THE U.S.–COLOMBIA FREE TRADE AGREEMENT

By Paulette L. Stenzel

Executive Briefing: The U.S.–Colombia Free Trade Agreement has received significant attention in the U.S. news media this year. Therefore, it is important to understand what the U.S.-Colombia agreement is designed to do, why U.S. businesses support it, why there is opposition to it, and how it relates to other trade agreements involving the U.S. and other Latin American countries.

In this 2008 election year in the U.S., renewed discussion regarding the wisdom of U.S. trade agreements have emerged. Controversy ranges from whether the U.S. should amend or abandon the North American Free Trade Agreement (NAFTA) to whether the U.S. Congress should approve the U.S.-Colombia Free Trade Agreement (U.S.-Colombia FTA).

Under the U.S. Trade Promotion Authority (TPA), U.S. Trade Representative John Veroneau negotiated the U.S.-Colombia FTA. The fact that the agreement was negotiated under TPA means that it can be approved or disapproved by Congress, but Congress cannot amend it. In April 2008 observers were surprised when the U.S. House of Representatives exercised its rights to change its rules, deciding to allow an unlimited number of days for consideration of the agreement. Essentially, consideration of the agreement is "on hold" within that body.

Provisions of the U.S. – Columbia FTA

The U.S.-Colombia FTA will create market access for U.S. agricultural, consumer, and industrial products. It will immediately remove all tariffs on about 80% of U.S. goods entering Colombia. This includes immediate duty-free treatment of beef, cotton, wheat, soybeans, many fruits, and other agricultural products. The remaining 20% of tariffs will be phased out over a period of 10 years for both agricultural products industrial products. In addition, the agreement provides protections for U.S. investors that will be enforced through a binding international arbitration program.

The agreement also gives U.S. businesses access to Colombian financial services markets. Mutual funds and pension funds within Colombia will be allowed to use U.S.-based portfolio managers. Colombia will also phase out market restrictions related to cable television. And, U.S. suppliers are granted the right to bid on contracts from Colombian government offices and agencies.

Further, the agreement provides improved protections and enforcement of a variety of intellectual property rights for investors in Colombia. The protections are consistent with those of the U.S. They cover products such as software, music, written text, trademarks, and patents.

Under the agreement, the parties agree to enforce their own domestic environmental laws and to fulfill their respective obligations under multilateral environmental agreements. The parties also agree to maintain labor rights outlined in the 1998 International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work.

Considering the FTA

U.S. government leaders and groups, such as the U.S. Chamber of Commerce, are enthusiastic about the agreement. Currently, over 90% of U.S. imports from Colombia enter the U.S. duty- free with an average tariff of 0.1%. In contrast, the average tariff on U.S. products shipped to Colombia is 12%, with certain products facing tariffs of up to 35%.

Charles Shapiro, Senior Coordinator for the U.S. Western Hemisphere Affairs Free Trade Task Force, says the agreement will bring the U.S. an annual increase of about $2 billion in Gross Domestic Product (GDP). Much of that increase will come through increased exports agricultural products to Colombia. Putting this into perspective, however, current U.S. exports to Colombia, which totaled $8.6 billion in 2007, are less than seven-hundredths of one percent of the U.S. GDP.

In June of 2007, House Speaker Nancy Pelosi and other Democratic leaders declared their opposition to the agreement. They are concerned about violence in Colombia and the role of paramilitaries. Colombia is one of the most violent countries in the world with kidnappings, killings, and guerilla attacks. Since 1991 over 2,200 union members have been assassinated in that country, most by paramilitaries. And, there were only 37 convictions of perpetrators between 1991 and 2007. Moreover, large multinational agro-businesses have been tied to paramilitary squads in Colombia. In February 2007, Chiquita Brands International admitted that it had paid $1.7 million U.S. to the paramilitary group called United Self-Defense Forces of Colombia (AUC) for protection of its banana plantations. Furthermore, an appeals court in Atlanta is considering a case against Coca-Cola. It is alleged that the company is linked to the murder of four union leaders in Colombia.

For these reasons, the AFL-CIO in the United States strongly opposes the agreement. In addition, labor leaders say its labor provisions are insufficient to safeguard workers with respect to child labor, employment discrimination, and participation in unions.

On the other hand, the Bush Administration says the Colombian government has made substantial progress in curbing violence and killings of union leaders in the past twelve months, crediting this to Colombia's President Alvaro Uribe, who took office in 2002. Since that year, kidnappings have dropped by 82% and terrorist attacks by 77%.

Opponents of the agreement acknowledge improvement but say more is needed and that it must be over a longer period of time. Opponents also say it will hurt small peasant farmers in Colombia. They will be forced out of business because they cannot compete with cheap imports of food from the United States, which subsidizes its farmers. This has happened in other developing countries that have entered trade agreements with the United States. For example, low priced corn (subsidized by the U.S. government) has forced over a million small Mexican farmers out of business since 1994 when the North American Free Trade Agreement (NAFTA) took effect.

As is the case with NAFTA, the U.S.-Colombia FTA does not create new labor or environmental laws. Each country merely agrees to enforce its own labor and environmental laws. NAFTA has been severely criticized for promoting a race to the bottom in terms of environmental and labor protection, and it is alleged that the U.S.-Colombia FTA will promote similar results.

Prospects for the U.S.–Columbia FTA

Currently, the U.S.-Colombia FTA is stalled in the U.S. Congress, and its adoption is not assured. Although free trade agreements are supposed to strengthen ties between the U.S. and its allies, this is not happening between the U.S. and Colombia. Colombian leaders are angry that the agreement may be voted down in the U.S. Congress. As Paul Bluestein of the Brookings Institute states, "… there are good ways and bad ways to promote trade liberalization, and bilateral FTA's [free trade agreements] are in the latter category. By far the best way is on a multilateral basis—that is, in the World Trade Organization."

The Bush administration is pursuing similar bilateral agreements with South Korea and Panama, but the future of such agreements is not clear. In December 2007, President Bush signed the U.S.-Peru Trade Promotion Agreement after it was easily approved by the U.S. Congress. Yet, talks related to a U.S.-Thailand FTA are stalled because people of Thailand believe the U.S. is being unfair with its demands related to drug patents.

Should the agreement with Colombia be defeated in the U.S. Congress, it may be a strong indication that it is time for the U.S. to turn away from its pursuit of, and reliance on, bilateral agreements. Instead, a broader international approach may be needed to promote trade that is perceived as fairer to all concerned and to improve the international business climate. ♦ **gBR Article 02-06,**

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