

COMMENTS CONCERNING THE UNITED STATES FREE TRADE AGREEMENT WITH COLOMBIA

**Submitted to the
Office of the US Trade Representative (USTR)**

**By
Oxfam America
and the
US Office on Colombia (USOC)**

September 15, 2009

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Trade can be an engine for economic growth and poverty reduction as long as trade rules work to benefit poor people and developing countries. This should be a core objective of US trade policy, not just US export growth, and requires taking into account existing disparities in development when negotiating with our trading partners. Trade rules should maintain adequate policy space for developing countries to foster their domestic agriculture and manufacturing industries in ways that can reduce poverty and inequality and strengthen their middle class. Healthy economies and growing middle classes in developing countries are key for the long-term security and prosperity of the United States.

To achieve this objective in Colombia, the US-Colombia free trade agreement (FTA) would need to improve livelihoods and reduce poverty and inequality. In its current form, the FTA fails this test for two fundamental reasons.

First, the ongoing human rights violations, violence and impunity in Colombia perpetuate an environment of exclusion for important segments of the population, particularly the economically disadvantaged and vulnerable. In addition to suffering the consequences of violence and intimidation, they are unable to benefit from economic growth and trade opportunities. Second, several FTA provisions would adversely affect some of the same segments of the population. This is particularly the case with provisions in agriculture, which would devastate the livelihoods of many small farmers who comprise 38 percent of rural households in Colombia (12 percent of households nationally).¹

Both of these problems will mean that the FTA would further consolidate the concentration of wealth among those who already have economic and social advantages. If these problems are not resolved prior to introducing the FTA, the trade agreement would serve to reinforce the status quo or even exacerbate rather than lead to a reduction in violence and impunity, as well as poverty and inequality.

It is generally recognized that more open trade creates winners and losers; but the distribution of benefits and losses can be quite skewed both demographically and geographically in developing countries with high levels of poverty and inequality. This is clearly the case in Colombia, where the level of inequality is among the highest in the world, almost half the population is classified as poor and nearly two-thirds of rural inhabitants live in poverty.² **And in a country where poverty and inequality have fueled an internal armed conflict for over four decades and continue to foment illicit drug production, further skewing the distribution of income and wealth could worsen rather than help resolve the conflict and illegal drug trade.**

Oxfam America and the US Office on Colombia (USOC) believe these issues are central to consideration of the FTA. While we also have concerns regarding respect for labor rights and violence and impunity that affect Colombia's workers, we consider labor concerns to be one aspect of the broader set of issues that we will explain further below.

¹ Luis Jorge Garay Salamanca, Fernando Barberi Gómez and Iván Cardona Landínez (2009) *Impactos del TLC con Estados Unidos sobre la Economía Campesina en Colombia*, Bogotá.

² According to new data from August 2009 presented by Colombia's National Statistics Department (DANE) and National Planning Department (DNP) for the year 2008, the national poverty level is 46%, the poverty level for the population living outside of the country's 23 major cities is 65.2%, and the national Gini index (a measure of inequality with 0 indicating full equality and 1.0 full inequality) is 0.59.

We appreciate this opportunity provided by the USTR to submit our views regarding the US-Colombia FTA. And we welcome this administration's expressed concern for labor rights and violence against workers in Colombia. We hope our concerns regarding a broader set of issues are given serious consideration and taken into account in determining how to proceed with this FTA. We offer our views not with the intention of stopping trade expansion between the United States and Colombia, but in the interest of ensuring that a trade agreement will not increase poverty and inequality or exacerbate the conflict in Colombia. We believe any trade agreement that could generate such effects would undermine long-term security and prosperity in both the United States and Colombia.

1. Human Rights, Violence and Impunity

Violence against trade unionists in Colombia has been well documented. The National Labor School (ENS) reported that 49 trade unionists were murdered in Colombia in 2008, a 25 percent increase over the number of trade unionists murdered in 2007 (39). Even official statistics reflect an increase in assassinations.³ Of note, 16 trade union leaders were among those assassinated last year, an increase over the previous year when 10 leaders were murdered. And 23 trade unionists were murdered in the first seven months of this year.

Yet the concern must be broadened to include violence as well as intimidation against all civil society actors. We believe the underlying problems that have led to this violence have not been resolved. And the fact that the vast majority of these crimes remain in impunity creates a fertile environment for their perpetrators to effectively use threats and intimidation instead of direct violence to accomplish their aims.

The right to freedom of expression and freedom of association are systematically and continually violated in Colombia, where it is still extremely dangerous for people to demand respect for and protection of their rights. Human rights defenders⁴ have been systematically targeted by the illegally armed actors, but also by the very government responsible for their protection. The Colombian government continues to publicly stigmatize defenders and bring baseless criminal charges against them, and now it has been revealed that since 2004 the Presidential intelligence agency has been illegally wiretapping them.

Paramilitary groups have been one of the principal sources of human rights violations in the country and have permeated all levels of government, as has been revealed by the "para-politics" investigations. The government has failed to fully demobilize these groups and they continue to terrorize communities across the country with threats and assassinations. Colombia has the second highest number of internally displaced persons (IDPs) in the world, with an estimated four million.⁵ Afro-Colombian and indigenous groups continue to be disproportionately affected by this displacement, thus making them even more vulnerable and marginalized. Furthermore, this displacement has only exacerbated the problem of inequality in land distribution – which is one of the sources of the 40-year conflict. It is feared that the proposed FTA could further aggravate this situation.

³ The *Fiscalia General de la Nacion* (Office of the Attorney General of Colombia), registered 42 murdered unionists in 41 cases in 2008, up from 27 murdered trade unionists in 26 cases the previous year. This is a 50% increase.

