



**HOUSE OF COMMONS  
CANADA**

# **HUMAN RIGHTS, THE ENVIRONMENT AND FREE TRADE WITH COLOMBIA**

## **Report of the Standing Committee on International Trade**

**Lee Richardson, MP  
Chair**

**JUNE 2008**

**39th PARLIAMENT, 2nd SESSION**

---

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

If this document contains excerpts or the full text of briefs presented to the Committee, permission to reproduce these briefs, in whole or in part, must be obtained from their authors.

Also available on the Parliamentary Internet Parlementaire: <http://www.parl.gc.ca>

Available from Communication Canada — Publishing, Ottawa, Canada K1A 0S9

**HUMAN RIGHTS, THE ENVIRONMENT AND  
FREE TRADE WITH COLOMBIA**

**Report of the Standing Committee on  
International Trade**

**Lee Richardson, MP  
Chair**

**June 2008**

**39th PARLIAMENT, 2nd SESSION**



# **STANDING COMMITTEE ON INTERNATIONAL TRADE**

## **CHAIR**

Lee Richardson

## **VICE-CHAIRS**

John Maloney  
Serge Cardin

## **MEMBERS**

Dean Allison  
Hon. Navdeep Bains  
Sukh Dhaliwal  
Gerald Keddy  
Joyce Murray

Guy André  
Ron Cannan  
Peter Julian  
Larry Miller

## **CLERK OF THE COMMITTEE**

Jacques Lahaie

## **LIBRARY OF PARLIAMENT**

**Parliamentary Information and Research Service**

## **ANALYSTS OF THE COMMITTEE**

Michael Holden and Laura Barnett



# **THE STANDING COMMITTEE ON INTERNATIONAL TRADE**

has the honour to present its

## **FIFTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the Canada-Columbia free trade negotiations, including concerns relating to human rights and the environment, and report its findings and recommendations.



# TABLE OF CONTENTS

---

HUMAN RIGHTS, THE ENVIRONMENT AND FREE TRADE WITH COLOMBIA .....	1
INTRODUCTION .....	1
COLOMBIA: THE POLITICAL AND ECONOMIC CONTEXT .....	2
A. The Country .....	2
B. A Transformation — The Government of Álvaro Uribe Vélez.....	3
C. The Problems that Continue to Plague Colombia .....	5
1. Implication of the Government.....	5
2. The Security Situation — Ongoing Human Rights Abuses by Illegal Armed Groups .....	6
3. The Drug Trade .....	7
4. Displacement.....	8
5. Socio-Economic Issues .....	9
6. The Environment .....	10
D. Concluding Comments.....	10
CANADA'S ECONOMIC AND POLITICAL RELATIONS WITH COLOMBIA .....	11
A. Canada-Colombia Free Trade Negotiations.....	11
B. Canada-Colombia Economic Relations.....	12
1. Merchandise Trade .....	12
2. Trade in Services .....	13
3. Foreign Direct Investment .....	13
C. Canada-Colombia Political and Social Relations .....	13

THE CASE FOR AND AGAINST A FREE TRADE AGREEMENT WITH COLOMBIA .....	15
A. The Case for a Free Trade Agreement .....	15
1. Improvement of Canadian Access to the Colombian Market.....	15
2. Canada and Colombia are Complementary Economies.....	16
3. Preserving Canada’s Competitive Position.....	18
4. Fostering Human Rights.....	19
5. Job Creation in Colombia .....	21
6. Labour and Environmental Side Agreements .....	23
a) The Labour Side Agreement.....	24
b) The Environmental Side Agreement .....	26
7. Corporate Social Responsibility.....	27
8. Supporting an Ally .....	30
B. The Case Against a Free Trade Agreement.....	31
1. Colombia’s Human Rights Record.....	31
2. The Negative Effect of Investment Projects on Human Rights .....	32
3. Impact of Foreign Companies on the Environment .....	34
4. Labour and Environmental Side Agreements .....	35
5. Basing the Trade Agreement on the NAFTA Template .....	37
6. The Need for Transparent and Inclusive Negotiations.....	39
7. Colombia is not a Major Market for Canada .....	40
CONCLUSION .....	40
RECOMMENDATIONS TO THE GOVERNMENT OF CANADA .....	43
APPENDIX A — LIST OF WITNESSES.....	47
APPENDIX B — LIST OF BRIEFS.....	51

REQUEST FOR GOVERNMENT RESPONSE .....	53
DISSENTING OPINION OF THE LIBERAL PARTY.....	55
DISSENTING OPINION OF THE BLOC QUEBECOIS .....	57
DISSENTING OPINION OF THE NEW DEMOCRATIC PARTY .....	61
MINUTES OF PROCEEDINGS.....	71



# HUMAN RIGHTS, THE ENVIRONMENT AND FREE TRADE WITH COLOMBIA

---

## INTRODUCTION

In recent years, the Government of Canada has made re-engagement in the Americas one of its highest foreign policy priorities. This re-engagement is evident in a number of programs and initiatives, from strengthening diplomatic and political ties, apparent in the number of Prime Ministerial and other official visits to countries across the hemisphere, to a renewed focus on enhancing economic linkages with those countries.

In order to achieve the goal of improving economic relations with other countries in the Americas, Canada is working to build on its existing network of free trade agreements (FTAs) in the region; Canada already has trade agreements in place with the United States, Mexico, Chile and Costa Rica. It is also pursuing negotiations with the Dominican Republic and the Central America Four countries (CA-4 — El Salvador, Nicaragua, Guatemala and Honduras), and is exploring negotiations with the Caribbean Community (CARICOM) and Panama. Finally, Canada signed an FTA with Peru in January 2008 and announced on 7 June 2008 that it had concluded negotiations with Colombia, although that agreement has not yet been formally signed.

Negotiations with Colombia were controversial. Colombia is suffering from the longest-running internal conflict in South America — a conflict in which the government is struggling to assert control over its sovereign territory against resistance from illegal armed groups on the left — the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) are the best-known examples — and the right — the United Self Defence Forces of Colombia (AUC) and other paramilitary groups.

This ongoing conflict has generated untold numbers of human rights abuses, including kidnappings, targeted killings and massive internal displacement. Of particular concern in the context of a free trade negotiation is the fact that union leaders and union members are frequent targets of these abuses.

