisions would include penalties for piracy and counterfeiting and criminalize end-user piracy. It would require the parties to authorize the seizure, forfeiture, and destruction of counterfeit and pirated goods and the equipment used to produce them. The agreement would mandate both statutory and actual damages for copyright infringement and trademark piracy. This would ensure that monetary damages could be awarded even if a monetary value to the violation was difficult to assess.

Customs Procedures and Rules of Origin. The agreement includes comprehensive rules of origin provisions that would ensure that only U.S. and Colombian goods could benefit from the agreement. The agreement also includes customs procedures provisions, including requirements for transparency and efficiency, procedural certainty and fairness, information sharing, and special procedures for the release of express delivery shipments.

Labor Provisions. The labor and worker rights obligations are included in the core text of the agreement. The United States and Colombia reaffirmed their obligations as members of the International Labor Organization (ILO). The two countries agreed to adopt, maintain and enforce laws that incorporate core internationally-recognized labor rights, as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, including a prohibition on the worst forms of child labor. The parties also agreed to enforce labor laws with acceptable conditions of work, hours of work, and occupational safety and health. All obligations of the CFTA chapter on labor would be subject to the same dispute settlement procedures and enforcement mechanisms as other chapters of the agreement.

The agreement includes procedural guarantees to ensure that workers and employers would have fair, equitable, and transparent access to labor tribunals or courts. It has a cooperative mechanism to promote respect for the principles embodied in the 1998 ILO Declaration, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. The United States and Colombia agreed to cooperative activities on laws and practices related to ILO labor standards; the ILO convention on the worst forms of child labor; methods to improve labor administration and enforcement of labor laws; social dialogue and alternative dispute

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[12] See United States Trade Representative (USTR), *2008 National Trade Estimate Report on Foreign Trade Barriers*, March 2008.

resolution; occupational safety and health compliance; and mechanisms and best practices on protecting the rights of migrant workers.

Environmental Provisions. The environmental obligations are included in the core text of the agreement. The agreement would require the United States and Colombia to effectively enforce their own domestic environmental laws and to adopt, maintain, and implement laws and all other measures to fulfill obligations under covered multilateral environmental agreements (MEAs). Both countries committed to pursue high levels of environmental protection and to not derogate from environmental laws in a manner that would weaken or reduce protections. The agreement includes procedural guarantees that would ensure fair, equitable, and transparent proceedings for the administration and enforcement of environmental laws. In addition, the agreement includes provisions to help promote voluntary, market-based mechanisms to protect the environment and to ensure that views of civil society are appropriately considered through a public submissions process. All obligations in the environmental chapter of the agreement would be subject to the same dispute settlement procedures and enforcement mechanisms as obligations in other chapters of the agreement.

Dispute Settlement. The core obligations of the agreement, including labor and environmental provisions, are subject to dispute settlement provisions. The agreement's provisions on dispute panel proceedings include language to help promote openness and transparency through open public hearings; public release of legal submissions by parties; and opportunities for interested third parties to submit views. The provisions would require the parties to make every attempt, through cooperation and consultations, to arrive at a mutually satisfactory resolution of a dispute. If the parties are unable to settle the dispute through consultations, the complaining party would have the right to request an independent arbitral panel to help resolve the dispute. Possible outcomes could include monetary penalties or a suspension of trade benefits.

Bipartisan Trade Framework Amendments

In early 2007, a number of Members of Congress indicated that some of the provisions in pending U.S. FTAs would have to be strengthened to gain their approval, particularly relating to core labor standards. After several months of negotiation, Congress and the Administration reached an agreement on May 10, 2007 on a new bipartisan trade framework that calls for the inclusion of core labor and environmental standards in the text of pending and future trade agreements. On June 28, 2007, the United States reached an agreement with Colombia on legally-binding amendments to the CFTA on labor, the environment, and other matters to reflect the bipartisan agreement of May 10.

The amendments to the FTA were based on the agreement reached between the Bush Administration and Congress on May 10, 2007 and are similar to the amendments that were made to the U.S.-Peru free trade agreement, which was approved by Congress in December 2008. At the time they were announced, the Administration stated that, because the new commitments would have to be "legally binding", they could not have been incorporated into the agreement as side letters. Some of the key amendments include obligations related to five basic ILO labor

rights, multilateral environmental agreements (MEAs), and pharmaceutical intellectual property rights (IPR). These provisions would be fully enforceable through the FTA's dispute settlement mechanism. The Colombian government has approved the amendments. On October 30, 2007, the Colombian Senate "overwhelmingly" approved the labor and environmental amendments to the CFTA, marking the end of the approval process for the agreement in Colombia.[13]

Amendments on Basic Labor Standards. After the bipartisan agreement, the Administration reached an agreement with Colombia to amend the CFTA to require the parties to "adopt, maintain and enforce in their own laws and in practice" the five basic internationally-recognized labor standards, as stated in the 1998 ILO Declaration. The amendments to the agreement strengthened the earlier labor provisions which only required the signatories to *strive* to ensure that their domestic laws would provide for labor standards consistent with internationally recognized labor principles.

The amendments that resulted from the bipartisan trade framework were intended to enhance the protection and promotion of worker rights by including enforceable ILO core labor standards in the agreement. These include 1) freedom of association; 2) the effective recognition of the right to collective bargaining; 3) the elimination of all forms of forced or compulsory labor; 4) the effective abolition of child labor and a prohibition on the worst forms of child labor; and 5) the elimination of discrimination in respect of employment and occupation. These obligations would refer only to the 1998 ILO *Declaration on the Fundamental Principles and Rights at Work.* Another change to the agreement relates to labor law enforcement. Any decision made by a signatory on the distribution of enforcement resources would not be a reason for not complying with the labor provisions. Under the amended provisions, parties would not be allowed to derogate from labor obligations in a manner affecting trade or investment. Labor obligations would be subject to the same dispute settlement, same enforcement mechanisms, and same criteria for selection of enforcement mechanisms as all other obligations in the agreement.

Provisions on Environment. In the original text of the agreement, the parties would have been required to "effectively enforce" their own domestic environmental laws; this was the only environmental provision that would have been enforceable through the agreement's dispute settlement procedures. Other environmental provisions in the original text, that were not enforceable, included provisions on environmental cooperation, procedural guarantees for enforcement of environmental laws, and provisions for a public submissions process. Under the amended version of the proposed FTA, the United States and Colombia agreed to effectively enforce their own domestic environmental laws, *and* to adopt, maintain, and implement laws and all other measures to fulfill obligations under the seven covered multilateral environmental agreements (MEAs). The amended agreement states that *all* obligations in the environment chapter would be subject to the same dispute settlement procedures and enforcement mechanisms as all other obligations in the agreement.

