



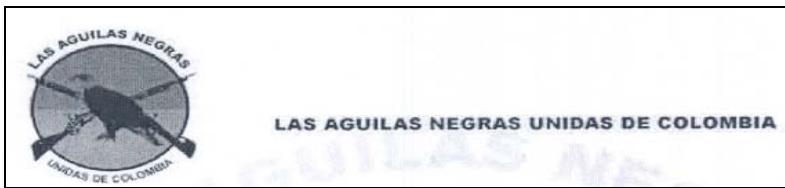
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Joan Claybrook, President

Talking Points: Colombia's Horrific Labor Abuses Are Among a Long List of Reasons to Oppose the Colombia FTA

1. Uribe government ties to right-wing paramilitaries and union murders exposed

- In 2009, Colombia remains the most dangerous country in the world in which to be a trade unionist. The number of unionists murdered in Colombia in the first eight months of 2008 is greater than the whole calendar year of 2007, with 41 killed. During the presidency of Álvaro Uribe alone (August 7, 2002 – present), 458 unionists have been murdered – one fourth of these were highly visible union leaders.¹ Indeed, in every year, more unionists are murdered in Colombia than in the rest of the world combined. According to Colombia's National Labor School, the leading source on the topic, 2,595 trade unionists have been killed since 1986.²
- The government has not been a neutral or benevolent actor in Colombia's human rights nightmare. Uribe was referred to in a 1991 U.S. Defense Intelligence Agency report as a drug trafficker and a "close personal friend" of drug baron Pablo Escobar.³ More recently, this spring, the controversial Colombian president has been under federal investigation in Colombia for accusations of helping right-wing paramilitaries plan a 1997 massacre of 15 people.⁴ And Uribe's former intelligence chief, Jorge Noguera, is under investigation for handing over lists to paramilitaries of union leaders and other left-wing figures that were singled out for assassination.⁵
- In April, Colombian prosecutors ordered the arrest of Mario Uribe, the president's cousin and closest political ally, who presided over the Colombian Senate and is accused of ties to paramilitary groups. Mario Uribe then sought political asylum in the Costa Rican embassy in Bogotá, which denied his request as "inadmissible." The Colombian Supreme Court has identified paramilitary ties to 65 current and former members of the Colombian Congress. Thirty-two lawmakers have been detained so far, with 26 of these from Uribe's governing coalition. Thirty-three additional legislators are under investigation, including 29 from Uribe's coalition.⁶ These include Nancy Gutierrez, a leader in Uribe's political party who serves in a position equivalent to that of House Speaker.⁷ To relate this to the U.S. context, it would be as if the president, Senate majority leader, and House speaker were all simultaneously convicted or under investigation for ties to terrorist groups.
- The Uribe administration often claims to have "demobilized" right-wing paramilitaries. But Colombian officials have documented a shift of former paramilitaries into new gangs with different names, whose ranks number up to 5,000 people. These groups continue to murder civilians and engage in drug trafficking.⁸ For instance, on March 6, 2008 human rights groups held a peaceful rally in Bogota against paramilitary violence. In the lead-up to the march, Uribe's principal advisor (and Colombian drug kingpin Pablo Escobar's cousin) José Obdulio Gaviria responded by repeatedly and publicly labeling these protestors as Revolutionary Armed Forces of Colombia (FARC) supporters,

including in a national radio broadcast. On March 11, a paramilitary gang called the Black Eagles sent out death threats that named 28 of the human rights defenders collectively denounced by Gaviria. Four trade unionists associated with the march were assassinated, as were many other civil society leaders, and many others have been threatened, beaten and harassed.⁹



Logo of Black Eagles replicated on a death threat faxed to a labor leader, September 2007