As a result, opinions on whether or not Canada should have pursued free trade with Colombia were mixed. On the one hand, some argued that political and security conditions in Colombia have improved dramatically, and murders and human rights abuse have fallen considerably in recent years. In their view, a trade agreement would not only generate wealth for Colombia and Canada, but would also help the Colombian government to build its legitimate economy and turn people away from illegal armed groups and narcotics production.

On the other hand, it was argued that, recent improvements notwithstanding, Colombia still has the worst human rights record in the hemisphere. In their view, Canada cannot, in good faith, enter a free trade agreement with a country where labour and human rights abuses are so prevalent. To do so would be to implicitly condone those activities. As such, proponents of this view had from the outset opposed Canada's decision to negotiate a trade agreement with Colombia and believe that, while negotiations may have concluded, Canada should not officially sign any agreement with Colombia until such time as independent organizations verify that human rights violations in that country are a thing of the past.

Given the intense interest in the Canada-Colombia trade negotiations, the House of Commons Standing Committee on International Trade passed a motion on 27 November 2007 to study "how environmental impacts and human rights concerns are being addressed in current bilateral trade negotiations with particular reference to the Canada-Colombia bilateral negotiations." From April through June 2008, the Committee undertook hearings on this subject, including a fact-finding mission to Colombia on 11 to 14 May. The Committee went to Colombia for the express purpose of hearing directly from Colombians and Canadians living in that country about the issues and challenges they face, as well as to discuss concerns about the human rights record in Colombia and the potential impact that a free trade agreement with Canada might have.

The Committee's intent was to issue a report on its findings, including recommendations to the Government of Canada on whether or not, and under what conditions, to continue free trade negotiations with Colombia. While the fact that a deal was reached before the Committee had concluded its hearings, the Committee believes that there is still value to its findings.

The Committee has amassed considerable information on the issue of trade, human rights and the environment in Colombia. We also note that the negotiations may be completed, but the agreement has not yet officially been signed. As such, this timing offers the chance for a period of reflection for the government – an opportunity to step back from the minutiae of detailed negotiations and to consider the broader implications and interpretations of this agreement.

## **COLOMBIA: THE POLITICAL AND ECONOMIC CONTEXT**

### **A. The Country**

During its mission to Colombia, the Committee discovered a land of contradictions where nothing is written in black and white. Approximately one sixth of Colombia's 47.5 million population lives in the capital, Bogotá, a city whose sprawling land area exceeds that of New York or Mexico City. Yet, Colombia is also the world's second most biologically diverse country in the world. Home to 10% of the earth's species, vast parts of Colombia are covered by dense jungle. The country is rich in natural resources: timber,

water, emeralds, petroleum, natural gas, coal, iron ore, nickel, gold and copper.<sup>1</sup> However, Colombia's natural resources also include coca plants — the country currently represents approximately 60% of the world's cocaine production.<sup>2</sup>

Key to developing an understanding the Colombia context is an acknowledgment of the armed conflict that has dominated the country's people, politics and economy for the last 40 years, representing the longest running conflict in the Western hemisphere. The turmoil began in the 1960s, as leftist guerrilla groups emerged in a struggle against the distribution of political power in the country and the lack of land reform. For a time, the actions of, and human rights abuses perpetrated by, these illegal armed groups remained contained to rural areas, but their power, fuelled by drug trafficking, soon began to grow. As the government proved itself unable to effectively deal with the situation, right wing private paramilitary groups formed. The actions of paramilitaries and guerrilla groups led to an increase in human rights abuses against ordinary citizens. By 1989, the government had declared the paramilitary groups outlaws like their left wing counterparts.

By the 1990s, the devastation wrought on Colombia by these illegal armed groups was clear. Atrocities perpetrated by these groups had led to massive displacement; thousands of deaths; serious human rights abuses, including killings, forced disappearances and kidnappings; and had severely weakened the state. Although Colombia had managed to escape the political history of military dictatorships that plagued many of its neighbours in South America, the longstanding conflict kept the democratic government in significantly weakened form for many years. In particular, the government lacked any control outside of the capital, unable to have any presence in Colombia's isolated regions. As noted by Colombia's ambassador to Canada, His Excellency Jaime Giron Duarte, and Thomas d'Aquino of the Canadian Council of Chief Executives, in 2002, 169 municipalities had no police force to speak of, and 131 mayors performed their duties from outside their jurisdictions because it was too unsafe for them at home.

## **B. A Transformation — The Government of Álvaro Uribe Vélez**

Within this context came the election of Álvaro Uribe Vélez in 2002. Elected as an independent and leading a loose coalition of parties,<sup>3</sup> President Uribe has been hailed by many as bringing stability and security to a country that was starting to lose hope. He was re-elected in 2006 for a second and final term that will end in 2010. Heading a government that has pledged to uphold security and democracy, social cohesion, and investment and social responsibility, President Uribe has taken a particularly hard line against FARC and

---

1 Briefing materials provided by the Department of Foreign Affairs and International Trade Canada.

2 United Nations Office on Drugs and Crime, testimony before the Committee, 14 May 2008.

3 Colombia's Congress is elected by popular vote for four year terms, and is currently made up of 15 formally recognized political parties and a number of unofficial parties that have not met the vote threshold. The 102 seats in the Senate are elected nationally, while the 166 seats in the House of Representatives are elected regionally.

focused significant efforts on the demobilization of the AUC. The government's Justice and Peace Law, promulgated in 2005, is a primary component of this demobilization process — those who demobilize under this law must confess their actions and pay reparation to the victims of their crimes. In exchange, they are promised lighter sentences. This demobilization process has led to the exhumation of over 1100 remains.