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[13] Bureau of National Affairs, Inc., *International Trade Reporter*, "Colombian Senate Overwhelmingly Approves Labor-Related Amendments to FTA with U.S.," November 1, 2007.

Other Provisions. Other amendments to the proposed FTA include provisions on intellectual property, government procurement, and port security. On intellectual property rights (IPR) protection, some Members of Congress were concerned that the original commitments would have prevented the poor from having access to medicines to treat AIDS or other infectious diseases. The amended agreement was a way of trying to find a balance between the need for IPR protection for pharmaceutical companies to foster innovation and the desire for promoting access to generic medicines to all segments of the population. The amended text of the agreement maintains the five years of data exclusivity for test data related to pharmaceuticals. However, if Colombia relies on U.S. Federal Drug Administration (FDA) approval of a given drug, and meets certain conditions for expeditious approval of that drug in Colombia, the data exclusivity period would expire at the same time that the exclusivity expired in the United States. This could allow generic medicines to enter more quickly into the market in Colombia.

In government procurement, the amended provisions would allow U.S. state and federal governments to condition government contracts on the adherence to the core labor laws in the country where the good is produced or the service is performed. Government agencies also would be allowed to include environmental protection requirements in their procurements. Concerning port security, a new provision would ensure that if a foreign-owned company were to provide services at a U.S. port that would raise national security concerns, the CFTA would not be an impediment for U.S. authorities in taking actions to address those concerns.[14]

U.S.-Colombia Economic Relations

With a population of 47 million people, Colombia is the third most populous country in Latin America, after Brazil and Mexico. Colombia's economy is the fifth-largest economy in Latin America. In 2006, approximately 45% of Colombians lived in poverty according to State Department data. The United Nations Economic Commission for Latin America and the Caribbean's (ECLAC) data indicates a decline in both poverty and indigence rates since 1999.[15] Between 1999 and 2005, the percentage of Colombians living in poverty decreased from 55% to 47%, while the percentage of those living in extreme poverty decreased from 27% to 20%. Poverty rates are lowest in the metropolitan area around the capital of Bogotá and highest in rural areas. Rural Colombians, the indigenous, and Afro-Colombians are much more likely to live in extreme poverty.[16]

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[14] Office of the United States Trade Representative, *Trade Facts*, "Bipartisan Trade Deal," Bipartisan Agreement on Trade Policy, May 2007, pp. 4-5.

[15] United Nations Economic Commission for Latin America and the Caribbean (ECLAC), *Panorama Social de América Latina 2006,* December 2006.

[16] Approximately 80% of Afro-Colombians live in conditions of extreme poverty, and 74% of Afro-Colombians earn less than the minimum wage. For more information, see CRS Report RL32713, *Afro-Latinos in Latin America and Considerations for U.S. Policy.*

Colombia's ability to reduce poverty in recent years is most likely due to an increase in the growth of the country's gross domestic product (GDP). Colombia's economy has stabilized under President Alvaro Uribe, benefitting from prudent fiscal management and rising commodity prices. Security improvements and a more stable economy have likely led to the recent increase in foreign direct investment (FDI). FDI grew to $4 billion during the first six months of 2007, three times the level for the same period in 2006. The bulk of this new investment is in the oil and manufacturing sectors. The leading sources of FDI in Colombia are the United States, Spain, and Brazil.

Table 1. Key Economic Indicators for Colombia and the United States

	Colombia		United States	
	1997	2007[a]	1997	2007[a]
Population (millions)	40	47	273	302
Nominal GDP ($US billions)[b]	107	173	8,304	13,843
GDP, PPP[c] Basis ($US billions)	190	318	8,304	13,843
Per Capita GDP ($US)	2,668	3,680	30,429	45,820
Per Capita GDP in $PPPs	4,754	6,780	30,429	45,820
Total Merchandise Exports (US$ billions)	12	29	689	1,163
Exports as % of GDP[d]	15%	20%	12%	12%
Total Merchandise Imports (US$billions)	15	33	870	1,954
Imports as % of GDP[d]	21%	24%	13%	17%

Source: Compiled by CRS based on data from the Economist Intelligence Unit (EIU) on-line database.
a. Some figures for 2007 are estimates.
b. Nominal GDP is calculated by EIU based on figures from World Bank and World Development Indicators.
c. PPP refers to purchasing power parity, which attempts to factor in price differences across countries when estimating the size of a foreign economy in U.S. dollars.
d. Exports and Imports as % of GDP are derived by the EIU and include trade in both goods and services.

The economy of Colombia is quite small compared to that of the United States. Colombia's gross domestic product (GDP) in 2007 was $173 billion, about 1.2% of U.S. GDP of $13.8 trillion in 2007 (see **Table 1)**. In 2007, Colombia's GDP growth remained steady from the previous year's of 6.8%. Economic growth is expected to

slowdown to 5.0% in 2008 and 4.3% in 2009.[17] Colombia's exports accounted for 20% of GDP in 2007, while imports accounted for 24%. The United States purchases 40% of Colombia's exports, thus any change in U.S. demand for Colombian products could have a noticeable effect on Colombia's economy.

U.S.-Colombia Merchandise Trade

The United States is Colombia's leading trade partner. In 2006, 40% of Colombia's exports went to the United States, and 26% of Colombia's imports were supplied by the United States. Venezuela is Colombia's second most significant trade partner, accounting for 11% of Colombia's exports and 6% of Colombia's imports. Other major trade partners for Colombia are Mexico, China, Brazil, and Ecuador.

Table 2. U.S. Trade with Colombia, 2007

U.S. Exports			U.S. Imports		
Leading Items (HTS 4 Digit Level)	**$ Mill.**	**Share[a]**	**Leading Items (HTS 4 Digit Level)**	**$ Mill.**	**Share[a]**
Corn (Maize)	519.0	7%	Petroleum oils and oils from bituminous minerals, crude	3,358.9	36%
Machinery parts for trucks, bulldozers, snowplows, etc.	449.4	6%	Coal and coal products	1,244.6	13%
Petroleum oils and oils from bituminous minerals (other than crude) and products	238.2	3%	Coffee and coffee products	681.7	7%
Acyclic hydrocarbons	222.5	3%	Cut flowers	507.7	5%
Wheat and meslin	209.4	3%	Petroleum oils and oils from bituminous minerals (other than crude) and products	416.4	5%
All Other	6,245.9	79%	All Other	3,030.5	33%
Total Exports	**7,884.4**	**--**	**Total Imports**	**9,239.8**	**--**

Source: Compiled by CRS using USITC Interactive Tariff and Trade DataWeb at [http://dataweb.usitc.gov]: HTS 4-digit level.
a. Totals may not add up due to rounding.