⁴ We refer to the United Nations' definition of human rights defender as anyone who, individually or with others, professionally or voluntarily, non-violently promotes or protects human rights. This can include trade union leaders, journalists, teachers, clergy, non-governmental organizations, leaders of the Afro-Colombian and indigenous communities, and others.

⁵ According to the leading Colombian NGO, the Consultancy on Human Rights and Displacement – CODHES.

There are several developments in recent years, since the FTA negotiations were first launched, that illustrate the continuing environment of human rights violations in Colombia. We explain them briefly below.

The President's intelligence agency scandal

It was recently revealed by the Colombian news weekly *Semana* that the Colombian President's intelligence agency, the Administrative Security Department (DAS), has been illegally spying on many of the varied forces of Colombian democracy: opposition politicians, human rights groups, journalists, clergy, unions, and Supreme Court justices. The operation went deeper than surveillance, employing a variety of dirty tricks, seeking to "neutralize and restrict" the normal activities of human rights groups and any voices critical of the Uribe administration.⁶ Furthermore, it has recently been confirmed that this illegal surveillance continues to this day, with illegal recordings by DAS of Supreme Court Magistrates' conversations in August 2009 leaked to the press.⁷

A special unit of the DAS, called the G-3, was created to carry out this illegal surveillance. Far from being a rogue unit, the G-3 reported to the head of the DAS, coordinated activities with other DAS sub-directors and regional offices, and was conveniently located next to the DAS planning and disciplinary control offices. The investigation by the Attorney General's office reveals that G-3 meetings were attended by a variety of DAS sub-directors and its memos included a generous number of people listed as "cc". The DAS is directly at the service of the Colombian President and his top advisors. Colombia's Inspector General, who can bring disciplinary but not criminal charges, has opened an investigation into the top presidential advisors who may have ordered and been consumers of this intelligence, including the President's general secretary, his spokesperson, his judicial secretary and a press secretary.⁸

The surveillance was obtrusive and obsessive. According to Colombia's Attorney General, the DAS systematically and without warrants tapped the phones and email of Colombia's major human rights groups, prominent journalists, members of the Supreme Court, opposition politicians, and the main labor federation. Particular targets were the leadership and virtually all the employees of the Jose Alvear Restrepo Lawyers' Collective and award-winning documentary-maker Hollman Morris. Union targets included the union federations CUT and CTC as well as the hospital workers union (ANTHOC), judiciary workers union (Asonal Judicial), health and social security workers union (SINDESS), and telephone workers union (SINTRATELEFONOS).

The G-3 conducted its operations from 2004-2005, when it was dissolved following the discovery that the head of the DAS, Jorge Noguera, had passed names of union leaders and other activists to paramilitary leader Jorge 40 to be targeted for killing.⁹ However, other units, such as the so-called "National and International Investigative Group (GONI)," appear to have

⁶ *Semana magazine*, "El espionaje era peor," 3 April 2009, <http://www.semana.com/noticias-nacion/espionaje-peor/123258.aspx> .

⁷ *Semana magazine*, "Increible ... siguen 'chuzando'," 29 August 2009 <http://www.semana.com/noticias-nacion/increible-siguen-chuzando/127960.aspx>

⁸ *El Espectador*, "En 2004 empezaron rastreos del DAS," 11 June 2009, <http://www.elespectador.com/impreso/articuloimpreso145453-2004-empezaron-rastreos-del-das>.

⁹ *Semana magazine*, "A responder," 9 May 2009, <http://www.semana.com/noticias-nacion/responder/123812.aspx> .

continued warrantless surveillance. The leader of the G-3, Jaime Fernando Ovalle, continued in the DAS until November 2008, when he was removed for ordering the illegal surveillance of opposition congressman Gustavo Petro.

In a shocking revelation, the Attorney General's office found information from the Colombian government's "protection program" in the files containing the results of illegal surveillance. The U.S.-funded protection program provides protection such as bodyguards, drivers, communication equipment and bullet-proof cars to the most threatened human rights activists and trade union leaders. Information from the protection program about the bodyguards, the kind of protective measures and daily routines was evidently leaked to the DAS office conducting the illegal surveillance.¹⁰

This scandal highlights the degree to which human rights defenders, including trade unionists, have been targeted not only by the illegally armed actors, but also by the state. In a democracy, it should be unacceptable for state actors to seek to "restrain and neutralize" those who speak out against human rights abuses. It is understandable that Colombian workers and the unions representing them assert that the state does not protect their rights when the President's intelligence agency has been found to have colluded against them.

Government stigmatization and its consequences

Far from guaranteeing protection of human rights defenders, senior Colombian officials continue to publicly stigmatize them and accuse them of being guerrilla sympathizers. All too often, these public allegations are followed by death threats, and at times actual attacks or assassinations. This official conduct serves to intimidate those seeking to defend their rights and creates an enabling environment for serious human rights violations.

President Uribe himself has made such public allegations on several occasions, as he did in the case of Lina Paola Malagón Diaz from the Colombian Commission of Jurists (CCJ). Ms. Malagón was the principal author of a report about impunity for human rights violations against Colombian trade unionists, which was used in a hearing in the US Congress about the subject in February 2009. President Uribe accused the participants in the hearing of distorting the truth and of being "motivated by political hatred".¹¹ Subsequently, Ms. Malagón received a death threat from the paramilitary group the Black Eagles. She has been forced to seek exile outside of Colombia.

Despite a presidential directive¹² prohibiting declarations by public servants that put the security of defenders at risk, those responsible for making unsubstantiated allegations continue to do so and have not been sanctioned. We have been told by senior USAID staff in Colombia that they regularly have asked President Uribe to stop making these public allegations, yet nothing has changed. The fact that high-level Colombian officials have continued to stigmatize those who defend human and labor rights as terrorists reveals the lack of political will on the part of the government to guarantee the protection of those rights.