The Committee was pleased to hear about the extent to which the security situation has improved in Colombia over the last six years — a testament to the initiatives undertaken by the Uribe government. FARC now operates in much smaller areas of the country, and the paramilitary groups have been officially disbanded, with over 31,000 individuals demobilized. Although the Committee was provided with various contradictory statistics, it was nevertheless abundantly clear that rates of violence have fallen dramatically. Representatives of the Colombian government in Ottawa and in Bogotá emphasized that since 2002, general violence and the murder rate have been cut by 50%<sup>4</sup> and kidnappings are down by 90%.<sup>5</sup>

Other indicators of Colombia's transformation over the past six years are the fact that 30% more people now vote in regional elections,<sup>6</sup> as well as signs of real improvement in Colombia's economy. In 2007, GDP per capita was \$3,881.54,<sup>7</sup> while economic growth has averaged 5.3% since 2002 and stood at 7.6% in 2007.<sup>8</sup> Thomas d'Aquino told the Committee that inflation has declined to approximately 5%, while economic leaders in Colombia emphasized that Colombia currently has one of the lowest inflation rates on the continent. D'Aquino also highlighted the fact that tourism in Colombia has doubled in the last five years, and that use of Colombia's roads — roads that, not long ago, were once too dangerous to venture on — has dramatically increased.

As a result of these changes, President Uribe's popularity in Colombia stands at an astronomical 80% or more. The Committee was impressed to hear of the transformation that had been wrought in a mere six years.

---

4 Colombian Vice President Francisco Santos Calderón told the Committee that there were approximately 3000 murders in 2002.

5 Colombian Foreign Affairs Minister Fernando Araújo Perdomo told the Committee that there were approximately 3000 kidnappings in 2002, down to 270 in 2007. In its 2008 report, *State of the World's Human Rights*, Amnesty International places the 2007 figure at 521 (report available at: <http://thereport.amnesty.org/eng/regions/americas/colombia>).

6 Colombian Vice President Francisco Santos Calderón, testimony before the Committee, 13 May 2008.

7 Briefing materials provided by DFAIT.

8 His Excellency Jaime Giron Duarte, Ambassador of Colombia to Canada, testimony before the Committee, 14 April 2008.

## **C. The Problems that Continue to Plague Colombia**

And yet, despite these changes, the Committee was also forced to recognize that Colombia has not yet left its history of turmoil behind. As noted by one witness in Bogotá, the country's transformation is not yet complete — the entire process is not yet so far advanced that it could not be reversed. Pascal Paradis, of Lawyers Without Borders, pointed out that Colombia still qualified as the worst human rights crisis in the hemisphere by the United Nations and the Organization of American States.

### ***1. Implication of the Government***

Perhaps most prominent among the accusations still aimed at Colombia are those which tie the Colombian government to human rights abuses and link it to the action of paramilitary groups. Throughout much of the country's recent history, the government has been accused of close links to paramilitary groups and has itself been accused of perpetrating serious human rights abuses. Today, the Committee heard that it is generally agreed that the human rights abuses that continue in Colombia are primarily the result of actions by illegal armed groups. However, many human rights advocacy groups remain deeply concerned about government inaction or its ongoing tendency to "turn a blind eye" to the actions perpetrated by paramilitary groups. Such organizations also point out that government forces are still often directly implicated in unlawful killings, forced disappearances, arbitrary arrest, torture and other abuses, such as the mistreatment of detainees and harassment and intimidation of journalists and human rights activists.

Gerry Barr of the Canadian Council for International Cooperation and Alex Neve of Amnesty International Canada noted that, far from fading into the distant past, targeted extrajudicial killings of civilians by government security forces have even increased over last five years. Amnesty International's annual global human rights report, *State of the World's Human Rights 2008*, stated that in the year ending June 2007, security forces were accused of extrajudicially executing 280 people, primarily peasant farmers who were presented by the military as guerrillas killed in combat. Neve commented that most of these killings have been referred to military tribunals for judgment, despite a 1997 constitutional court ruling that they should be referred to ordinary courts. Complaints against the government continue to be brought to Colombian and international courts, such as the Inter-American Court of Human Rights.

It was emphasized to the Committee that corruption is an ongoing issue in Colombia. As proof — briefing material provided to the Committee by the Department of Foreign Affairs and International Trade Canada (DFAIT) noted that more than 30 members of Congress are currently under arrest in Colombia, and more than 60 are under investigation for links to paramilitaries since 2006. Although the numbers provided to the Committee by various witnesses varied on this issue, it remained clear that a significant percentage of parliamentarians were accused of collusion with paramilitary groups.

## ***2. The Security Situation — Ongoing Human Rights Abuses by Illegal Armed Groups***

However, beyond any accusations about the government, the Committee heard serious concerns about the security situation in Colombia in terms of ongoing human rights abuses. Despite the government's significant demobilization initiative, the Committee heard from a number of witnesses in Ottawa and in Bogotá that many paramilitaries are still active, having simply re-formed into different, more traditionally "criminal" groups. Amnesty International's 2008 human rights report notes that 22 such criminal groups of 3000 combatants had been identified as of early 2008, while Pascal Paradis referred to a recent report stating that there were 60 such groups.

Ultimately, it was made clear to the Committee that despite real progress in Colombia, respect for human rights in the country remains dubious and grave concerns about impunity continue to exist. At the heart of such concerns lie the continued heinous actions perpetrated by illegal armed groups. Paramilitary groups, FARC and the ELN continue to be responsible for political killings; kidnappings and forced disappearances; torture; forced displacement; harassment and intimidation of judges, prosecutors and witnesses; the recruitment of child soldiers; and the harassment, intimidation and killing of journalists, human rights advocates and trade unionists.

Violence against union members — teachers in particular — is of serious concern. Compared to six years ago, the numbers are certainly improving. His Excellency Duarte noted that the number of union member killings has dropped by 70% since President Uribe was first elected. The Colombian government notes that while 200 union members were killed in 2002, only 26 were killed in 2007. The Colombian National Labour School puts the 2007 figure at 39; however, the United States' 2008 State Department country report on human rights<sup>9</sup> points out that these figures may differ because the Labour School includes non-affiliated advisors to unions, retired and inactive union members, and rural community organization members.

Yet, despite this drop, violence against union members remains a serious issue in Colombia. President Uribe confirmed to the Committee that the number of union members killed so far in 2008 appears even to have increased. Union leaders in Colombia told the Committee that 30 union members had been killed as of May 2008, while Maria McFarlane of Human Rights Watch cited government statistics indicating that 22 union members had been killed in the first four months of 2008. While in Colombia, the Committee heard some debate as to the reason behind the large number of union members killed: a number of government witnesses suggested that many union members may not have been killed because of their status as union members, and should in fact only be included as part of the general murder rate in Colombia. Union leaders in Colombia and Thomas d'Aquino also informed the Committee that union members are being killed at one seventh the rate

---

9 Available at: <http://www.state.gov/g/drl/rls/hrrpt/2007/100633.htm>.

of the general population (5 per 100,000 in 2007 compared to 34 per 100,000). However, whatever the explanation, the fact remains that union members continue to be threatened and killed in large number.