- Human rights groups have also documented an increasing trend of extrajudicial killings of civilians by the Colombian military, who then plant FARC paraphernalia on the victims' bodies to pass them off as guerrillas. According to the *Los Angeles Times*, “A macabre facet of a general increase in ‘extrajudicial killings’ by the military, ‘false positives’ are a result of intense pressure to show progress in Colombia’s U.S.-funded war against leftist insurgents... The killings have increased in recent years amid an emphasis on rebel death tolls as the leading indicator of military success, the human rights groups say. Even Colombian officials acknowledge that soldiers and their commanders have been given cash and promotions for upping their units’ body counts.”¹⁰
- Under the Uribe government, violent displacement of Colombian civilians from their land, communities and homes has remained unacceptably, horribly high. Nearly 1.2 million Colombians have been displaced on Uribe’s watch.¹¹ More than 200,000 indigenous citizens are now being displaced annually. When recently asked about this fact, the U.S. ambassador to Colombia, William Brownfield responded: “I do not challenge your figure. I have heard from enough sources — including government of Colombia sources — that the number of internally displaced people in Colombia is, in fact, continuing to rise.”¹²

2. Lose-lose investment rules promote offshoring of U.S. jobs and hurt Colombia’s development

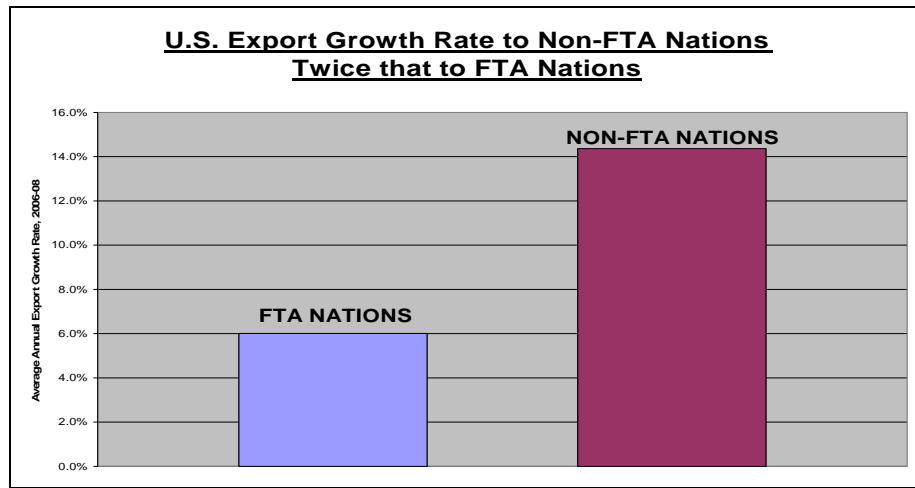
- The Colombia Free Trade Agreement’s (FTA) investment rules replicate the extreme investor privileges and investor-state private enforcement found in NAFTA and CAFTA. The FTA allows any foreign investor operating in Colombia (including from China, Europe and beyond) to directly sue the U.S. government in World Bank and UN tribunals over government actions that investors believe undermine their expected future profits.¹³ This “investor-state” privatized dispute-settlement system empowers foreign investors to demand our taxpayer dollars in compensation for the cost of complying with environmental, health, land-use and other laws designed to balance private interests and public rights. Under similar NAFTA rules, \$45 million has already been paid to foreign investors in cases attacking zoning rules for a toxic waste dump, forestry conservation rules, a ban on a toxic gasoline addition, toxic waste regulations and more.¹⁴ The Colombia FTA’s investor rules extend even further than NAFTA’s to allow foreign investors to skirt U.S. courts and bring their disputes over federal construction contracts and natural resource concessions on federal lands to foreign tribunals.¹⁵
- The FTA’s foreign investor privileges also directly incentivize offshoring from the United States by removing most of the risks otherwise associated with relocating production to low-wage developing nations. A U.S. firm protected under these extraordinary privileges is spared the risk of having to rely on domestic courts and is guaranteed freedom from numerous common regulatory policies and costs a

developing country would likely otherwise apply to foreign investors. The FTA investment rules promote a “low road” business strategy by subsidizing companies that pay race-to-the-bottom wages and engage in work-condition arbitrage by effectively providing a government guarantee against many normal business risks.