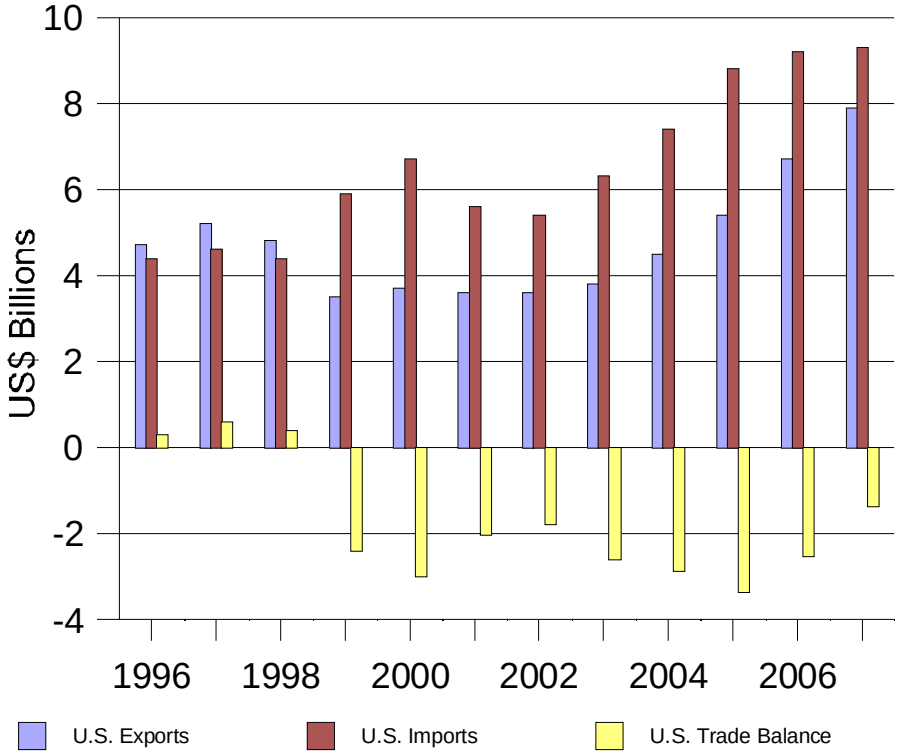
Colombia accounts for a very small percentage of U.S. trade (0.6% in 2007). Colombia ranks 26th among U.S. export markets and 33rd as a source of U.S. imports. U.S. exports to Colombia totaled $7.9 billion in 2007, while U.S. imports totaled $9.3

[17] Based on estimates and forecasts by *The Economist Intelligence Unit*, March 2008.

billion. As shown in **Table 2**, the dominant U.S. import item from Colombia is crude oil (36% of U.S. imports from Colombia in 2007), followed by coal (13% of total), and coffee (7% of total). The leading U.S. export items are corn (7% of U.S. exports to Colombia in 2007), machinery parts (6% of total), and petroleum oils (other than crude) and products (3% of total).

U.S. imports from Colombia have been increasing steadily since 1996, from $4.4 billion in 1996 to $9.2 billion in 2007, a 109% increase. Since 1996, the U.S. trade balance with Colombia went from a surplus to a deficit of $1.4 billion in 2007 (see **Figure 1**). Both imports and imports have been rising since 2002, however, and the trade deficit has been fluctuating since that time.

Figure 1. U.S. Merchandise Trade with Colombia



Source: Compiled by CRS using USITC Interactive Tariff and Trade DataWeb at [http://dataweb.usitc.gov].

Andean Trade Preference Act

The United States currently extends duty-free treatment to imports from Colombia under the Andean Trade Preference Act (ATPA), a regional trade preference program.[18] Under the ATPA, the United States also extends trade preferences to imports from Bolivia, Ecuador, and Peru. ATPA was enacted on

[18] For more information see CRS Report RS22548, *ATPA Renewal: Background and Issues*, by M. Angeles Villarreal.

December 4, 1991 (Title II of P.L. 102-182), and was renewed and modified under the Andean Trade Promotion and Drug Eradication Act (ATPDEA; Title XXXI of P.L. 107-210) on August 6, 2002. Additional products receiving preferential duty treatment under ATPDEA include certain items in the following categories: petroleum and petroleum products, textiles and apparel products, footwear, tuna in flexible containers, and others. On February 29, 2008, legislation was enacted to extend ATPA trade preferences for all four countries until December 31, 2008 (P.L. 110-191).

ATPA, as amended by ATPDEA, is part of a broader U.S. initiative with Andean countries to address the drug trade problem with Latin America. It authorized the President to grant duty-free treatment or reduced tariffs to certain products from Bolivia, Colombia, Ecuador, or Peru that met domestic content and other requirements. The act (as a complement to crop eradication, interdiction, military training, and other counter- narcotics efforts) is intended to promote economic growth in the Andean region and to encourage a shift away from dependence on illegal drugs by supporting legitimate economic activities. Increased access to the U.S. market is expected to help create jobs and expand legitimate opportunities for workers in the Andean countries in alternative export sectors.

Table 3. U.S. Imports from Colombia

($ Millions)

	2001	2002	2003	2004	2005	2006	2007
Total Imports	5,622.6	5,382.4	6,346.2	7,360.6	8,770.3	9,239.8	9,251.2
All Duty-Free	3,367.2	2,835.5	4,109.2	6,557.8	7,892.5	8,531.5	8,447.1
% of Total	60%	53%	65%	89%	90%	92%	91%
ATPA[a]	718.0	404.1	2,908.7	3,888.9	4,653.2	4,791.2	4,527.7
% of Total	13%	8%	46%	53%	53%	52%	49%

Source: Compiled by CRS using USITC data.

a. Includes imports under ATPA and ATPDEA.