In response to this issue, the Committee heard from both the Canadian and Colombian governments about the significant measures that the Colombian government is taking to protect union members. The Uribe administration spent \$10.5 million on this issue in 2007, and has created a special unit in the Office of the Prosecutor General to investigate crimes against union members that has issued 105 convictions thus far.

In order to work with the Colombian government on labour issues and in response to the targeted attacks on union members in the country, the International Labour Organization (ILO) oversaw the signing of a tripartite agreement on Freedom of Association and Democracy between the government, employers and workers' organizations in 2006. The agreement was heralded as a significant achievement by the international organization, which now has a permanent office in Colombia to facilitate implementation of the commitments contained in the agreement, particularly with respect to labour rights and union guarantees and the promotion of social dialogue.

The Office of the United Nations High Commissioner on Human Rights (UNHCHR) also established an office in Colombia in 1997 to observe and report on human rights and international humanitarian law in Colombia, to provide advice and technical cooperation to the government, and to assist in strengthening national authorities and civil society. The Committee heard that although the Colombian government's relationship with the UNHCHR office has not always been smooth, the UN's mandate was nevertheless renewed for an additional three years in 2007.

### ***3. The Drug Trade***

Having been told that Colombia represents the world's largest producer of cocaine, the Committee was not surprised to learn of the dramatic influence that the drug trade has had on events in Colombia over the last 40 years. UN officials in Colombia emphasized the important role that drugs and organized crime have played in disrupting democratic institutions and socio-economic development in the country. Most significantly, the Committee heard the extent to which the drug trade has exacerbated the armed conflict. The drug trade appears to be at the root of, or the aggravating factor behind, almost all of Colombia's ills. Numerous witnesses told the Committee that drugs have effectively become the driving force behind the illegal armed groups, particularly FARC. Drug production has fuelled the conflict by financing operations and through the fight for control of land for drug cultivation, while the chaos created by the conflict has in turn contributed to the growth of the drug trade. Today, the focus of the illegal groups is no longer to attack each other — the focus is primarily the drug trade. In recent years, Colombia's illegal groups have also become smaller and less organized, meaning that they are more difficult for the government to handle.

Officials from the UN Office on Drugs and Crime (UNODC) emphasized to the Committee the tremendous effort that the Colombia government has put into combating the drug trade, calling the government's initiatives "unparalleled".<sup>10</sup> UN Officials emphasized that the government has spent enormous amounts of money to combat the drug trade, and that Colombia is one of the only countries where a large part of the funding for the elimination of drugs and the creation of sustainable livelihoods comes from the government.

Like the UNHCHR and the ILO, UNODC also has offices in Colombia. This office works with the government to fight illicit drugs, crime and terrorism by supporting civil society and trying to encourage alternative forms of rural development and substitute crops, assisting with law enforcement and crime prevention, and working to strengthen Colombian institutions. The Committee notes that progress is being made with respect to elimination of the drug trade. Briefing material provided by DFAIT indicates that between 2005 and 2006 coca crops declined by 9%, from 86,000 to 78,000 hectares, and interesting initiatives are being undertaken in some communities to search for substitute crops. However, cocaine production remains an issue of on-going concern in Colombia that is far from being resolved.

#### ***4. Displacement***

Displacement is another issue of serious concern in Colombia, population movement driven by fear of violence, actual violence, or by land grabs perpetrated by the illegal armed groups. Over three million people have been displaced in the country over its 40 years of internal conflict, making Colombia home to the second highest population of internally displaced people in the world after Sudan. This number represents fully 7% of Colombia's population and is primarily made up of those most vulnerable in the society: women, indigenous peoples and Afro-Colombians. Movement has tended to be rural to urban — as people are pushed off their farms they turn to the urban centres where they settle in informal communities surrounding the ever expanding city centres.

The Committee visited one such community on the hills surrounding Bogotá — Soacha. This "suburb" was crammed full of houses and shacks that inhabitants had built themselves but were not yet serviced by running water or other utilities normally provided by the city. Unemployment in Soacha stood at 15.4% — significantly higher than the national average — and poverty was clearly an all-encompassing issue in the area. The United Nations High Commissioner for Refugees had established an office in Soacha to help care for the community by providing services such as schooling for children.

---

10 UNODC testimony.

The Committee was told that displacement is not yet at an end — every day 49 new families arrived in Bogotá and the surrounding communities. Although the Colombian government emphasized that displacement had dropped by 75% since 2002, Amnesty International and US State Department reports still indicate that a further 305,000 people were displaced in 2007. The government is providing money to communities of internally displaced people, providing both housing and health subsidies in an attempt to make this situation easier. However, officials in Soacha emphasized that this money is only a drop in the bucket faced with the enormity of the displacement problem in Colombia.

### ***5. Socio-Economic Issues***

The Committee notes that each of the issues discussed above must be framed against the backdrop of Colombia's current socio-economic situation, which, despite recent improvements, continues to be characterized by significant poverty and inequalities. Canada's ambassador to Colombia, His Excellency Matthew Levin, and His Excellency Duarte noted that poverty levels have declined under the current government. However, in 2006, 47% of the population still lived below the poverty line and 12% lived in extreme poverty. A 2006 UNHCHR report<sup>11</sup> emphasized that rural areas face the most extreme conditions — rural poverty stood at 68.2% in 2006. The government is currently undertaking initiatives to reduce poverty to at least 35% by the end of President Uribe's term in 2010, while reducing extreme poverty to 8%.

The ambassadors also noted that unemployment has been dropping, and stood at 11% in 2007; however, this remained one of the highest rates in Latin America. In addition, some witnesses called into question the reliability of statistics on unemployment, stating that this drop was at least partially due to changes made to the definition of what it means to be employed in Colombia. Some members of public sector unions in that country stated that to be considered to be employed, Colombians had only to work for eight days a year. Under-employment is also a concern, while a large part of the Colombian population is also involved in informal forms of employment, such as the informal horse-and-buggy recycling system in operation in Bogotá. The government's goal is to reduce unemployment to between 7 and 9% by 2010.