¹⁰ Colectivo de abogados Jose Alvear Restrepo, *Concerning the Composition of the G3 Group, Administrative Department of Security (DAS)*, 25 June 2009.

¹¹ Caracol TV <http://www.caracol.com/noticias/politica/articulo118097-imparcialidad-pide-uribe-al-congreso-de-estados-unidos>

¹² Presidential Directive 07 of 1999 and Ministry of Defense Directive 09 of 2003.

Killing of innocent civilians by the armed forces and collusion with the paramilitaries

The alarming rates of extrajudicial executions, especially targeting defenders and community leaders, magnifies many times over the effects of the stigmatization and intimidation described above. No defender of human rights can feel safe in Colombia when the national intelligence agency conducts “offensive intelligence” against all those promoting human rights, senior government officials publicly stigmatize them (which often leads to death threats), and it is revealed that the police and army have killed innocent civilians throughout the country.

The United Nations Special Rapporteur on Extrajudicial Executions, Philip Alston, said that the killing of innocent civilians by the armed forces was “widespread” in Colombia, adding that the well-known case of Soacha was “but the tip of the iceberg”.¹³ There were 535 cases of extrajudicial executions from January 2007 to June 30 2008 – or nearly one a day.¹⁴ These cases occurred in 27 of Colombia’s 32 departments.

According to the Colombian Working Group on Extrajudicial Executions, which is formed by 30 of the country’s leading human rights organizations, there has been an increase in cases of forced disappearances of human rights defenders and social organization leaders, and in the majority of these cases the victim is subsequently killed and buried in an unidentified grave. Members of the armed forces are alleged to have been involved in many of these cases, either directly or through cooperation or acquiescence with paramilitaries. For example, union leader Guillermo Rivera was detained by the armed forces in Bogota in April 2008. His body was found in an unmarked grave in the city of Ibagué in the department of Tolima on July 16, 2008 and showed signs of torture. Neither his detention nor his subsequent death was reported by the authorities.

Demobilization of illegal armed groups and formation of new ones

The government has failed to dismantle the paramilitary groups, and as a result thousands of paramilitaries have emerged, some previously “demobilized” have simply acquired new names, and new groups have also formed. The regular reports of the OAS Mission to Support the Peace Process in Colombia (MAPP/OEA) have noted the resurgence of several new groups with thousands in their ranks. One of Colombia’s leading think-tanks, Cooperación Nuevo Arco Iris,¹⁵ reports that these groups have 10,000 members and have presence in 243 of the country’s 1,100 municipalities.

Although these groups have assumed distinct organizational frameworks, many are associated with powerful local or regional economic and political interests and continue the violent legacy of the former paramilitaries, including narcotics trafficking and targeted assassinations. Groups such as the “Aguilas Negras” (Black Eagles) are responsible for many of the death threats leveled against trade unionists in 2007-08. Despite the strong impact of these armed groups on the civilian population, their hierarchical structure and military capacity, the government does not recognize them as illegal armed groups. Therefore, the armed forces do not have the mandate to combat them, only the police, who have limited resources, especially in rural areas. Until the government publicly recognizes this situation and develops a strategy to adequately

¹³ USOC, “A State of Impunity in Colombia: Extrajudicial Executions Continue, Injustice Prevails”, June 2009.

¹⁴ USOC, “Body Counts & Injustice in Colombia’s Armed Conflict”, October 2008.

¹⁵ See <http://www.nuevoarcoiris.org.co/sac/>.

address it, these paramilitary groups will continue to terrorize communities and attack those mobilizing in defense of their rights. Trade unionists and human rights defenders will not be safe as long as these groups continue to exist in Colombia.

Para-politics

There are currently 179 politicians, including 77 members of the Colombian Congress (or roughly one-third of all current members), who have come under criminal investigation for collaborating with paramilitaries. Thus, the FTA was passed by a Congress in which a third of members are believed to have links with groups classified as terrorist organizations by the United States. The vast majority of the individuals under investigation are members of parties sympathetic to the government and include some within the President's innermost circle, such as his cousin and ally, Senator Mario Uribe.

President Uribe has often sought to take credit for moving forward this investigation and has invoked the recent arrests as an example of his administration's adherence to the rule of law. However, the investigations would most likely not have happened but for the efforts of the independent Supreme Court. Indeed, President Uribe's 2008 proposal to let all of the implicated politicians avoid prison contradicts this assertion. Last year, President Uribe also blocked a bill that would bar political parties linked to paramilitaries from holding onto the seats of those members who are convicted of paramilitary collaboration. Furthermore, the head of the para-politics investigation, Supreme Court Magistrate Iván Velásquez, has been one of the principal targets of the illegal surveillance operation of the President's intelligence agency. Indeed, the DAS has been found to have been illegally spying on Velásquez as recently as August 2009.¹⁶

Internally displaced persons (IDPs) and land restitution

With over four million IDPs already, we are also concerned that the proposed FTA could exacerbate displacement and make land restitution even more difficult. Last year alone, 380,000 people were internally displaced, a sharp increase over previous years. The Colombian Constitutional Court has acknowledged that one cause of this displacement is the expansion of "mega-projects" or large-scale economic activities such as African palm oil, cattle and mining businesses, which have forced people off their land. These industries would be promoted under the FTA.

There are now 5.5 million hectares of land that have been illegally usurped during the conflict¹⁷ and have not been returned to the rightful owners. In its 2008 report for the Constitutional Court, the National Verification Commission found that approximately 25 per cent of arable land in the country had been forcefully abandoned by IDPs over the previous 11 years, indicating an average of 2.3 per cent of the country's arable land abandoned per year. Fifteen people participating in the Justice and Peace process demanding their land be returned have been assassinated. With such strong economic interests in the land and inadequate protection for those demanding their land rights, this problem is likely to continue.