Over 90% of U.S. imports from Colombia receive duty-free treatment through preference programs or normal trade relations (see **Table 3).** In 2007, 49% of total U.S. imports from Colombia received preferential duty treatment under ATPA. Of those, the leading imports were crude oil, cut flowers and buds, petroleum oil products (other than crude), and men's woven apparel. The trade preference program contributed to a rapid increase in ATPA imports from Colombia. Between 2001 and 2007, U.S. total imports from Colombia increased by 64%, while imports under ATPA increased by 567%. The rapid increase in import value was partially due to an increase in the volume of imports caused by the trade preferences Act, but rising prices of mineral and energy-related imports were a major factor. Crude oil and petroleum oil products accounted for 73% of ATPA imports from Colombia in 2007 (see **Table 4).**

Table 4. U.S. Imports from Colombia under ATPA
($ Millions)

Import Item[a]	2001	2002	2003	2004	2005	2006	2007
Crude Oil	0.0	106.6	1,692.9	2,299.7	2,897.1	3,183.7	3,152.6
Cut Flowers and Buds	285.7	139.9	343.1	414.4	417.5	448.1	506.3
Oil and Products (other than crude)	0.0	11.4	321.2	405.5	454.6	202.5	141.2
Men's Apparel	0.0	0.0	89.9	147.9	211.9	182.0	139.6
Total ATPA[b]	718.0	404.1	2,908.7	3,888.9	4,653.2	4,791.2	4,527.7

Source: Compiled by CRS using USITC data.
a. HTS 4-digt level
b. Includes imports under ATPA and ATPDEA.

U.S.-Colombia Bilateral Foreign Direct Investment

U.S. foreign direct investment in Colombia on a historical-cost basis totaled $4.9 billion in 2006 (see **Table 4**). The largest amount is in mining, which accounted for 35%, or $1.7 billion, of total U.S. FDI in Peru in 2006. The second largest amount, $1.5 billion (31% of total), is in manufacturing, followed by $574 million in wholesale trade.[19]

Table 4. U.S. Direct Investment Position in Colombia (Historical-Cost Basis: 2006)

Industry	Amount (U.S.$ Millions)	% of Total
Mining	1,731	35.35%
Manufacturing	1,526	31.16%
Wholesale Trade	574	11.72%
Total	4,897	100.00%

Source: Bureau of Economic Analysis, International Economic Accounts.

[19] Based on data from the U.S. Bureau of Economic Analysis, see [http://www.bea.gov].

A U.S.-Colombia FTA is expected to improve investor confidence in Colombia and would likely increase the amount of U.S. FDI in the country. Investors from other countries would also be expected to increase investment in Colombia as the FDI environment improves. According to one study, FDI in Colombia is expected to increase by more than $2billion from 2007 through 2010 as a result of a CFTA.[20]

Political Situation in Colombia[21]

Colombia is a democratic nation with a bicameral legislature. In spite of its democratic tradition, Colombia has suffered from internal conflict for over 40 years. This conflict and drug violence present unique challenges to Colombia's institutions and threaten the human rights of Colombian citizens. The Liberal and Conservative parties, which dominated Colombian politics since the 19th century, have been weakened by their perceived inability to resolve the roots of violence in Colombia. In 2002, Colombians elected an independent, Alvaro Uribe, president, largely because of his aggressive plan to reduce violence in Colombia. High public approval ratings, likely due to reductions in violence, prompted Colombia to amend its constitution in 2005 to permit the consecutive re-election of presidents. Members of Congress from the pro-Uribe Partido de la U (Party of the U) agreed in February 2008 to pursue measures that would allow President Uribe to seek a third term in office. President Uribe has not responded to this latest effort, but he reportedly stated in late 2007, that he would only consider a third term in the event of a disaster.

History of Violence in Colombia. Colombia has a long tradition of civilian, democratic rule, yet has been plagued by violence throughout its history. This violence has its roots in a lack of state control over much of Colombian territory, and a long history of poverty and inequality. Conflicts between the Conservative and Liberal parties have existed for over a hundred years and have killed hundreds of thousands of Colombians. While a power sharing agreement between the Liberal and Conservative parties ended a civil war in 1957, it did not address the root causes of the violence. Numerous leftist guerrilla groups inspired by the Cuban Revolution formed in the 1960s as a response to state neglect and poverty. Rightwing paramilitaries were formed in the 1980s to defend landowners, many of them drug traffickers, against guerrillas. Most of the rightist paramilitary groups were coordinated by the United Self-Defense Forces of Colombia (AUC) which disbanded in 2006 after more than 30,000 of its members demobilized. The AUC has been accused of gross human rights abuses and collusion with the Colombian Armed Forces in their fight against the FARC and ELN. The AUC also participated in narcotics trafficking. Major armed groups today are the FARC, the National Liberation Army (ELN), and the new generation of paramilitary groups.

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[20] United States International Trade Commission (USITC), *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*, Investigation No. TA-2104-023, USITC Publication 3896, December 2006, p. 7-3.

[21] Unless otherwise noted, information on the economic and political situation in Colombia is from CRS Report RL32250, *Colombia: Issues for Congress*, by Colleen W. Cook and Clare Ribando Seelke.

The U.S. Secretary of State has designated three Colombian groups as foreign terrorist organizations. The three groups are the FARC, ELN, and the AUC. Although the AUC disbanded in 2006, it remains a designated foreign terrorist organization. According to the State Department's April 2007 Country Report on Terrorism, while these groups have been weakened as a result of aggressive actions taken by the Colombian military and police, they continue to murder, kidnap, and terrorize Colombian citizens.

Human Rights Issues. Recent debate on U.S. policy toward Colombia has mostly focused on the issue of illegal drugs, but has also focused on allegations of human rights abuses by the FARC and ELN, paramilitary groups, and the Colombian Armed Forces. Human rights groups have reported a rise in extrajudicial killings by Colombian security forces in recent years. U.S. policy has supported the creation and assistance for a Human Rights Unit within the Colombian Attorney General's office, although some non-governmental groups have questioned its effectiveness.[22]

Congress has annually required that the Secretary of State certify to Congress that the Colombian military and police forces are severing their links to the paramilitaries, investigating complaints of abuses, and prosecuting those who have had credible charges made against them. In the latest certification, issued on April 4, 2007, the Secretary of State asserted that the Colombian government and armed forces are meeting the statutory requirements with regard to human rights. While recognizing that more progress needs to be made, the certification noted the commitment of President Uribe to improve the country's human rights record. The certification noted the United States' commitment to work with the Colombian government to sever military paramilitary ties and to investigate human rights violations. The certification was met with criticism from human rights organizations that claimed Colombia's record does not meet recognized standards of respect for human rights.[23]

Relations between the Uribe Administration and human rights organizations have often been tense with human rights organizations because of the groups doubts about President Uribe's commitment to human rights. There was some speculation that President Uribe would not renew the United Nations High Commissioner for Human Rights (UNHCHR) mandate in 2006, because it has been critical of his administration. However, the Uribe administration has extended the UNHCHR's mandate until October 30, 2010. The UNHCHR has been critical of the paramilitary demobilization process and has criticized the government, along with paramilitaries and leftist guerrillas, for human rights violations in its annual report.