On paper, Colombia's education program appears to be a success, with a number of universities, and 92% of children enrolled in primary school, as noted by His Excellency Duarte. However, the government and other witnesses recognized that the quality of the education system remains a problem and that many people still have no access to education after primary school. FARC also has a significant presence at many

---

11 Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia, A/HRC/4/48, 5 March 2007.

universities. The government currently provides many incentives for families to keep their children in school, and President Uribe's goal is to be able to provide universal education by the end of his term.

Finally, the Committee heard many witnesses praise the Colombian health system, with the Vice President noting that over 70% of the population had health insurance in 2008. The government's goal is to have universal health coverage by 2010. However, other witnesses noted that, like the education system, the health system is better on paper than it is in practice, and many people, particularly those in rural areas, have very little access to services.

## ***6. The Environment***

In terms of the environment, His Excellency Duarte and some environmental groups in Colombia told the Committee about a number of important initiatives undertaken by the government. A significant legal framework has been developed to protect the environment and the government has introduced over one million hectares to the national park system. The government has also reforested 30,000 hectares in recent years, and by 2006, the government had reduced substances that deplete the ozone by 44%. His Excellency Duarte noted that the government hopes to have completely eliminated such substances by the end of President Uribe's term.

Nevertheless, briefing material provided to the Committee by the DFAIT and environmental groups in Colombia noted that despite the legal framework in place, environmental standards in Colombia are generally ineffective and their implementation on the ground limited. Farming, mining and logging have led to rapid deforestation and soil degradation in the country, and 200,000 hectares of forest are lost each year due to illegal crops. Two million hectares have been clear cut in the past 20 years in order to grow coca plants, many rivers are contaminated, and the Committee itself witnessed the severe air pollution in urban centres such as Bogotá. The initiatives in place are good, but environmental issues will remain of significant concern in Colombia well into the future.

## **D. Concluding Comments**

The Committee was impressed by the changes wrought by the Uribe government during its six years in power and is anxious to see continuing movement in the same direction. Nevertheless, the political, socio-economic, environmental and human rights challenges that face the country remain a heavy burden that will be difficult to cast off. Average citizens in Colombia face severe difficulties that challenge their very existence, let alone their daily well-being. However, the Committee has seen signs that the current government has the potential in its hands to transform Colombia into a country that fulfills the needs and desires of its people, provided that this potential is managed powerfully, honestly and with compassion.

## **CANADA'S ECONOMIC AND POLITICAL RELATIONS WITH COLOMBIA**

### **A. Canada-Colombia Free Trade Negotiations**

Canada's current free trade negotiations with Colombia date back to 2002 when Canada first held exploratory discussions on a possible free trade agreement with the members of the Andean Community (Peru, Colombia, Ecuador and Bolivia). Four rounds of exploratory talks were held intermittently, the last of which took place in December 2006. At that time it was decided that Canada would proceed with free trade negotiations with Colombia and Peru, with the possibility of revisiting negotiations with Ecuador and Bolivia at some future date.

On 7 June 2007, the Minister of International Trade formally announced that Canada would launch free trade negotiations with Colombia and Peru. This announcement was made in the context of Canada's foreign policy of re-engagement in the Americas, as set out in the government's *Global Commerce Strategy*. Four rounds of negotiations were held between the three countries, the last being in Lima on 26-30 November 2007. On 28 January 2008, at a meeting in Davos, Switzerland, Canada and Peru officially announced the conclusion of negotiations.

Additional negotiations with Colombia were required, but Canada also concluded official talks with that country on 7 June 2008. The next step in the process for the Canada-Colombia agreement is for the two countries to conduct a legal review of the negotiated texts prior to the official signing of the agreements. Once the review process is completed and the agreements are signed, the texts will be released to the public. According to DFAIT, the treaties will be tabled in the House of Commons for 21 sitting days, after which time legislation to implement the terms of the agreements will be introduced.

According to Carol Nelder-Corvari, Director of the International Trade Policy Division at the Department of Finance, Canada's objective in the Colombia negotiations was to seek a comprehensive, high-quality free trade agreement. The scope of the agreement includes trade in goods, services, investment, government procurement, dispute settlement and institutional provisions. The Committee conducted the bulk of its hearings before the agreement was signed. At that time, elements that require further negotiations included market access for goods, rules of origin, investment, dispute settlement and institutional provisions. However, because negotiations were conducted behind closed doors, the Committee did not know what were the specific issues or points of contention within these categories.

## **B. Canada-Colombia Economic Relations**

Canada currently enjoys a solid economic relationship with Colombia. Canadian companies have a strong and growing presence in Colombia and trade between the two countries is expanding rapidly.

### ***1. Merchandise Trade***

Two-way merchandise trade between Canada and Colombia reached a near-record \$1.14 billion in 2007, including \$662 million in Canadian exports to Colombia and \$437 million in imports from that country. The resulting trade surplus of \$188 million was Canada's first bilateral trade surplus with Colombia since 1998.

Since 1999, Colombia has grown in importance as a trading partner, especially as a market for Canadian export products. Over the last five years, merchandise exports to Colombia have risen by an average of 14% per year, compared to an average annual growth rate of 2.6% for total exports worldwide. Merchandise imports from Colombia are also growing at above-average rates, although the difference is less pronounced.

Colombia is Canada's fifth largest export destination in Latin America and the Caribbean, and its seventh largest source of imports from the region. In spite of strong two-way trade growth in recent years, however, Colombia is not rising in importance as a trading partner within Latin America and the Caribbean; Canada's trade with most large economies in the region has increased considerably in recent years.

Canadian exports to Colombia are a mix of agriculture and resource-based products on the one hand, and manufactured goods on the other. Motor vehicles and parts, and cereals are Canada's two largest categories of exports to Colombia, accounting for 23% and 19% of total merchandise exports in 2007, respectively.

In terms of specific goods, Canada's largest export product is wheat, followed closely by car parts. Total wheat sales were valued at \$102 million in 2007 and car parts, \$92 million. Other major export products include transport trucks, pulses, newsprint and fertilizer. Industrial and manufactured goods have been by far Canada's fastest-growing export products over the past five years.