- U.S. and Colombian environmentalists are extremely concerned about how these rules can be used to attack critical environmental policies here and in Colombia.¹⁶ President Uribe has prioritized a relentless push for more oil exploration, including in Colombia’s biodiverse Amazonian region.¹⁷ A decade-long campaign against Occidental Petroleum, led by the U’wa indigenous tribe and environmental allies worldwide, resulted in the U.S. firm leaving a destructive project.¹⁸ If the FTA rules had been in place, this victory might have been thwarted: Occidental would have had new investor privileges, including the right to demand compensation, even if the company were responsible for major environmental and health damage.
- The investment chapter would also prevent Colombia, including future governments who may seek different policies than the Uribe administration, from deciding what foreign investors it allows in. The FTA creates a “right” of establishment – which means U.S.-based oil, gas, mining or timber companies would obtain new rights to establish operations or acquire local firms, while preventing the government from screening foreign investment or setting conditions on foreign investment to ensure it contributes to Colombia’s development needs. The FTA forbids the Colombian government from regulating foreign investment related to U.S. firms once it enters the country. For instance, the FTA bans the use of all “performance requirements.”¹⁹ These are policy tools that have been used by all currently developed countries to ensure foreign investment builds the local economy. Such measures include requiring foreign companies to train local workers, or source inputs locally.²⁰ From a foreign investor’s perspective, these are the costs that the FTA removes, but from a development perspective, these “costs” help ensure foreign investment leads to development. For instance, the Colombian government has successfully used selective capital controls in the past to shield the country from financial contagion in the region.²¹ But the FTA’s investment provisions prohibit the Colombian government from regulating capital flows, thereby exposing a fragile developing country economy to undue financial risks.²² Under such conditions, as seen with NAFTA, foreign investment fails to support the domestic economy by creating jobs that provide decent and sustainable employment conditions and wages.²³

3. FTAs do not increase net U.S. exports

- Corporate proponents of the Colombia FTA use one major economic talking point: they say U.S. exports to nations with which we have FTAs are booming ahead of exports with non-FTA nations. The Bush administration argued this point for most of the 110th Congress.²⁴ What they did not mention is:
 - The United States has a \$192 billion trade deficit with our FTA partner countries, as imports from these countries continue to outpace U.S. exports to these countries.
 - The average annual U.S. export growth rate to our 14 FTA partners is less than half ***that to non-FTA nations, amounting to a \$77 billion export penalty.***



Source: Analysis of U.S. International Trade Commission numbers.

- In fact, U.S. trade negotiators know that U.S. FTAs lead to growth in bilateral *trade deficits*. In an October 2006 speech to a Korean audience, then-Deputy USTR Karan Bhatia said that it was a myth that “The U.S. will get the bulk of the benefits of the FTA. If history is any judge, it may well not turn out to be true that the U.S. will get the bulk of the benefits, if measured by increased exports... *the history of our FTAs is that bilateral trade surpluses of our trading partners go up*” [italics added].²⁵

