

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 1483 United States-Colombia Free Trade Agreement

SPONSOR(S): Rules & Calendar Council and Zapata

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Economic Development Policy Committee	19 Y, 0 N	West	Kruse
2)	Economic Development & Community Affairs Policy Council	15 Y, 0 N	West	Tinker
3)	Rules & Calendar Council	23 Y, 0 N, As CS	Hassell	Birtman
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

House Memorial 1483 urges the United States Congress to support the establishment of a free trade agreement between the United States and Colombia and requires delivery of the Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Housed within the Executive Office of the President of the United States, the Office of the United States Trade Representative (USTR) negotiates directly with foreign governments to create and foster trade agreements, resolve disputes, and participate in global trade organizations. USTR also works closely with business groups, governments, legislators, and public interest groups in the U.S. to gather input on trade issues.

USTR breaks down all of its trade agreements into three sectors¹; Global, Regional, and Bilateral.

Global

World Trade Organization (WTO)

Regional

Free Trade Area of the Americas (FTAA)

Enterprise for the ASEAN Initiative (EAI)

North American Free Trade Agreement (NAFTA)

Middle East Free Trade Area Initiative (MEFTA)

Asian-Pacific Economic Cooperation (APEC)

Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)

Bilateral

Australia (Free Trade Agreement) FTA

Bahrain FTA

Chile FTA

Colombia FTA

Israel FTA

Jordan FTA

Korea-U.S. FTA (KORUS)

Malaysia FTA

Morocco FTA

Oman FTA

¹ Executive Office of the President of the United States, Office of the United States Trade Representative. Website: http://www.ustr.gov/Trade_Agreements/Section_Index.html.

Panama (Trade Promotion Agreement) TPA
Peru TPA
Singapore FTA
South African Customs Union FTA (SACU)

On November 22, 2006, the United States and Colombia signed the United States-Colombia Trade Promotion Agreement (CTPA) to eliminate tariffs and other barriers associated with the trading of goods and services between the two countries.² The United States Congress has yet to pass a measure that would make the Agreement law. The Agreement³ provides for the following:

Market Access for U.S. Consumer and Industrial Products

Over eighty percent of U.S. exports of consumer and industrial products to Colombia are duty-free, with remaining tariffs phased out over the next 7 years. Key U.S. exports have duty-free access to Colombia. Colombia agreed to allow trade in remanufactured goods, and will join the WTO Information Technology Agreement.

New Opportunities for U.S. Farmers and Ranchers

U.S. farm exports to Colombia receive duty-free treatment including high quality beef, cotton, wheat, soybeans, soybean meal; key fruits and vegetables including apples, pears, peaches, and cherries; and many processed food products including frozen french fries and cookies. U.S. farm products that benefit from improved market access include pork, beef, corn, poultry, rice, fruits and vegetables, processed products, and dairy products. The United States and Colombia have worked to resolve sanitary and phytosanitary barriers to agricultural trade, including on food safety inspection procedures for beef, pork, and poultry.

Textiles and Apparel – Promoting Cooperation and Benefits

Textiles and apparel are duty-free and quota-free if the products meet the agreement's rule of origin, promoting new opportunities for U.S. and Colombian fiber, yarn, fabric and apparel manufacturing.

Strong Protections for U.S. Investors

The Agreement established a stable legal framework for U.S. investors operating in Colombia. All forms of investment are protected under the Agreement. U.S. investors enjoy in almost all circumstances the right to establish, acquire, and operate investments in Colombia in an equal footing with local investors. Investor protections are backed by a transparent, binding international arbitration mechanism.

Expanded Access to Services Markets

Colombia received substantial market access across their entire services regime, including financial services. Colombia agreed to eliminate measures that required U.S. firms to hire national rather than U.S. professionals and phase-out market restrictions in cable television. Colombia also agreed that both mutual funds and pension funds in its territory will be allowed to use portfolio managers in the U.S.

Greater Protection for Intellectual Property Rights

The Agreement provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with both U.S. standards of protection and enforcement, and with emerging international standards. Such improvements include state-of-the-art protections for digital products such as U.S. software, music, text, and videos; stronger protection for U.S. patents, trademarks and test data, including an electronic system for the registration and maintenance of trademarks; and further deterrence of piracy and counterfeiting by criminalizing end-use piracy.

The Digital Age

The United States and Colombia agreed to provisions on e-commerce that commits all parties to non-discriminatory treatment of digital products. The parties agreed not to impose customs duties on digital

² Executive Office of the President of the United States, Office of the United States Trade Representative. Website: http://www.ustr.gov/Document_Library/Press_Releases/2006/November/United_States_Colombia_Sign_Trade_Promotion_Agreement.html.

³ Executive Office of the President of the United States, Office of the United States Trade Representative. Website: http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2007/asset_upload_file363_13072.pdf.

products transmitted electronically. Additionally, the agreement requires procedures for resolving disputes about trademarks used in Internet domain names.

Internationally-recognized Labor Rights

The Agreement includes an enforceable reciprocal obligation for the countries to adopt and maintain in their laws and practice the 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. Neither party may waive or derogate from the laws that implement this obligation in a manner affecting trade or investment. There is also an enforceable obligation to effectively enforce labor laws related to those rights and to working conditions. These labor obligations are subject to the same dispute settlement procedures and enforcement mechanisms as obligations in other Chapters of the Agreement. The Agreement also established a Cooperative Mechanism for the governments to develop cooperative activities aimed at promoting and advancing fundamental labor rights.