For their part, Canadian imports from Colombia are dominated by energy and food products. Energy — largely in the form of coal and related products — accounted for 31% of imports in 2007, while agriculture and food products made up 58% of the total. In fact, Canada only buys four products from Colombia in any appreciable quantities: coal and coal products (\$138 million), coffee (\$115 million), bananas (\$72 million) and cut flowers (\$62 million). Canada also imports small amounts of raw and refined sugar.

## ***2. Trade in Services***

Compared to merchandise trade, trade in services between Canada and Colombia is relatively modest. Canadian service exports (“receipts”) have risen by a factor of four since 1990, but have not yet exceeded \$100 million. Led by strong growth in commercial services, total service receipts reached a record \$94 million in 2005, the most recent year for which data are available.

According to DFAIT, Canada’s key service sector interests in Colombia include oil and gas, mining, engineering, architectural, environmental and information technology services.

On the import side, Canadian service imports (“payments”) from Colombia were more modest still, totalling \$67 million in 2005. However, service payments were up sharply compared to 2004 levels, on the strength of increased Canadian travel to Colombia.

## ***3. Foreign Direct Investment***

Foreign direct investment is an important and rapidly expanding component of Canada’s economic relationship with Colombia. As the security climate in Colombia improves, an increasing number of Canadian businesses have expressed interest in making direct investments in that market. As a result, the level of Canadian investment in Colombia more than doubled in 2007, jumping to \$739 million. According to DFAIT, Canadian investment in Colombia is expected to continue to grow rapidly in the near future, led by companies interested in Colombia’s oil and gas and mining assets.

Carol Nelder-Corvari suggested that investment figures were higher still, stating that Canadian investment in Colombia’s extractive sector is estimated to be more than \$2 billion. Moreover, these investments are responsible in part for the growing exports of Canadian-made machinery, such as mining equipment and heavy transportation equipment.

Colombian direct investment in Canada is negligible.

## **C. Canada-Colombia Political and Social Relations**

Canada’s relationship with Colombia is not limited to the exchange of goods, services and direct investment — there is an important political, social and development component to bilateral relations as well. Canada is active in Colombia to help strengthen

peace, security and respect for human rights through a number of means, including: financial and political support to Canada's peace-building efforts; long-term development assistance; and advocacy on human rights.

As James Lambert, Director General of the Latin America and Caribbean Bureau at DFAIT stated,

Our commitment to Colombia stems from the priority that the Government of Canada attaches to deepening its engagement in the Americas. Canada is committed to exercising leadership in the Americas and to promoting increasing prosperity, enhanced security, and our fundamental values of freedom, democracy, human rights and the rule of law.<sup>12</sup>

Lambert also outlined Canada's specific engagements in Colombia with respect to the human rights challenges in that country, noting that Canada has a long-standing tradition of speaking up for human rights in multilateral fora such as the UN General Assembly and in the UN Human Rights Council. He stated that Canada monitors Colombia's human rights situation closely through its Embassy in Bogotá, where Canadian Ambassador Matthew Levin and his officials "meet regularly with their counterparts from like-minded countries, as well as representatives from international organizations, Colombian state institutions, and a broad range of civil society groups to assess and discuss the human rights situation in Colombia."<sup>13</sup>

Canada is also an active member of the G-24, an international coordination mechanism for Colombia which, according to DFAIT, brings together members of the international community to help the Colombian government and civil society work towards achieving lasting peace. Canada has twice held the 6-month presidency of the G-24, most recently in the first half of 2007.

Finally, Canada supports peace-building efforts in Colombia through financial support from DFAIT and the Global Peace and Security Fund. According to DFAIT, Canada has contributed \$3.6 million to multilateral, intergovernmental and non-governmental organizations working to promote and protect the rights of victims, combat impunity and contribute to peace-building in Colombia.<sup>14</sup>

---

12 James Lambert, Director General, Latin America and Caribbean Bureau, Department of Foreign Affairs and International Trade Canada, testimony before the Committee, 16 April 2008.

13 Ibid

14 From the DFAIT website: <http://geo.international.gc.ca/cip-pic/geo/columbiaColombia-bb-en.aspx>.

## **THE CASE FOR AND AGAINST A FREE TRADE AGREEMENT WITH COLOMBIA**

Over the course of its hearings, both in Canada and in Colombia, the Committee heard divergent views on whether or not Canada should continue negotiating a free trade deal with that country. Now that a deal has been initialled, the same arguments apply to the question of whether or not Canada should sign and implement the agreement.

For some, Colombia represented a good market opportunity for Canadian businesses and a chance for Canada to show its support for the efforts Colombia has made to address issues of violence, human rights abuses, narcotics production and government corruption. For others, the fact of violence and human rights abuses in Colombia was more than reason enough to walk away from the negotiating table altogether.

It is worth noting, however, that not all witnesses fit into one of these two generalizations. Some believed that a free trade agreement had the potential to advance the goals of peace, security and welfare in Colombia, but only if the agreement was broad in scope, focusing not only on trade liberalization but also containing meaningful and enforceable provisions on issues like labour, human rights, the environment and corporate social responsibility (CSR). Since the FTA was still under negotiation during the Committee's hearings, these witnesses have adopted a wait-and-see attitude. Their support of a Canada-Colombia free trade agreement is contingent upon a review of the text of the agreement to determine what specific measures are contained in the accord.

The Committee heard a number of arguments on either side of this issue. The key points made in support of, and in opposition to a Canada-Colombia free trade agreement are summarized below.

### **A. The Case for a Free Trade Agreement**

#### ***1. Improvement of Canadian Access to the Colombian Market***

The Committee heard that a free trade agreement with Colombia would improve access to a significant and growing market market in South America. Colombia has a population of 47.5 million people, sound macroeconomic policies and a rapidly-expanding economy. Colombia has seen enviable growth rates in recent years and the International Monetary Fund forecasts that the Colombian economy will grow by an average of 5% per year over the next five years. It is expected that the income generated by this growth will create stronger demand for imported goods, including for goods from Canada.