¹⁶ Semana magazine, "Incredible ... siguen 'chuzando'," 29 August 2009
<http://www.semana.com/noticias-nacion/increible-siguen-chuzando/127960.aspx>.

¹⁷ This does not even include the Afro-Colombian and indigenous territory which has been illegally usurped.

In Colombia there are innumerable cases of usurped land that has been illegally sold to third parties, often businesses, using fraudulent titles or other illegal means. The Colombian Constitutional Court has ruled that the Colombian government's current policy of land restitution is completely inadequate and needs to be redesigned. To address this problem, the Court recommends a new land census, and the Colombian government needs a clear policy in place to guarantee the return of lands to their rightful owners, as well as protection mechanisms to prevent further violent displacement linked to "mega-projects". We are concerned that FTA provisions, by encouraging these mega-projects, could serve to further hamper efforts to return land to its rightful owners. It is important to highlight that inequalities in land ownership were one of the main problems that sparked the Colombian conflict and continue to fuel it.

Impact on Afro-Colombian and indigenous communities

The already vulnerable and marginalized Afro-Colombian and indigenous communities have been disproportionately affected by this displacement; for example, the Constitutional Court found that around half of the Afro-Colombian population had been affected by displacement.¹⁸ The Court also highlighted how displacement, often caused by the expansion of mega-projects, has completely undermined the work that had been done to give Afro-Colombians legal title to their land, as 79 per cent of those who had received such title were subsequently displaced. In recent months, several Afro-Colombian leaders have been killed and countless others threatened by illegal armed groups for asking that illegally usurped lands be returned to their communities.

Furthermore, the FTA was ratified by Colombia in violation of the right of Afro-Colombian and indigenous communities to prior consultation under Law 70 of 1993, Law 1320 of 1998 and ILO Convention 169. As a consequence, FTA provisions do not reflect the legal rights or development needs of afro-descendant and indigenous communities.

2. Effect of FTA Provisions on Small Farmers and Rural Livelihoods

Over 11 million people, nearly a quarter of Colombia's citizens, live in rural areas, where poverty and inequality levels are highest. Most depend for their livelihood on agriculture, which generates 8.3 percent of the country's GDP.¹⁹ Nearly half of those working in agriculture are small farmers, meaning they are self employed and have no permanent paid workers. They make up 10 percent of the country's work force nationally and are the vast majority of agricultural producers (89%) – the remainder being large-scale producers who employ farmworkers.²⁰ These small farmers, who produce nearly 40 percent of the basic food basket consumed in Colombia,²¹ would be those most adversely affected by the FTA provisions on agriculture.

¹⁸ Constitutional Court Decree 005 of 2009.

¹⁹ Source: DANE (Colombia's National Statistics Department), National Accounts. Data from 2007.

²⁰ Garay et. al. (2009), op.cit.

²¹ Based on the most recent basic food basket established by DANE, small farm production supplies a significant portion – 35 percent - of the diet of Colombians. This percentage does not include their participation in the supply of certain raw materials for the food industry (coffee and oil seeds) and for the non-food and export industries (coffee, agave fiber, tobacco, barley, coca, poppy and marijuana). Source: Jaime Forero, *Economía campesina y sistema alimentario en Colombia: aportes para la discusión sobre seguridad alimentaria*. Bogotá, 2003.

FTA provisions fail to take into account the disparities in development between the two countries or the extensive trade-distorting subsidies that benefit US agriculture. As a result, Colombia would be forced to fully open its market to subsidized US agribusiness, but would receive no substantially new access to the US market beyond that already granted under the Andean trade preference program in effect since 1991. Thus, US agricultural exports would displace domestic producers unable to compete with subsidized products, and the livelihoods of Colombia's small farmers would suffer the most harm. This is the same population that is most affected by the armed conflict and could expand illicit coca cultivation if faced with no other economic opportunities to meet their basic needs.

FTA provisions on agriculture benefit US agribusiness at the expense of Colombian small farmers. We believe such an outcome is not in the best interests of the United States or Colombia. In fact, given the large disparities between the two countries in terms of development and poverty, a trade agreement should enable the reverse outcome. US foreign aid, counter-narcotics and national security policies seek to reduce rural poverty and inequality in Colombia; US trade policy should not exacerbate the problem. From a development perspective, fair trade does not mean equal treatment for all, but rather greater advantages for those left behind in order to help them get a leg up the development ladder. To the contrary, FTA provisions on agriculture would adversely affect a significant segment of Colombia's farmers.

Given the strong export position of the US agro-industry, in large part due to the extensive trade-distorting subsidies it receives, FTA provisions would increase US exports of agricultural goods at prices lower than those paid to Colombian farmers for their products. This would lead to a reduction in farm-gate prices in Colombia, which would result in a drop in domestic production and would undermine small farmer livelihoods.

Small farmers and rural livelihoods: why they matter

Two-thirds of Colombia's 11 million rural inhabitants are poor and nearly a third live in extreme poverty.²² High levels of inequality mark rural areas and the agricultural sector, particularly in land and income.

Land distribution in Colombia is highly unequal. Recent calculations estimate that 0.5 percent of landowners own 60 percent of the land.²³ Data from the Agustín Codazzi Geographical Institute (IGAC) show, furthermore, a worrying tendency towards the concentration of land ownership in recent years. The percentage of properties of over 200 hectares grew from 47.1 percent in 1984 to 68.3 percent in 2000 and reached 76.1 percent in 2005. Farms of less than three hectares accounted for 2.9 percent of the total land area in 1984 and occupied a mere 1.9 percent in 2005.²⁴

A large part of this increased land concentration has occurred through violence, generating massive internal displacement. From January 1998 to July 2008, a total of 5.5 hectares of land

²² Data from August 2009 presented by Colombia's National Statistics Department (DANE) and National Planning Department (DNP) for the year 2008 give the poverty level for the population living outside of the country's 23 major cities as 65.2%, and the level of extreme poverty as 32.6%.