4. FTA agriculture rules would displace hundreds of thousands of Colombian campesino farmers

- The Colombia FTA would dismantle mechanisms for the protection of agricultural products vital for food security and the livelihoods of small Colombian farmers who produce for their domestic markets, leaving them with few options for preserving their livelihoods. The Colombian Ministry of Agriculture and Rural Affairs conducted a study of the effects of liberalization on nine primary agricultural products and found that full liberalization would lead to a 35 percent decrease in employment.²⁶ The FTA requires Colombia to zero out its tariffs on agricultural goods,²⁷ but does not discipline U.S. subsidies on agricultural goods.²⁸ As a result, the FTAs will lead to dumping of subsidized U.S. farm goods in Colombia, where a large percentage of the population relies on agriculture for their livelihoods.²⁹ NAFTA’s similar rules resulted in 2.4 million peasants losing their rural livelihoods, according to Mexican government and civil society numbers.³⁰
- Colombia was not permitted to exclude any agricultural products from tariff elimination – not even basic food staples such as corn, beans, or rice.³¹ In contrast, the United States excluded 47 tariff lines for sugar, sugar substitutes and products with high sugar content.³² The United States was also granted a special mechanism for sugar compensation, allowing greater policy flexibility to avoid imports causing damage to U.S. domestic producers.³³ Such policy flexibility is not at all available to Colombia. In addition, although longer tariff elimination periods were granted for some of their products, duty-free quotas beginning immediately will offset advantages that such delays in tariff reductions might provide to cushion impacts on their farmers.³⁴
- In Colombia, more than half the population lives in poverty, and more than three-quarters of the rural population are poor.³⁵ Little credit, few employment alternatives, poor climate conditions and services – compounded by extreme geographic isolation – further compound the problems facing displaced farmers.³⁶ Colombian farmers are in a vulnerable position, and could face pressure to turn to the cultivation of coca in a region that provides more than 99 per cent of world supply (Colombia alone

accounts for half of global coca cultivation),³⁷ thereby undermining U.S. drug policy and billions of taxpayer dollars invested to reduce the supply of cocaine.³⁸

5. The Uribe government's systematic attack on Afro-Colombians and their civil and land rights³⁹

- African descendants comprise 26 percent of Colombia's population.⁴⁰ As with other African descendants, Afro-Colombians face racial discrimination that results in economic hardships far worse than experienced by the average Colombian. However, in Colombia, a vibrant 1980s civil rights movement won full recognition of Afro-Colombian cultural rights, and collective ownership and community control of territories and natural resources. A new 1991 Colombian Constitution and the landmark Law 70 (*Ley 70*) explicitly enshrine these rights and recognize official democratic Afro-Colombian governance structures, similar to those of American Indian tribes.⁴¹ These governance structures include locally elected community councils and a High Consultative Council comprised of a representative from each community council.⁴²
- The Uribe administration has worked consistently to undermine Afro-Colombians' hard-won civil rights and control of their territories. Systematic violence against Afro-Colombians and assassinations of their leaders continue unabated to this day. Because the Colombian law is on the side of Afro-Colombian territorial rights, wealthy interests have employed illegal means to physically remove Afro-Colombians and others from their lands, with over 200,000 people forcibly expelled from their lands in 2006 alone.⁴³ Joint operations between the Colombian military and illegal terrorist paramilitary organizations like the "Operation Genesis" in the Afro-Colombian Chocó region have targeted Afro-Colombian leaders with assassinations, while the Colombian military has aerially bombarded Afro-Colombian territories claiming they are fighting revolutionary guerillas.⁴⁴
- These forced displacements are now occurring in port communities, such as Buenaventura, and other regions supporters of the FTA seek to develop.⁴⁵ Colombia is second only to Sudan for the number of internally displaced people (IDP).⁴⁶ Forced displacements are an ongoing problem under the Uribe administration – according to the Colombian Advisory Office for Human Rights and Displacement (CODHES), from 1985 until 2006, the Colombian IDP population totals nearly 4 million, but roughly one million of these have occurred since 2002 – Uribe's term.⁴⁷ Afro-descendant persons account for at least 30 percent of Colombian IDPs.⁴⁸ No Afro-Colombian lands have been returned to community control. Under Colombian law, if the land is not occupied – and with the land occupied by the military or "guarded" by paramilitaries this is not possible – it reverts to government control.⁴⁹
- Accompanying these physical attacks has been a legal assault aimed at formalizing the theft of Afro-Colombian land. The Uribe government passed new Forestry and Rural Development Laws and has amended the Mining Law to extinguish Afro-Colombian rights and empower oil palm, logging and other firms that have used the services of paramilitaries to occupy Afro-Colombian territories.⁵⁰ Afro-Colombian communities have vehemently opposed these laws as unconstitutional. Recently the

More than 200,000 indigenous citizens are displaced annually in Colombia. When recently asked about this fact, the U.S. ambassador to Colombia, William Brownfield responded: "I do not challenge your figure. I have heard from enough sources – including government of Colombia sources – that the number of internally displaced people in Colombia is, in fact, continuing to rise."