Witnesses told the Committee that Canadian exporters can expect an FTA to improve market access through such measures as the removal of tariffs, the reduction of non-tariff barriers, and increased investment security. Generally speaking, Canadian

products face much higher tariff barriers in Colombia than do Colombia products entering Canada. Dean Beyea, Senior Chief of the International Trade, Policy Division, International Trade and Finance Branch at the Department of Finance noted that Colombia maintains tariffs averaging 11% on industrial goods and 17% on agricultural products.

By comparison, about 80% of Colombian exports (coal, bananas, coffee, oil and raw sugar) already enter Canada duty-free. Moreover, the duty on Colombia's other major export to Canada — cut flowers — is negligible. By lowering Colombian tariffs on Canadian goods, the Committee heard that a free trade agreement will provide Canadian companies with market access opportunities in Colombia comparable to those already enjoyed by Colombian who export to Canada.

Reducing Colombian tariffs could produce important gains for Canadian exporters. Bob Friesen of the Canadian Federation of Agriculture observed that agricultural products such as wheat, barley, pulses, pork and beef all face significant tariff barriers in Colombia — tariffs range from 15% on cereals and most pulses to as high as 80% on beef products.

Indeed, the Committee heard that while Colombia is not a major export market for Canada generally, it is an important market for a number of agricultural products. Specifically, Carl Potts of Pulse Canada noted that Colombia is Canada's seventh largest market in the world for pulse crops and is a top-five market for products such as green beans, dried peas and chick peas. Colombia is also an important market for Canadian wheat and barley exports and the potential for gains by beef and pork producers are considerable.

There are potential market access gains in industrial goods as well. In particular, Dean Beyea noted that the applied tariff rate on Canadian-made cotton yarns and paper products are as high as 15% and 20%, respectively. He suggested that a trade agreement would be beneficial to these and other sectors which have experienced difficulty in recent years, due at least in part to the increase in the value of the Canadian dollar.

## ***2. Canada and Colombia are Complementary Economies***

A number of witnesses also noted that there is relatively little risk of a Canada-Colombia free trade agreement having an adverse effect on the Canadian economy. Part of the reason is that, as mentioned above, the vast majority of Colombian exports already enter Canada duty-free. However, it was also noted that Canada and Colombia are complementary economies. That is to say, there is very little direct competition between the two in terms of major export and import products. Canada's major import products

from Colombia are coal, coffee, bananas, cut flowers and raw sugar. By contrast, Canada exports primarily motor vehicles, manufactured goods, wheat, paper and pulses. As stated by Jean-Michel Laurin of Canadian Manufacturers & Exports,

With regard to those sectors that are more at risk, there is good complementarity. We produce a lot of goods that the Colombians do not produce, and vice-versa. Colombia exports coffee and bananas. It would be nice if we could produce more such products here in Canada, but we do not have the right climate.<sup>15</sup>

As such, the potential negative impact of a Canada-Colombia trade agreement on Canadian producers is low.

The one sector which has expressed concern about free trade with Colombia is the Canadian sugar industry. Colombia is a major global producer of sugar and the Canadian industry is worried that a surge in refined sugar imports from Colombia will have a significant negative impact on domestic production. Sandra Marsden, President of the Canadian Sugar Institute, admitted that Colombia is not a natural sugar market for Canada — transportation costs alone make Canadian sugar uncompetitive in Colombia. As such, a trade agreement which offers reciprocal market access would not benefit Canadian producers.

The issue of sugar is more complex, however, than merely to suggest that the Canadian sugar industry is not competitive with the Colombian industry. Sugar is one of the most protected industries in the world. As Marsden stated, “With few exceptions, almost all governments intervene in their sugar sectors to support prices above international levels, to protect producers from import competition, and to subsidize or otherwise facilitate exports.”<sup>16</sup>

These distortions and market access restrictions in the global sugar market make life difficult for Canadian sugar producers. Canada is one of the few countries which does not subsidize its sugar industry, nor does it protect the industry behind a large tariff wall or other market access restrictions. Moreover, while Canadian sugar may not be competitive in Colombia in this distorted market environment, countries in which Canadian sugar is competitive, like the United States, are effectively closed to imports from Canada.

Canadian sugar producers are looking to the current round of World Trade Organization (WTO) negotiations to address distortions and market access restrictions in sugar markets. Until such time as progress is made, however, they see little value in pursuing a bilateral free trade agreement that opens the Canadian sugar market to Colombia, while leaving unaddressed the fact that Canadian producers are shut out of their

---

15 Jean-Michel Laurin, Vice-President, Global Business Policy, Canadian Manufacturers & Exporters, testimony before the Committee, 26 May 2008.

16 Sandra Marsden, President, Canadian Sugar Institute, testimony before the Committee, 2 June 2008.

natural export markets by protectionist measures in other countries. To address this issue, Marsden asked that the Canadian government retain the current tariff of about 8% on refined sugar imports from Colombia until such time as progress is made in liberalizing global sugar markets at the WTO.

### ***3. Preserving Canada's Competitive Position***

Many witnesses' support of a free trade agreement with Colombia was motivated in large part by strategic considerations. Specifically, they were concerned that Canada would lose market access vis-à-vis its major competitors if it did not negotiate a favourable agreement with Colombia.

These concerns are prompted by Colombia's recent aggressive pursuit of trade agreements with other countries, some of which are Canada's major international competitors. Colombia has an ambitious free trade agenda that includes potential agreements with the European Union, Chile, Mexico and the European Free Trade Association (EFTA) countries. As Thomas d'Aquino stated, "In our view, Canada cannot afford to fall behind, lest we be rendered less competitive and possibly be shut out of the market by more aggressive negotiators."<sup>17</sup>

From the perspective of Canadian businesses, however, more important than any of these is the fact the Colombia has already completed a free trade agreement with the United States. At present, the Colombia-U.S. deal is in limbo as the Speaker of the House of Representatives, Nancy Pelosi, has indicated that she will not present the implementing legislation to Congress, citing concerns over the human rights and security situation in Colombia, as well as the potential impact of trade agreements on jobs in the U.S.

Whether or not the legislation will be brought forward is, at this point a matter of debate. Many witnesses argued that the deal will eventually be ratified, whether sooner or later. Others maintained that the deal may never enter into force.

