

Congress of the United States
House of Representatives
Washington, DC 20515

July 14, 2011

Sent Via E-Mail

The Honorable Barack Obama
President
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20510

Dear President Obama:

We are writing to urge you to include, as part of the implementing legislation for the Colombia Free Trade Agreement (FTA), a provision which mandates compliance with the Labor Action Plan (LAP), and a requirement for the President to set and certify that Colombia has met benchmarks showing tangible and demonstrable progress on ending the violence against trade unionists and human rights defenders, breaking the culture of impunity, and ensuring that workers can effectively exercise the right to freely associate and collectively bargain, prior to placing this FTA into force.

As you know, Colombia is the most dangerous place in the world for trade unionists.

- In 2010, fifty-one labor leaders were killed in Colombia, an increase from the previous year. More labor leaders were killed in Colombia in 2010 than in the rest of the world combined. So far in 2011, another seventeen have been killed, according to the National Labor School (ENS).
- Impunity in cases of violence against trade unionists remains high, with more than 95% of cases unsolved.
- As a result of this campaign of violence, as well as poor labor laws and weak enforcement, only four percent of Colombian workers are unionized today, and only one percent of workers are covered by a collective bargaining agreement. Most workers lack freedom of association, the ability to engage in collective bargaining, and the right to strike effectively.

On March 17, we sent you a letter with proposed policy changes and benchmarks which could set forth achievable and meaningful predicates for the Administration submitting a FTA to Congress for consideration. These included: Colombia demonstrating tangible progress on ending the violence against trade unionists and human rights defenders, breaking the culture of impunity, and ensuring that workers can effectively exercise the right to freely associate and collectively bargain.

Apparently pressured to move forward prematurely on this Free Trade Agreement, your Administration entered into a LAP with the Government of Colombia on April 7 which outlines a number of milestones for changes in Colombia's labor laws and regulations, and restricts, but does not outlaw, the use of cooperatives. Among its provisions, it sets forth a four year staffing plan for labor enforcement agencies, provides for enhanced physical protections for both trade union leaders and members, and provides assistance for teachers to relocate.

While this agreement contains a number of welcomed changes, it omits any benchmarks ensuring tangible progress on the ground toward assuring workers the right to freedom of association and to collectively bargain, a reduction in violence against labor and other human rights activists, meaningful progress on dealing with the backlog of over 2,800 trade union murder cases, or the effective prosecution of the new criminal laws regarding employer's use of cooperatives to evade direct employment and collective bargaining. Further, the plan fails to address public sector collective bargaining and allows the continued use of "collective pacts" even where a union is present.

Despite these concerns, we believe the LAP signed by President Santos represents a sea change compared with the policies espoused by President Uribe and his predecessors, and should be fully implemented. However, we also recognize that, given rampant violence, the reconstitution of paramilitaries, and the history of government inaction against those who perpetrate this campaign of terror, the Labor Action Plan will not fix Colombia's problems overnight.

To assure Colombia will be a fair trading partner which honors worker rights, we believe you should wait to see if the LAP is being implemented as promised, and if conditions for working families in Colombia actually improve. It would be an enormous mistake to reward intentions rather than results.

For that reason, we believe it is imperative that your Administration stand behind its own Labor Action Plan by including a provision to assure full compliance with this plan as a condition for putting the Free Trade Agreement into force. We note that no implementation requirements were included in the draft legislation developed by your Administration and the Ways and Means Committee.

During the July 7, 2011, mock markup in the House Ways and Means Committee, the Republicans rejected a trigger offered by Ranking Member Sander Levin that would require certification that Colombia was in compliance with the LAP at the point the President seeks to put the FTA into force. Republicans also rejected an amendment offered by Representative John Lewis which would require a demonstration of meaningful progress on the ground before the Agreement is put into force.

Despite these votes, if and when your Administration submits implementing legislation, it can and should rise above the partisanship, and include text making entry into force of the FTA conditioned upon:


- 1) certification by the President that the LAP has been fully implemented,
- 2) timely establishment by the President of benchmarks that would measure whether there is demonstrable progress in reducing violence against union members and human rights defenders, breaking the culture of impunity, and ensuring that workers can effectively exercise the right to freely associate and collectively bargain, and
- 3) certification by the President that these benchmarks have been achieved.

The Honorable Barack Obama
July 15, 2011
Page 3

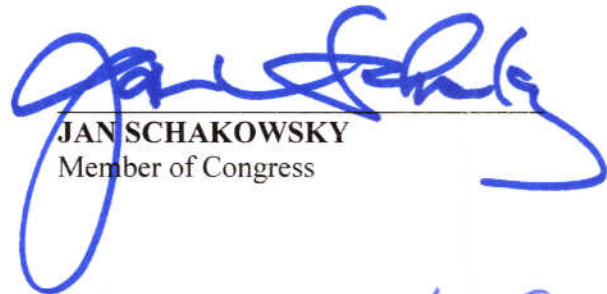
Once the agreement is in force, the United States will have lost its most important leverage to improve the human rights situation in Colombia. Congress has seen far too many side agreements touted prior to votes on FTAs only to be flaunted and ignored after the vote was completed. It would be deeply disappointing if your Administration failed to even fight for its own Labor Action Plan in the implementing legislation sent to Congress for a vote.

We would like to meet with you or your staff in the near future to discuss this approach.

Sincerely,



GEORGE MILLER
Member of Congress



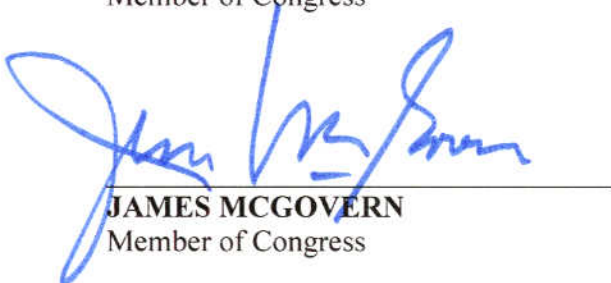
JAN SCHAKOWSKY
Member of Congress



ROSA DELAURO
Member of Congress



MICHAEL MICHAUD
Member of Congress



JAMES MCGOVERN
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LINDA SANCHEZ
Member of Congress

Cc: Hon. Ron Kirk, US Trade Representative
Hon. Hillary Clinton, Secretary of State
Hon. Hilda Solis, Secretary of Labor