The March 2008 UNHCHR report credited the Colombian government with improving security in the country and giving visibility to human rights issues. The

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[22] Amnesty International and Human Rights Watch, "Colombia: U.S. Congress Should Maintain Hold on Military Aid," October 18, 2007 and Human Rights Watch, "A Wrong Turn: The Record of the Colombian Attorney General's Office," November 2002.

[23] The certification is available at the State Department's website, [http://www.state.gov/r/pa/prs/ps/2007/apr/82824.htm]. Opposing views can be found at [http://hrw/org], Amnesty International and human Rights Watch, "Colombia: U.S. Congress Should Maintain Hold on Military Aid," October 18, 2007.

UNHCHR acknowledged the work of the Colombian Supreme Court in investigating possible ties between public officials and business leaders with the paramilitaries. It described the significant challenges faced by the Attorney General's office in its attempts to indict demobilized paramilitaries under the framework of the Justice and Peace Law, with no indictments issued in 2007. UNHCHR acknowledged that, although it continued to receive complaints of extrajudicial killings by security officers, Colombian military and civilian officials have developed new directives to deal with allegations of abuses by security officials. As in the 2007 report, UNHCHR expressed concerns about the activities and abuses committed by paramilitary forces that have rearmed, and by the FARC. The report described the continued vulnerability of groups like women, children, Afro-Colombians, the indigenous, journalists, union leaders, and human rights workers.[24]

The Uribe Administration. On August 7, 2006, independent Alvaro Uribe was sworn into his second term as president. Pro-Uribe parties won a majority of both houses of congress in elections held in March 2006, giving President Uribe a strong mandate as he started his second term. The domination of pro-Uribe parties, most of them new, appears to have further weakened the traditionally dominant Liberal and Conservative parties which dominated Colombian politics since the 19th century.

One of the more controversial measures of the Uribe Administration is the framework for paramilitary demobilization under the Justice and Peace Law.[25] President Uribe has taken a hard-line approach to negotiations with armed groups, declaring that the government would only negotiate with those groups who are willing to give up terrorism and agree to a cease-fire, including paramilitary groups, with which former President Pastrana had refused to negotiate. There are indications that this hard-line approach has produced measurable results. Some 30,000 paramilitaries have demobilized. Police are now present in all of Colombia's 1,098 municipalities, including areas from which they had been previously ousted by guerrilla groups. Homicides fell from a high of nearly 30,000 in 2002 to just over15,000 in 2006, including deaths from the armed conflict. The number of kidnappings also fell significantly, from nearly 3,600 reported cases in 2000 to just under 700 reported cases in 2006. In a recent political scandal, Colombia's Secretary General ordered the arrest of former Colombian Senator Mario Uribe, a second cousin of President Uribe, on suspicion of conspiracy for "agreements to promote illegal armed groups."[26] While some critics of President Uribe may view the scandal as evidence of the corruption in Colombia, the Uribe Administration views the arrest as a demonstration of its efforts to pursue the law and combat corruption.

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[24] United Nations General Assembly-Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia," February 29, 2008.

[25] Colombia's Justice and Peace Law, upheld by Colombia's Constitutional Court in 2006, calls on demobilized fighters to provide a voluntary account of their crime and to forfeit illegally acquired assets in exchange for an alternative, more lenient prison penalty.

[26] *Chicago Tribune*, "Uribe Cousin Ordered Jailed, Denied Asylum," April 23, 2008.

After five years in office, President Uribe retains widespread support in Colombia, with support typically ranging from 60% to 70%. For his second term, President Uribe has pledged to continue implementing his security strategy, which has included a controversial plan to demobilize paramilitary groups and holding peace talks with the leftist National Liberation Army (ELN), the smaller of Colombia's two guerrilla groups. In a change from his first term, Uribe has demonstrated a willingness to discuss a prisoner exchange with the FARC. President Uribe also introduced land reform legislation to combat rural poverty.

U.S. Policy Toward Colombia. The focus of U.S. policy toward Colombia has been to curb narcotics production and trafficking. The United States also seeks to promote democracy and economic development in order to strengthen regional security. Colombia's spacious, rugged and sparsely populated territory provides ample isolated terrain for drug cultivation and processing, and contributes to the government's difficulties in exerting control throughout the nation. The country is known for a long tradition of democracy but has had to contend with continuing violence from leftist guerrilla insurgencies dating from the 1960s and persistent drug trafficking activity. Plan Colombia, a multi-year effort to address Colombia's key challenges, has been the centerpiece of U.S. policy toward Colombia since 2000.

The United States has made a significant commitment of funds and material support to help Colombia and the Andean region fight drug trafficking since the development of Plan Colombia in 1999. In support of the plan, Congress passed legislation providing $1.3 billion in assistance for FY2000 (P.L. 106-246) and has provided more than $6 billion to support Plan Colombia from FY2000 through FY2008 in both State Department and Defense Department accounts. Since 2002, Congress has granted the State Department expanded authority to use counternarcotics funds for a unified campaign to fight both drug trafficking and terrorist organizations in Colombia. In 2004, Congress raised the statutory cap on U.S. personnel allowed to be deployed to Colombia in support of Plan Colombia. The three main illegally armed groups in Colombia participate in drug production and trafficking and have been designated foreign terrorist organizations by the State Department.

U.S. policy in Colombia remains controversial. Proponents of current U.S. policy point to inroads that have been made with regard to the eradication of illicit drug crops and improved security conditions. However, nongovernmental organizations argue that U.S. policy does not rigorously promote human rights, provide for sustainable economic alternatives for drug crop farmers, and has not reduced the amount of drugs available in the United States.

Issues for Congress

Economic Impact

If and when fully implemented, the U.S.-Colombia FTA would likely have a have a small, but positive, net economic effect on the United States. Colombia's economy is relatively small (1.2% of the U.S. economy) and the value of U.S. trade with Colombia is small when compared to overall U.S. trade. U.S. trade (imports plus

exports) with Colombia accounts for about 0.8% of total U.S. trade. Most of the economy-wide trade effects of trade liberalization from the FTA would arise from Colombia's removal of tariff barriers and other trade restrictions. Approximately 90% of U.S. imports from Colombia enter the United States duty-free, either unconditionally or under the ATPA or other U.S. provisions; hence, the marginal effects of the FTA on the U.S. economy likely would not be significant.