Commitments and Cooperation to Protect the Environment

The Agreement commits parties to effectively enforce their own domestic environmental laws and adopt, maintain and implement laws, regulations, and all other measures to fulfill obligations under covered multilateral environmental agreements (MEAs). All obligations in the Environment Chapter are subject to the same dispute settlement procedures and enforcement mechanisms as obligations in other chapters of the Agreement. The chapter calls for a public submissions process with an independent secretariat for environmental matters to ensure that views of civil society are appropriately considered. There is also an environmental cooperation agreement that provides a framework for undertaking environmental capacity building in Colombia.

Trade Capacity Building: Development and Trade Together

The Agreement creates a Trade Capacity Building Committee, which will help Colombia build its capacity to implement the obligations of the agreement and to benefit more broadly from the opportunities it creates. Assistance programs to be discussed by the committee include programs for small and medium-sized enterprises and farmers, and programs for improvements in transportation infrastructure and telecommunications. The U.S. Government provided approximately \$150 million in trade capacity building (TCB) assistance to Colombia for the fiscal years 2004 through 2006. Colombia also benefited from U.S. Government provided trade capacity building assistance to Andean regional programs, totaling more than \$8.5 million for the same period. Multilateral lenders such as the Inter-American Development Bank and the World Bank provide additional trade-related assistance in support of the agreement.

Fair and Open Government Procurement

U.S. suppliers were granted non-discriminatory rights to bid on contracts from a broad range of Colombian government ministries, agencies, public enterprises, and regional governments. The agreement requires the use of fair and transparent procurement procedures, such as advance notice of purchases and timely and effective bid review procedures.

An Open and Competitive Telecommunications Market

Users of Colombian telecom networks are guaranteed reasonable and nondiscriminatory access to the network. This prevents local firms from having preferential or "first right" of access to telecom networks. U.S. phone companies obtained the right to interconnect with Colombian dominant suppliers' fixed networks at nondiscriminatory and cost-based rates.

Increased Transparency

The Agreement's dispute settlement mechanisms provide for open public hearings, public access to documents, and the opportunity for third parties to submit views. Transparency in customs operations aid express delivery shipments and require more open and public processes for customs rulings and administration. For custom procedures, Colombia committed to publish laws and regulations on the Internet, and will ensure procedural certainty and fairness. Colombia also committed to make public their responses to significant comments received on proposed technical regulations.

Dispute Settlement

Core obligations, including labor and environment provisions, are subject to the dispute settlement mechanism of the agreement.

Full text of the United States-Colombia Trade Promotion Agreement (CTPA) can be found here: http://www.ustr.gov/Trade_Agreements/Bilateral/Colombia_FTA/Final_Text/Section_Index.html

Former President George W. Bush's administration negotiated the free trade agreement with Colombia but the measure was not enacted by Congress. President Barak Obama's administration has asked Congress to work toward "benchmarks" for a free trade agreement with Colombia but obstacles still stand in the way.⁴ U.S. Representative Sander Levin (D) chairs the House Ways and Means trade subcommittee that plays a key role in congressional consideration of trade agreements. Rep Levin indicated in a recently published news article⁵ that Colombia must amend its labor laws to comply with International Labor Organization standards and take other steps to ensure more murderers of trade unionists in that country are brought to justice. Any benchmarks set by the United States and Colombia to address the violence concerns must be "enforceable" to prevent backsliding.

Effects of Proposed Changes

House Memorial 1483 urges the United States Congress to adopt a free trade agreement with Colombia. The memorial details some of the current economic, political, and demographic relationships between the two countries, such as:

- Florida, the United States' fifth-largest exporter in 2008, with goods exports totaling \$50.4 billion, has a global reputation as a gateway to the Americas and a vital stake in global markets;
- A Free Trade Agreement with Colombia offers valuable opportunities for the United States to enhance its competitive edge in the global economy by lowering the barriers that its own exporters face in these markets;
- Over 150,000 Colombians are estimated to be living in Florida;
- Colombia ranked 6th for international overnight visitors to the greater Miami area in 2007, generating an economic impact of \$501 million;
- In 2006, Florida's exports to Colombia accounted for 23 percent of the United States' exports to Colombia;
- Goods exports from Florida increased by over 15 percent in 2006, leading to the gross domestic product growth of 4.2 percent, and totaled \$38.5 billion, representing 5.4 percent of Florida's gross domestic product;
- In 2007, Florida's exports to Colombia surpassed \$2 billion, increasing by 31 percent over the previous year;
- Agriculture exports, service exports, foreign investment, and imports all contribute significantly to Florida's economy and employment base;
- According to the United States Department of Agriculture, Florida's agricultural exports reached \$1.96 billion in 2007, maintaining 17,420 Florida jobs, both on and off farmlands;
- Since 2002, homicides of trade unionists in Colombia have fallen between 80 and 86 percent;

⁴ Reuters News, article published Wednesday March 11, 2009. <http://www.reuters.com/article/politicsNews/idUSTRE52A65820090311>.

⁵ Id.

- Over 40,000 terrorists in Colombia have demobilized under President Alvaro Uribe; and
- Approval of a United States-Colombia Free Trade Agreement will ensure that Colombia continues to make progress in reducing violence while improving economic stability.

The Memorial urges the United States Congress to support the establishment of a free trade agreement between the United States and Colombia and requires delivery of the Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

B. SECTION DIRECTORY:

Not Applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A free trade agreement between the United States and Colombia could have a positive economic impact on U.S. businesses and trade partners that engage in commerce with Colombian businesses, farmers, and other sectors of the Colombian economy.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The house memorial does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 6, 2009, the Rules and Calendar Council met and adopted 4 amendments and reported the House Memorial favorably with a Council Substitute. The amendments make the following changes to the House Memorial:

- Updates the statistic relating to Florida's rank in exporting.
- Updates the statistic relating to visitors and their economic impact.
- Updates the statistic relating to Florida's agricultural exports.
- Updates the statistic relating to the decrease in homicides of trade unionists.

The analysis is drawn to the Council Substitute.