²³ Development Research Center (CID), National University of Colombia (2006), *Welfare and Macro-Economy 2002-2006*.

²⁴ Sources: Data from 1984 and 2000: S. Kalmanovitz and E. López, *Colombian Agriculture in the Twentieth Century*, Bogota, 2005. Data from 2005: Development Research Center, National University of Colombia (CID-UN). In both cases, data are based on statistics from the Agustín Codazzi Geographical Institute (IGAC).

were usurped or abandoned as a result of internal displacement in Colombia. This included 1.1 million hectares that had been under agricultural production, of which 39 percent were farms of less than 5 hectares. The total loss of income during this 10-year period resulting from this displacement from productive lands is estimated at 49.7 trillion Colombian pesos (calculated in 2008 pesos), which is equivalent to 11.6 percent of Colombia's GDP in 2007.²⁵

The role of small farmers in Colombia's rural economy has not been studied extensively in the past.²⁶ However, a new study by well-respected Colombian economists - hereafter referred to as Garay et. al. (2009) - sheds important light on Colombia's small farm economy and indicates how it is likely to be affected by the FTA.²⁷ Using official household and agricultural surveys from 2005 and data from the Corporación Colombia Internacional (CCI), a well-respected public-private partnership, the study ascertains the characteristics of small farmers in Colombia, what they produce and their role in the agricultural economy in order to understand how the FTA would affect them.

In 2005, there were 3,668,930 Colombians working in agriculture, comprising 21 percent of the national labor force, according to Garay et. al. (2009). Of these, 48 percent (a total of 1,776,253) were self employed and had no permanent paid workers, 21 percent were day laborers, 15 percent were salaried workers, 9 percent were unpaid family members and 6 percent were employers.

The importance of the self-employed - understood as a proxy for small farmers - becomes even more evident by the fact that they comprise 55 percent of households engaged in agricultural activities and 38 percent of all rural households. These households (a total of 1,369,438) are comprised, on average, by five people; those over the age of 15 have, on average, less than five years of education. The income of these households is, on average, below the minimum wage and is predominantly dependent on agriculture – 65 percent from their own production, 4 percent from other agricultural work, 25 percent from other economic activities and the remaining 6 percent from other sources not involving their own labor.

Small farms are identified as such by their land size and the number of livestock they maintain.²⁸ Using data from Colombia's 2005 agricultural survey, Garay et. al. (2009) found that small farms accounted for 50 percent of production from seasonal crops (basic grains, tubers and vegetables) and 48 percent of production from permanent crops (mostly coffee and fruits). In particular, small farms were responsible for producing 83 percent of the country's wheat, 81 percent of dried beans, 79 percent of barley, 71 percent of traditionally-produced yellow corn and 61 percent of traditionally-produced white corn. They also maintained 35 percent of the

²⁵ Source: Comisión de Seguimiento a la Política Pública del Desplazamiento Forzado. *El reto ante la tragedia humanitaria del desplazamiento forzado: reparar de manera integral el despojo de tierras y bienes*, Volume V. Bogotá, April 2009.

²⁶ See in particular: 1) Misión de Estudios del Sector Agropecuario (1990), *El Desarrollo Agropecuario en Colombia. Tomo I*. Ministerio de Agricultura, Departamento Nacional de Planeación, Bogotá. 2) Maldonado, J., Moreno, R., Varas, J. (2007), *Impactos del TLC Sobre Agricultura Familiar y Políticas Compensatorias: Caso Colombia*. CEDE – Universidad de los Andes, FAO, BID, Bogotá.

²⁷ Luis Jorge Garay Salamanca, Fernando Barberi Gómez and Iván Cardona Landínez, *Impactos del TLC con Estados Unidos sobre la Economía Campesina en Colombia*, Bogotá, September 2009.

²⁸ Land size is determined by using the measure Unidad Agrícola Familiar (UAF - Family Agricultural Unit), which is defined as the amount of land required for crops grown in that area to provide three minimum wages per month to a family. Because land conditions vary in different departments of the country, the UAF is not a fixed size but would in no case exceed 50 hectares. Small farms are equal to or less than one UAF. In addition, small farms can maintain livestock in numbers that do not exceed 50 head of cattle, 100 pigs, 100 chickens and 150 other small animals. Source: Garay et. al. (2009).

country's pigs, 17 percent of chickens and 17 percent of cattle - the latter used more for dairy than for meat production.

Thus, Colombia's small farm economy sustains a significant portion of rural households, in particular those with low levels of education, few assets and little economic alternatives. At the same time, it is responsible for producing an important part of the country's domestic food supply. The FTA would enable subsidized US exports of agricultural products that compete with small farm production to be imported into Colombia and would remove the remaining policy tools that Colombia has available to safeguard small farmers. As a result, many small farmers would lose their livelihoods and would find few if any alternatives to sustain their households.

Provisions on agriculture: the problem

Under the FTA, Colombia would have to dismantle its principal policy tools used to support domestic farmers: it would be required to abolish its price band system, as well as its quota administration mechanism that guarantees purchase of domestic production, and would have to fully eliminate tariffs. Yet trade-distorting US agricultural subsidies would not be affected, leaving US policy tools intact. In addition, the FTA grants the US large tariff-free quotas on some of Colombia's sensitive products that would take effect immediately, thereby rendering meaningless the longer periods for tariff phase-outs for these products.