A study by the United States International Trade Commission (USITC) assessed the potential effects of a U.S.-Colombia FTA on the U.S. economy. The study found that, in general, the primary impact of an FTA with Colombia would be increased U.S. exports to Colombia as a result of enhanced U.S. access to the Colombian market.[27] Major findings of the USITC study on the likely effects of a U.S.-Colombia FTA on the U.S. economy, should the agreement be fully implemented, include the following:[28]

- U.S. imports from Colombia would increase by $487 million (5.5%) and U.S. exports to Colombia would increase by $1.1 billion (13.7%). U.S. GDP would increase by over $2.5 billion (less than 0.05%).

- The largest estimated increases in U.S. exports to Colombia, by value, would be in chemical, rubber, and plastic products; machinery and equipment; and motor vehicles and parts. In terms of percentage increases, the largest increases in U.S. exports would be in rice and dairy products.

- The largest estimated increases in U.S. imports from Colombia, by value, would be in sugar and crops not elsewhere classified. The largest estimated increases in U.S. imports, by percent, would be in dairy products and sugar.

- On an industry level, the FTA would result in minimal to no effect on output or employment for most sectors of the U.S. economy. The U.S. sugar sector would be the only sector with an estimated decline of more than 0.1% in output or employment. The largest increases in U.S. output and employment would be in the processed rice, cereal grains, and wheat sectors.

The USITC reviewed seven studies that it found on the probable economic effects of a U.S.-Colombia FTA.[29] The results of the studies reviewed by USITC

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[27] United States International Trade Commission (USITC), *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects,* Investigation No. TA-2104-023, USITC Publication 3896, December 2006. (Hereinafter USITC, December 2006).

[28] USITC, December 2006, pp. 2-1 and 2-2.

[29] In its review of the seven economic studies, the USITC noted that these studies analyzed a proposed, possible, or hypothetical U.S.-Colombia free trade agreement (FTA) and not the final text of the actual FTA that was the subject of its investigation. Therefore, the (continued...)

varied. One study found that U.S. exports to Colombia would increase by 2.4% to 8.3%, while another study assessed that the expected increase would be 44%. Two studies found that the largest increases in U.S. exports would be in agriculture products, metal and wood, and food products. In assessing the impact on U.S. imports from Colombia, the results of the studies also varied. One study found that U.S. imports from Colombia would increase by 2.0% to 6.2%, while another found that U.S. imports would increase by 37%. The largest increases would be in apparel and leather goods, textile products, and metal and wood. The studies also assessed that an FTA would result in small overall welfare gains for both the United States and Colombia and a positive impact on the U.S. agricultural sector despite an increase in U.S. sugar imports.[30]

The non-governmental Institute for International Economics (IIE) also has a study assessing the possible impact of a U.S.-Colombia FTA on both the U.S. and Colombian economies.[31] The study found that the proposed U.S.-Colombia FTA would be expected to result in an increase in total trade between the two countries. The total value of U.S. imports from Colombia would increase by an estimated 37% while the value of U.S. exports to Colombia would increase by an estimated 44%.[32] In terms of welfare gains, the study assessed that a U.S.-Colombia FTA would result in small welfare benefits for both partners, though the gains would be larger for Colombia. On a sectoral level, the study found that an agreement would have a minor sectoral effect on the U.S. economy, but the effect would be more significant for Colombia because it is the smaller partner. The study indicated that Colombia would face certain structural adjustment issues with a displacement of low-skilled workers in some sectors, but that these workers would all be able to find job possibilities in the expanding sectors.[33]

One of the drawbacks to a bilateral free trade agreement is that it may result in trade diversion because it is not fully inclusive of all regional trading partners.[34] Trade diversion results when a country enters into an FTA and then shifts the purchase of

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[29] (...continued)
underlying assumptions made in the reviewed studies may be different than those of the USITC's analysis.

[30] USITC, December 2006, pp. 7-1 to 7-4.

[31] Jeffrey J. Schott, editor, Institute for International Economics (IIE), *Trade Relations Between Colombia and the United States,* August 2006. (Hereinafter IIE, August 2006).

[32] IIE August 2006, Chapter 4, "Potential Benefits of a U.S.-Colombia FTA," by Dean A. DeRosa and John P. Gilbert. This chapter uses empirical and applied methods of economic analysis to examine the potential quantitative impact of a U.S.-Colombia FTA and is one of the studies reviewed by the USITC in its assessment of a U.S.-Colombia FTA.

[33] IIE, August 2006, p. 112.

[34] When a trade agreement lowers trade barriers on a good, production may shift from domestic producers to lower cost foreign producers and result in substituting an imported good for the domestic good. This process is called trade creation. Trade creation provides economic benefits as consumers have a wider choice of goods and services available at lower costs. Trade creation also results in adjustment costs, however, usually in the form of domestic job losses as production shifts to another country.

goods or services (imports) from a country that is not an FTA partner to a country that is an FTA partner even though it may be a higher cost producer. In the case of the United States and Colombia, for example, goods from the United States may replace Colombia's lower-priced imports from other countries in Latin America. If this were to happen, the United States would now be the producer of that item, not because it produces the good more efficiently, but because it is receiving preferential access to the Colombian market. The IIE study assessed that a CFTA probably would not cause trade diversion in the United States, but that it could cause some trade diversion in Colombia. The IIE study estimated that an FTA with the United States would result in a decrease in Colombia's imports from other countries of approximately 9%.[35]

Labor Issues

The labor provisions were among the more controversial of the agreement. On May 10, 2007, after much negotiation, Congress and the Administration announced an agreement for a "New Trade Policy for America," which incorporated key Democratic priorities relating to labor and other issues. Key concepts in the new trade-labor policy include fully enforceable provisions that 1) incorporate ILO core labor standards as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work* (henceforth referred to as the *ILO Declaration*);[36] and 2) prohibit partner countries from weakening laws relating to ILO core labor standards in order to attract trade or investment.

A number of U.S. labor groups oppose the idea of a free trade agreement with Colombia. They maintain that Colombia's labor movement is under attack through violence, intimidation, and harassment, as well as legal channels. In a letter to Congress opposing the U.S.-Colombia FTA, a number of trade unions voiced their concern about the violence against Colombian trade unionists.[37] The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is opposed to the agreement and has issued statements saying that Colombian labor union members face daily legal challenges to their rights to organize and bargain collectively and that these challenges threaten the existence of the Colombian labor movement. While the AFL-CIO has acknowledged that President Uribe has made progress in protecting union members, it continues to have concerns regarding the government's commitment to "genuinely protect the rights of workers to freely form unions and bargain collectively."[38]

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[35] IIE, August 2006, pp. 88-89.