Colombian Supreme Court ruled against the Forestry Law, which would have removed Afro-Colombian control of the forests on their land.⁵¹

- The Colombia FTA is opposed by Afro-Colombian communities in part because it would lock in the paramilitary-financiers' control of Afro-Colombian land.⁵² Specifically, the FTA's expansive foreign investor rights would empower multinational corporations investing in these projects with protections that would make restoration of Afro-Colombian lands extremely difficult, even when Afro-Colombian communities win in Colombian courts.
- At the end of 2007, angered by the strong opposition of the majority of Afro-Colombian communities to the U.S.-Colombia FTA, Uribe created a new Commission in Colombia that directly challenges Afro-Colombian's legal governance structure. Cynically dubbed the *Commission for the Advancement of Afro-Colombian People*, it would undermine Afro-Colombian communities' ability to advance development strategies chosen by Afro-Colombian communities that comport with their needs and that help even the economic playing field. The Commission is stacked with Uribe supporters and individuals known to support the FTA.⁵³ It is designed to feign "consultation" with Afro-Colombian communities and issue a determination that the FTA is good for them despite the community's contrary conclusions. The official Afro-Colombian governance structure and grassroots organizations oppose this new Commission that they view as a sophisticated ploy to undermine Afro-Colombian rights and as a part of a broader strategy to elevate unrepresentative and illegitimate pro-FTA individuals against the stated interest of Afro-Colombian communities themselves.⁵⁴ Despite this, President George W. Bush, other U.S.-Uribe allies and Uribe-hired, big dollar lobbying firms hired by the Uribe government are trying to tout the Commission and recent appointment of one Afro-Colombian to Uribe's cabinet and the naming of one Afro-Colombian military commander as evidence that Afro-Colombian concerns are addressed as they push to pass the FTA.⁵⁵
- Congress can help Afro-Colombians by demanding that President Uribe respect the Colombian Constitution and terminate the Commission that undermines Afro-Colombian civil rights. Congress should pass a bill sponsored by Rep. Donald Payne (D-N.J.) (House Res. 618) in the 110th Congress on the plight of Afro-Colombians.

6. U.S. national security threatened

- What would become of the tens of thousands of Afro-Colombians and other Colombian subsistence farmers pushed from their lands by the FTA's agriculture and foreign investor rights? Given the rural displacement and further impoverishment the Colombia FTA is projected to cause, the Colombian Ministry of Agriculture concluded that the FTA would give small farmers little choice but "*migration to the cities or other countries (especially the United States), working in drug cultivation zones, or affiliating with illegal armed groups.*"⁵⁶
- Certainly the U.S. Congress is not interested in increasing violence and insecurity in the region. Beyond its moral implications, such an outcome is not in the national security interests of the United States. Ironically the Bush administration is now arguing that the FTA – which the Colombian government itself projects will displace and impoverish hundreds of thousands – should *be passed* to counter the broader populist backlash against neoliberalism in Latin America. But as Nobel Prize-winning economist Joseph Stiglitz noted, the upheaval that such agreements will have on rural livelihoods is a self-defeating course that will mean "there will be more violence and the U.S. will have to spend more on coca eradication."⁵⁷

- The *Washington Post* editorial board warned in February 2006 that the “rural dislocation that would follow from ending all protection for Colombian farmers could undermine the government’s efforts to pacify the countryside. If farmers can’t grow rice, they are more likely to grow coca.”⁵⁸ Despite this, the Bush administration rejected demands from Colombia to carve out basic staple crops from the FTA’s removal of tariffs, and the Uribe government conceded to the Bush administration’s position.

ENDNOTES

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