Colombia would be unable to exclude any of its sensitive products from tariff elimination and would not have recourse to an effective safeguard mechanism. Yet the US would continue to protect sugar and products with high sugar content by excluding 47 tariff lines. Furthermore, if Colombia were to negotiate lower tariffs with another trading partner, the FTA commits Colombia to grant the US the same tariff reduction. Yet the US made no such reciprocal commitment.

It is useful to look more closely at how these policy tools are currently used in Colombia in order to understand the effect of their elimination.

The Andean Price Band System is a tariff system applied by the Community of Andean Nations (CAN) since 1994 to a range of agricultural products characterized by a marked instability in international price. The principal products included are: wheat, white rice, yellow corn, white corn, soybeans, raw soybean oil, raw palm oil, white refined sugar, raw sugar, barley, dried whole milk, chicken, and pork.

The system maintains import costs within a band or limited range in an effort to stabilize prices and reduce uncertainty both for farmers, when international prices fall, and for consumers, when international prices rise.²⁹ It functions by increasing the tariff when the international price is below the lower limit of the band, and decreasing the tariff to zero when the price is above the upper limit of the band. The CAN Secretary General sets price bands for each product annually. For example, in 2005 the price band for corn was set at a range of US\$126 to 138 per ton. So in April of that year when the international price was US\$118/ton, the system allowed an additional tariff of 6.8 percent to be applied in addition to the CAN's 15 percent common external tariff. Without the price band system, Colombia would no longer be able to safeguard producers against a fall in international prices.

²⁹ If the price is within the band, the ad valorem tariff is equal to the Arancel Externo Común (AEC – Common External Tariff) of the CAN, which varies between 15 and 20 percent for most agricultural products.

Another policy tool that Colombia would no longer have available is the Public Mechanism for Administration of Quotas, which grants to importers who also purchase domestic produce an import quota with a preferential tariff rate for certain agricultural products (rice, soybeans, yellow corn, white corn, sorghum and cotton). The annual quota, defined as the estimated volume of imports of each of the products under consideration, is established by the Ministry of Agriculture using recommendations from producer councils for each product. Importers pay an in-quota tariff whose rate is lower than the tariff rate paid by most favored nations in the CAN.³⁰ The main objective of the mechanism is to allow for domestic producers to obtain competitive prices for their harvests - that is, import parity values - which in other cases would fall below those levels given the market power of the buyers.

Under the FTA, there would be new guidelines for the administration of quotas that would grant large tariff-free quotas to imports from the United States and would no longer guarantee purchase from domestic producers (see Table 1). These quotas, many of them for products considered sensitive in Colombia, exceed the country's imports from the United States and in many cases exceed its total imports of these products worldwide. As a result, farm-gate prices in Colombia would be forced downward, thereby undermining domestic production. In this way, extended periods for tariff elimination on these products will not even provide any short-term relief for domestic producers.

Table 1- Examples of duty-free quotas granted for US exports to Colombia under the FTA

Product	Initial Duty-free Quota (Ton)	Imports from US 2001-2004 (Ton)	Imports from world 2001-2004 (Ton)	Quota / Imports from US	Quota / Imports from world
Yellow corn	2,000,000	1,636,957	1,905,540	122%	105%
White corn	130,000	107,737	124,595	121%	104%
Sorghum	20,000	0	24,230	N.A.	83%
Rice (Paddy equivalent)	111,268	5,226	124,784	2129%	89%
Dried beans	15,000	490	22,335	3059%	67%
Crude soybean oil	30,000	7,070	139,874	424%	21%
Beef	2,000	13	1,056	15110%	189%
Variety meats	4,400	1,298	3,279	339%	134%
Chicken leg quarters	26,000	1,226	1,683	2120%	1545%
Milk powder	5,000	77	8,013	6459%	62%
Butter	500	5	131	9418%	383%
Cheese	2,100	43	117	4877%	1800%
Ice cream	300	10	157	3092%	191%

Source: Garay et. al. (2009).

Although the FTA includes a safeguard mechanism, it is weak and temporary. A price drop would render it useless because it could only be triggered by a rise in the volume of imports and not by a fall in prices, and it would only be available during the transition period until the tariff is fully eliminated. This FTA safeguard could only be used for 21 tariff lines at the 8 digit level that

³⁰ The level of this tariff is the result of deducting a determined number of percentage points from the out-of-quota tariff. The out-of-quota tariff is applied to imports of the products mentioned that are not imported through the Seasonally Assigned Quota, and must be less than or equal to the tariff defined by Colombia at the WTO for the respective product.

include rice, dried beans, chicken and beef. Furthermore, Colombia would no longer be able to use the existing WTO Special Safeguard, which Colombia currently has the right to use for 56 agricultural products including cereals, sugar and sugar drops, oils, dairy products, livestock and meat products, eggs, fruits and vegetables, tobacco, natural fibers, coffee, mate (herb tea), spices, coca and coca products. And Colombia would have to relinquish its right to use any future safeguard mechanism that may be established by the WTO.

The FTA would fully eliminate tariffs, as well as these other related policy tools that Colombia has employed to safeguard the livelihoods of farmers who produce for the domestic market. It is notable that the FTA would not allow Colombia to exempt any product from tariff elimination, despite the sensitivity of some basic grains and animal products due to small farmer dependence on their production. Yet the FTA would allow the US to exempt 47 tariff lines in order to protect sugar and sugar products,³¹ whose relative importance to the US economy is quite minimal in comparison. As a result, Colombia's farmers would not only lose market share in domestic food products, they would gain little opening to expand their exports of sugar, even though that is the country's agricultural product with highest additional export potential.

Other than sugar, nearly all of Colombia's traditional agricultural exports currently receive duty-free access to the US market under the Andean Trade Preferences Act or simply because the US most favored nation tariff is zero. The expansion of Colombia's exports of other agricultural products to the United States still faces a number of obstacles, such as sanitary and phytosanitary standards, and quality and packaging standards.