[36] These are: "(a) the freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labor; (c) the effective abolition of child labor; and (d) the elimination of discrimination in respect of employment and occupation." The *ILO Declaration* does not include in (c) the "worst forms of child labor," but the new text of the CFTA adds them to this list "for purposes of this agreement."

[37] *A Letter to Congress from U.S. Trade Unions Opposing More U.S. Aid to the Colombian Military and the U.S.-Colombia Free Trade Agrement,* June 11, 2007.

[38] AFL-CIO, Executive Council Statement, *No Free Trade with Colombia Until Workers'* (continued...)

The official position of Colombian labor unions on the U.S.-Colombia FTA is in opposition to the agreement, but the feelings among labor unionists are mixed. In May 2007, seventeen Colombian unionists representing the textiles, flower, mining, and other Colombian industries visited the U.S. Congress to speak out in favor of the agreement. Their main argument was that an FTA would provide jobs for Colombia. However, a number of Colombian unions have spoken out against the agreement, saying a CFTA would interfere with the Colombian government's right to govern the country; would have a negative effect on Colombia's agriculture sector and put many farmers out of work; and would harm Colombia's economy and natural resources.[39]

A high-level delegation from the ILO visited Colombia in November 2007to assess the progress being made there toward protecting workers' rights. It was the first ILO-initiated mission to Colombia since June 2006 when the Colombian government and representatives of Colombia's main employer and worker organizations signed the so-called Tripartite Agreement on Freedom of Association and Democracy, which is aimed at securing the fundamental rights of workers. Some observers viewed the ILO mission as a possible decision-making factor for some Members of Congress who were concerned about the worker rights situation in Colombia.[40] Following the mission, the ILO Governing Body reviewed the Tripartite Agreement and "acknowledged that there had been progress in social dialogue and freedom of association in the country due to the Tripartite Agreement", but also added that the situation needed improvement.[41]

In response to U.S. concerns regarding labor rights in Colombia, the Embassy of Colombia in the United States issued a report in 2007 outlining the progress that Colombia had made in strengthening the rights, benefits, and security of unions in Colombia. The report describes government reforms in Colombia since 2002 that have helped protect Colombian worker rights to form unions, bargain collectively, and strike. The report mentions government efforts to open dialogue with union members, including meetings with the President and Vice President of Colombia; a 2006 tripartite agreement made by workers, businesses, and government representatives on freedom of association and democracy; steps taken by the Colombian government to implement policies to protect labor union members; and judicial reforms in Colombia

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[38] (...continued)
Rights Are Respected March 4, 2008.

[39] Confederación General del Trabajo, letter to House Speaker Nancy Pelosi and House Ways and Means Committee Chairman Charles Rangel, January 30, 2006. Central Unitaria de Trabajadores de Colombia (CUT), *Rechazamos el TLC Por Ello, Desautorizamos toda Opinión Sindical que Contrarie la Postura Institucional,* April 12, 2007. CUT, *TLC: Todos Limosnearemos Comida,* April 2008.

[40] Bureau of National Affairs, *International Trade Reporter,* "Fate of U.S. Free Trade Pact with Colombia Could Hinge in Part on ILO Visit This Month," November 22, 2007.

[41] International Labour Organization, "ILO Governing Body concludes 301st session - Considers labour situation in Myanmar, Colombia and other countries, welcomes growing links with World Bank," Press Release, March 20, 2008.

to increase prosecutions.[42] Despite the progress made by the Colombian government, many observers continue to be concerned about the violence against trade unionists in the country.

Violence Issues

A number of Members of Congress oppose the FTA with Colombia because of concerns about violence against union members and other terrorist activity in Colombia. In a press release issued in 2007, the House leadership issued a statement regarding the concerns regarding the "violence in Colombia, the impunity, the lack of investigations and prosecutions, and the role of the paramilitary." The House Members stated that there must be "concrete evidence of sustained results on the ground in Colombia" before they could support the FTA. In June 2007, several Democratic House members said that the high rate of violence against trade unionists in Colombia, made Colombia an "unfit free trade agreement partner for the United States."[43]

Republican and some Democratic supporters of the FTA take issue with these charges, stating that Colombia has made progress in recent years to curb the violence in the country. Certain Members have stated that Colombia is a crucial ally of the United States in Latin America and that if the FTA with Colombia is not passed, it may lead to further problems in the region. In a report issued by USTR, a number of quotes by Members of Congress in support of a trade agreement with Colombia were compiled. They were generally quoted as saying that the agreement had implications for the economic and security interests of the United States in Colombia and that Colombia had made significant progress in cutting down on the number of murders and other criminal activities.[44]

The Bush Administration believes that Colombia has made significant advances to combat violence and instability. A March 2008 fact sheet issued by the Press Secretary of the White House states that President Uribe has "responded decisively to concerns over the situation in Colombia that have been raised by some Members of Congress."[45] The fact sheet states that President Uribe has demobilized tens of thousands of members of paramilitary fighters; established an independent prosecutor's unit; created a special program to protect labor activists; and revised the pending FTA to include more rigorous labor protections. The fact sheet also states

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[42] Embassy of Colombia, Washington, D.C., *Colombia: A Progress Report: Strengthening the Rights, Benefits, and Security of Unions,* October 2007.

[43] Bureau of national Affairs, *International Trade Reporter*, "Five Democratic Lawmakers Blast Proposed Colombia FTA Due to Violence," June 14, 2007.

[44] Office of the united States Trade Representative, *Broad Support for U.S.-Colombia Free Trade Agreement: What They're Saying,* March 2008.