Effects of the FTA on Colombia's domestic agricultural production

Colombia's elimination of tariffs and other safeguards on US agricultural products that compete, either directly or indirectly (as substitutes), with domestic agriculture will lead to a drop in production in Colombia whenever the price of US imports falls below the farm-gate price. That will occur when tariffs are reduced or when large duty-free quotas take effect. Table 2 indicates important agricultural products in Colombia that will be affected by the FTA as a result.

Garay et. al. (2009) calculated the domestic prices in Colombia for several of these products both with and without the FTA. The study then used supply functions estimated for each product to calculate the fall in production that would result from the price drop (no supply function was available for vegetables, so supply was assumed to be perfectly inelastic). Table 3 indicates the resulting effect of the FTA on production of important food products for the domestic market in Colombia.

The anticipated drop in the value of production of these important food products in Colombia that would be caused by FTA provisions is quite significant. And because of the large duty-free quotas that would take effect immediately, this fall in production would likely occur long before tariffs are fully eliminated.

³¹ Exempted tariff lines include certain products containing sugar, as well as products with high sugar content that are not for direct consumption.

Table 2 - Colombia's Agricultural Activities that Compete with Imports: Colombia's Production, Colombia's Imports and US Exports in 2007

ACTIVITY	DOMESTIC SUPPLY 2007 ¹			US EXPORTS (Ton) ²
	Area cultivated (Has)	Production (Ton)	Imports (Ton)	
Grains				
Corn	626,616	1,370,457	3,309,195	56,837,895
Rice (paddy equivalent)	460,767	2,493,118	30,790	2,631,043
Sorghum	44,528	137,362	67,041	5,610,457
Wheat	18,539	44,374	1,285,968	32,990,625
Barley	2,305	3,939	248,605	730,379
Legumes				
Dried beans	130,656	156,236	29,111	308,440
Peas	26,828	45,725	43,920	466,423
Oil seeds				
Soy	28,876	55,271	332,064	29,776,868
Vegetables				
Onions	22,760	496,677	44,713	280,156
Tomatoes	15,605	476,985	3,752	161,339
Carrots	12,364	270,201	63	116,782
Other				
Potatoes	163,505	2,986,215	0	337,379
Cotton ³	54,914	48,091	53,307	3,258,111
Livestock				
Chicken ⁴	N.A.	924,662	26,823	3,175,549
Pork ⁴	N.A.	173,558	8,203	1,225,397

Source: Garay et. al. (2009). (1) Ministry of Agriculture, Statistical Yearbook 2007; Agronet; ACP for pork. (2) FAS, USDA. (3) Production of cotton fiber. (4) Includes preparations.

Table 3 - FTA Effects on Certain Agriculture Products in Colombia that Compete with US Exports

AGRICULTURAL PRODUCT	Change in Price	Change in Area Cultivated	Change in Production	Change in Value of Production
Rice	-20%	-19%	-19%	-35%
Yellow Corn	-41%	-24%	-21%	-54%
White Corn	-42%	-21%	-18%	-52%
Sorghum	-41%	-40%	-42%	-66%
Wheat	-25%	-77%	-49%	-62%
Beans	-55%	-34%	-54%	-79%
Peas	-15%	0%	0%	-15%
Onions	-15%	0%	0%	-15%
Tomatoes	-15%	0%	0%	-15%
Carrots	-15%	0%	0%	-15%
Chicken	-51%	N.A.	-35%	-68%
Pork	-28%	N.A.	-51%	-65%

Source: Garay et. al. (2009). Note: These calculations are for a mid-range scenario in which it is assumed that prices and the exchange rate are at average levels. N.A. = not applicable.

How the FTA will adversely affect Colombia's small farmers

Colombia's farmers will be affected differently depending on which agricultural products they produce and whether these products would compete with imports from the United States. In general, farmers with significant assets, access to credit and technical capacity may be able to adjust to losses and invest in production of different products that do not compete with US imports. But that is not the case with small farmers, who as we have already indicated have low levels of education, few assets and little alternatives. Furthermore, case studies have shown that poverty and lack of economic alternatives have long been driving small farmers into illicit coca cultivation, particularly in regions of the country where the economic situation and presence of armed actors make living conditions most difficult.³² It would be a major US policy failure if the FTA were to push more small farmers into drug production.

Garay et. al. (2009) calculated the anticipated impact on small farmer and household income that would result from FTA provisions using a rigorous methodology. Small farmers' gross and net income without the FTA were calculated using available data on 2005 prices and production and the average cost structure of small-scale producers, assuming that domestic prices are the same for all producers of the same product.³³ Then using calculations of estimated percentage changes that would result from the FTA in price, area cultivated and quantity produced of each product that would compete with US imports, small farmers' gross and net income under the FTA was ascertained. The study then differentiated among small farmers, classifying them into five categories based on the extent to which their products would compete with US exports: 100 percent (full impact), more than two-thirds (high impact), between one- and two-thirds (moderate impact), less than one-third (low impact), and no impact at all. Table 4 shows the overall results.

Table 4 – Summary of FTA Effects on Colombia's Small Farmers

Extent of Impact on Small Farms		Change in Gross Income		Change in Net Income	
Category	% of small farmers	(millions COP)	%	(millions COP)	%
Full Impact	14%	-250,876	-37.4%	-127,387	-70.2%
High Impact	14%	-228,755	-27.5%	-102,528	-48.5%
Moderate Impact	13%	-152,892	-14.3%	-72,398	-25.2%
Low Impact	31%	-191,337	-5.1%	-56,578	-5.3%
No Impact	29%	0	0.0%	0	0.0%
Total (millions COP)		-823,859	-10.2%	-358,890	-16.1%
<i>Total (millions USD)</i>		<i>-355</i>		<i>-155</i>	

Source: Garay et. al. (2009). Note: These calculations are for a mid-range scenario in which it is assumed that prices and the exchange rate are at average levels.