[45] The White House, Office of the Press Secretary, *Fact Sheet: U.S.-Colombia Free Trade Agreement Essential To Our National Security,"* March 12, 2008.

that under President Uribe's leadership, Colombia has been a "strong and capable partner in fighting drugs, crime, and terror."[46]

In his response to U.S. congressional concerns regarding the violence in Colombia, President Uribe made public statements that he would "make every effort" to ensure that the United States would not reject the idea of a free trade agreement with Colombia.[47] During a visit to Washington in May 2007, President Uribe stated that, while there continued to be killings in Colombia, the situation had improved under his administration. He talked about the progress in Colombia to curb violence against union members, saying that in 2001, there had been 205 assassinations of labor union activists and teachers, and that this number had declined to 40 by 2005. He acknowledged, however, that killings increased to 60 in 2006. Colombian government data show that the number of unionists who were murdered decreased to 26 in 2007.[48]

Data on the number of labor leaders murdered in any given year vary widely. In 2002, the Colombian government estimated that 196 labor activists were killed, while the National Labor School (ENS, a Colombian NGO) estimated that 186 labor activists were killed. In 2006, the Colombian government estimated that 60 labor activists were killed, while ENS estimated that 72 labor activists were killed. One reason for the discrepancy is that the Colombian government counts deaths of unionized teachers separately from other labor union deaths.[49]

Regarding the impunity issue, President Uribe has said that, in addition to working with the Colombian Congress to expand the Office of the Prosecutor General, the government had made important progress in strengthening Colombia's judicial system and in increasing the budget for the judicial system.[50] According to the Colombian government, resources for both the judicial branch and the Office of the Prosecutor General have increased annually since 2002. In 2008, the government estimated a 75% increase in funding. The government reported that prosecutions between 2001 and 2007 had increased and resulted in 106 convictions and 65 sentences.[51]

There is a lack of evidence regarding whether or not labor activists were killed because of their union activity. Very few investigations have been completed — of

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[46] Ibid, p. 2.

[47] *Caracol Radio* personal interview with President Alvaro Uribe, "*Se Hara Todo el Esfuerzo Para Que No Se Le Niegue el TLC a Colombia, Anuncia el Presidente de Colombia en Entrevista a Caracol Radio,"* May 3, 2007.

[48] Colombia's *Observatorio del Programa Presidencial de DDHH y DIH, Vicepresidencia de la República,* April 2008.

[49] See CRS Report RL32250, *Colombia: Issues for Congress,* by Colleen W. Cook, pp. 31-32.

[50] *Caracol Radio* personal interview with President Alvaro Uribe, "*Se Hara Todo el Esfuerzo Para Que No Se Le Niegue el TLC a Colombia, Anuncia el Presidente de Colombia en Entrevista a Caracol Radio,"* May 3, 2007.

[51] Embassy of Colombia, pp. 11-12.

the 470 union murders that have occurred since President Uribe first took office in 2002, 97% remain unsolved. More than 2,000 killings between 1991 and 2006 remain unsolved. In January 2007, the Colombian Attorney General's Office set up a unit of 13 prosecutors and 78 investigators to investigate 200 priority cases. In 2007 36 people were convicted on charges related to the murder of union members, more than were convicted from 2004 through 2006.[52]

Discussion

The Bush Administration views the FTA as a national security issue, stating that passage of an agreement would strengthen a key democratic ally and send a clear message to the region of U.S. support for democratic nations in Latin America and a strengthening of the economic relation with Colombia. The Administration has stated that an FTA with Colombia "would bring increased economic opportunity to the people of Colombia through sustained economic growth, new employment opportunities, and increased investment."[53] The Administration believes that an FTA would "reinforce democracy by fighting corruption, increasing transparency, and fostering accountability and the rule of law" and that it would "bolster one of our closest friends in the hemisphere and rebut the antagonists in Latin America who say the United States cannot be trusted to keep its word."[54]

The U.S.-Colombia FTA is very controversial and many proponents see it as having important political implications for Colombia and U.S. interests in the region. They believe that the agreement goes beyond the U.S.-Colombia economic relationship and that the direction that the United States takes on this agreement would be viewed by other Latin American nations as indicative as how the United States views its relationship with the region. Some Members of Congress who have voiced support for the agreement believe that the United States needs to support its ally in the region and that if the Congress does not pass the trade agreement, it could be used by Venezuela or Ecuador to turn Colombia against the United States.

The leaders of several countries in Latin America have voiced support for the pending free trade agreements with Colombia and Panama, stating that the passage of these agreements would bring economic benefits to these countries and improve the overall U.S. relationship with Latin America.[55] In contrast, the President of Venezuela has criticized FTAs with the United States and has launched his own idea for trade

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[52] Frank Bajak, "U.S. Unionists Alarmed by Colombia Woes," *Miami Herald*, February 13, 2008; and "Trade, Death and Drugs," *The Economist*, May 19, 2007.

[53] The White House, Office of the Press Secretary, *Fact Sheet: U.S.-Colombia Free Trade Agreement Essential To Our National Security,"* March 12, 2008.

[54] Ibid.

[55] Letters from the Presidents of Costa Rica, El Salvador, Honduras, Nicaragua, and Mexico to the leadership of the House of Representatives, October 2007.

policy through a socially oriented trade block that would include mechanisms for poverty reduction.[56]

In the United States, opponents of an agreement with Colombia argue that passing an FTA would be rewarding the government for its shortcomings in its struggle against drug trafficking, illegally armed groups, protecting worker rights, and the history of violence in the country. Some argue that the pending agreement would increase drug production and violence in the country and that it could increase Colombia's ongoing civil conflict because it would result in rural displacement. They argue that trade liberalization would drive down the prices of agricultural products in Colombia and put many farmers out of business.[57] They maintain that small farmers would have no choice but to migrate to urban areas, work in the drug cultivation zones, or affiliate with illegally armed groups.[58] Some opponents of a CFTA believe that trade agreements have negative socioeconomic impacts. They argue that agreements such as NAFTA and CAFTA-DR, upon which the CFTA is based, are failed models and have jeopardized the environment, undermined worker rights, and caused job losses in the United States.

Much of the U.S. business community supports a free trade agreement with Colombia. They view the pending agreement as a big opportunity for U.S. businesses and for exports of U.S. agricultural products. The National Pork Producers Council, for example, argues that a trade agreement would provide significant new export opportunities for U.S. pork producers and is leading a coalition of U.S. agricultural organizations in support of the trade agreement[59]. The business community often states that an FTA with Colombia would "level the playing field" with Colombia by providing U.S. producers of goods and services the same access to the Colombian market that Colombian businesses currently have in the U.S. market. They also believe that a trade agreement would give U.S. businesses a competitive edge in Colombia over other foreign-owned businesses. A U.S. Chamber of Commerce representative said that an agreement would help Colombia fight narco-trafficking and violence "by developing sustainable economic alternatives to the drug trade."[60]

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[56] See CRS Report RL32488, *Venezuela: Political Conditions and U.S. Policy*, by Mark P. Sullivan.

[57] Public Citizen and the Washington Office on Latin America, *Peru and Colombia FTAs Projected to Increase Drug Trafficking, Violence, and Instability in the Andes,* undated.

[58] Ibid.

[59] National Pork Producers Council, *NPCC Applauds President for Sending Trade Deal to Congress,* April 7, 2008.

[60] U.S. Chamber of Commerce, *U.S. Chamer Hails u.S.-Colombia Trade Deal,* February 27, 2006.