³² Andrés García and Liliana Moreno, *Incentivos y motivaciones de los campesinos de la región del Patía para adoptar o abandonar los cultivos de coca para uso ilícito – Un estudio de caso*, Bogotá, June 2009. The study analyses why farmers have chosen to illegally cultivate coca in the departments of Nariño and Cauca. Among its findings are that small producers from the areas studied turned to coca production in the late 1990s as a means to make a living after their traditional crops (corn, wheat, beans) were dramatically affected by trade liberalization policies during the early 1990s that allowed imported agricultural products to flood the Colombian markets. As a result, small farmers turned to illegal coca cultivation as their only alternative source of income.

³³ Data on the costs of production in agriculture were obtained from the Corporación Colombia Internacional (CCI), a well-respected public-private partnership.

It is useful to look more closely at what would lead certain small farmers to be affected more than others. Small farmers classified as fully or highly impacted have 95 percent or more of their land dedicated to seasonal crops, the vast majority in rice, corn and, to a lesser extent, beans. The large majority of their livestock is poultry. Those who would be moderately affected have 84 percent of their land dedicated to seasonal crops, with about a third in corn and the rest more diversified. Coffee and plantains make up the majority of their permanent crops, while their livestock include more cattle and are also more diversified. On the other hand, small farmers who would see little or no impact on their income from the FTA have 84 percent or more of their land dedicated to permanent crops, two-thirds being coffee and plantains.

Thus, small farmers who would be most affected depend on production of those agricultural goods that are highly subsidized in the United States. On the other hand, the majority of those who would be least affected have been able to invest in permanent crops and to a greater extent in cattle.

There are nearly 1.4 million small farm households representing 38 percent of rural households and 12 percent of households nationally. The impact of the FTA on these small farm households was calculated using the information, discussed earlier, showing that income from agricultural production makes up 65 percent of household income (see Table 5).

Table 5 – Average Monthly Income of Small Farm Households Differentiated by Categories of Impact – with and without the FTA

Category of Impact (% of Small Farm Households)	Average Household Income without the FTA (COP in 2005)			Average Household Income under the FTA (COP in 2005)			Percentage Change Resulting from the FTA		
	Net Income from Ag	Other Income	Total Income	Net Income from Ag	Other Income	Total Income	Net Income from Ag	Other Income	Total Income
Full (14%)	220,175	120,025	340,200	65,593	120,025	185,618	-70.2%	0.0%	-45.4%
High (14%)	220,175	120,025	340,200	113,330	120,025	233,354	-48.5%	0.0%	-31.4%
Moderate (13%)	220,175	120,025	340,200	164,597	120,025	284,621	-25.2%	0.0%	-16.3%
Low (31%)	220,175	120,025	340,200	208,567	120,025	328,591	-5.3%	0.0%	-3.4%
No Impact (29%)	220,175	120,025	340,200	220,175	120,025	340,200	0.0%	0.0%	0.0%
Total	220,175	120,025	340,200	184,617	120,025	304,642	-16.1%	0.0%	-10.5%

Source: Garay et. al. (2009). Note: These calculations are for a mid-range scenario in which it is assumed that prices and the exchange rate are at average levels.

This analysis should raise serious concerns. Under the FTA, small farmers and small farm households overall would see their net income drop by over 16 percent. But the impact would not be evenly spread: those with the least amount of land, and therefore with fewer resources and greatest vulnerability, would suffer the worst effects. This would further increase rural

inequality. Nearly half a million small farmers would see their net income drop by half or more, and over 560,000 small farm households would suffer a decrease in their total income by between 16 and 45 percent. Households most affected would be those that are already the most vulnerable. It is estimated that total poverty would increase by two percent and extreme poverty by nearly four percent (see Table 6).

Table 6 – Proportion of Small Farm Households in Poverty and Extreme Poverty - with and without the FTA

Range	Without the FTA	Under the FTA
Poverty: less than COP 322,440 monthly per household (2)	92.7%	94.7%
Extreme Poverty: less than COP 161,221 monthly per household (3)	72.8%	76.4%

Source: Garay et. al. (2009). Calculations based on the 2005 Household Survey. COP = Colombian pesos. (1) At least one household member is self-employed in agriculture, but none is an employer of agricultural workers. (2) Equivalent to US\$2.50 daily (PPP) per person. PPP Colombia 2005 = 1081.95. Source: World Bank. (3) Equivalent to US\$1.25 daily (PPP) per person. PPP Colombia 2005 = 1081.95. Source: World Bank.

Conclusion

Colombia is a strategic partner of the United States in the hemisphere, and we support the expansion of trade between the two countries. At the same time, Colombia has maintained an internal armed conflict for over four-decades and continues to be plagued by illicit coca production. At the root of both of these problems are high levels of poverty and inequality, particularly in rural areas, with inequality on the rise in recent years. The FTA negotiated with Colombia under the Bush Administration would exacerbate poverty and inequality among those who depend on agriculture for their livelihoods, as we have illustrated. Thus, it should not be ratified in its current form.

The ongoing violence and impunity in Colombia, as well as the systematic and continuing violations of the right to freedom of expression and association, still make it extremely dangerous for citizens – including trade unionists, community activists, Afro-Colombian and indigenous leaders, human rights workers - to demand respect for and protection of their fundamental rights. Under these conditions, the FTA would further skew the benefits from trade, consolidate the concentration of wealth and strengthen the hand of those who gain the most from the existing status quo. This FTA will not help resolve the problems of violence, impunity and drug-trafficking; in fact, it could exacerbate them. Therefore, mechanisms must be put in place to address these problems first, before moving forward to consider further expansion of trade.