For many witnesses, the fact that Colombia has completed an FTA with the U.S. and the mere possibility that it will one day enter into force is a matter of tremendous concern. In their view, if the U.S. ratifies a trade deal with Colombia and Canada does not, then Canadian businesses will be operating at a disadvantage against their U.S. counterparts. To cite but one example, the Committee received a letter from the Canadian Wheat Board (CWB) indicating its endorsement of a Canada-Colombia FTA.

---

17 Thomas d'Aquino, Chief Executive and President, Canadian Council of Chief Executives, testimony before the Committee, 28 May 2008.

The CWB noted that if Canada fails to complete and implement a trade agreement, Canadian wheat and barley could be placed at a 15% tariff disadvantage relative to U.S. producers — effectively shutting Canadian farmers out of that market.

Indeed, most witnesses representing agriculture and other business associations strongly supported Canada's FTA negotiations with Colombia on the grounds that they did not want to lose market access to U.S. and other competitors. For this reason, a number of witnesses also argued that it was critical that Canada negotiate an agreement that provides Canadian industries with the same tariff and market access concessions as gained by the U.S. in its deal with Colombia.

For example, John Masswohl of the Canadian Cattlemen's Association noted that Colombia has agreed to provide U.S. beef with more generous market access concessions that they are currently offering to Canadian beef. Masswohl argued that gaining access on competitive terms was critical to the long-run sustainability of the Canadian industry and to preserving and creating value-added jobs in Canada.

Every time the U.S. gets better access for its beef than Canada, it becomes more difficult to justify slaughtering cattle in Canada, and we increase our reliance on shipping live cattle to the U.S. and letting them add the value there.<sup>18</sup>

However, the Committee heard that Canada may not gain the same level of market access as the U.S. because of its own sensitivities. While in Colombia, the Committee learned that the U.S. offered Colombia more generous access to its agricultural market than Canada is prepared to give because of Canada's policy of maintaining high tariffs to block over-quota imports of supply-managed goods. It was suggested that it is difficult to expect Colombia to make the same concessions to Canada as it made to the U.S. when Canada was unwilling to provide the same level of market access as the U.S. did.

#### ***4. Fostering Human Rights***

In addition to these economic issues, a surprising number of witnesses, including human rights advocacy groups in Colombia, expressed their support for the Canada-Colombia free trade agreement as a means of fostering human rights reform in the country. Keeping in mind that the Colombian government is not directly responsible for the violence and human rights violations wracking the nation, these witnesses emphasized the need to foster the relationship between development, peace and democracy. They expressed deep concern at the human rights situation in Colombia, but some argued that free trade agreements had the potential to act as a vehicle to improve the human rights situation. They urged the Committee to recommend that measures be included in the FTA that would

---

18 John Masswohl, Director, Governmental and International Relations, Canadian Cattlemen's Association, testimony before the Committee, 30 April 2008.

put significant pressure on the Colombian government to address its record on human rights.

As noted earlier, the changes wrought in recent years in Colombia have been dramatic. The situation is very far from perfect, but murder and kidnapping rates have fallen, socio-economic conditions are improving, and the government is pushing hard to pursue or demobilize the illegal armed groups perpetrating many of the human rights violations devastating the country. A number of witnesses noted that signing an FTA with Colombia can only push Colombia further in the right direction. The FTA would act as a carrot, signalling Canada's approval for the progress already made and urging Colombia to reinforce such reforms into the future.

Certainly, many witnesses recognized that with the signature of a trade agreement comes a certain amount of peer pressure and direct and indirect monitoring of the actions of a country. Enhanced bilateral relations will further expose Colombia to the best practices emerging from environments where respect for human rights is the norm. An FTA would give Canada leverage, allowing it to use every opportunity to press for improvement in its dealings with Colombia and remind the government of its international human rights obligations. As noted by United Nations in Bogotá: the Canadian government can use the FTA to promote strong dialogue and debate on human rights issues, thus improving accountability overall.

Similarly, Vladimir Torres from the Canadian Foundation of the Americas (FOCAL) observed that, while the impact of trade agreements tends to be overstated by proponents and detractors alike, FTAs do create opportunities to pursue complementary policies that may have beneficial impacts within Colombia. Torres stressed that these complementary policies were not an automatic consequence of trade agreements, but that trade agreements do provide the opportunity to make progress in other areas.

If we are going to really commit to doing this and really commit to a strategy of the Americas, we can and should contribute with the development and implementation of all these hosts of complementary policies.<sup>19</sup>

However, beyond the broad human rights advantages to signing an FTA, government and civil society witnesses in both Ottawa and Colombia also emphasized the concrete means that free trade would give to the Colombian government for improving human rights and the socio-economic position of its people. These witnesses noted that increased trade with, and investment in, Colombia would bolster the legitimacy of the government and foster good governance by generating revenue with which to finance further reforms. Such investment would strengthen democracy and the rule of law by enhancing the establishment of stable institutions and enabling the development and

---

19 Vladimir Torres, Project Manager, Trade and Development, Canadian Foundation for the Americas, testimony before the Committee, 4 June 2008.

implementation of more effective policies and laws. With specific reference to the justice system, James Lambert said that the “the kinds of legal and judicial standards that are set and that are adhered to as a result of these agreements also have knock-on effects for the stability and the credibility of the judicial system as a whole.”<sup>20</sup> Ultimately, these witnesses argued that increased investment will foster the government’s ability to assert control over the country, bolstering both the government’s legitimacy and the country’s security. As the government is strengthened it will have increased capacity to carry out its struggle against the human rights abusers and drug producers and traffickers operating in the country.

Beyond supporting government institutions, some witnesses also argued that investment in Colombia will allow the government to spend more on socio-economic reforms. The Committee heard significant testimony about the reforms already underway — the reduction in the poverty rate and improvements in health and education. Government witnesses in Colombia told the Committee that an FTA would assist the government in obtaining the resources necessary to achieve its 2010 socio-economic targets, allowing the government to develop better programs to more effectively meet the nation’s needs.

Human rights advocates in Colombia generally did not oppose a free trade deal, one telling the Committee that the FTA would be an effective means for demanding that Colombia live up to its international human rights obligations. This witness noted that that the problems facing Colombia would be more easily corrected with enhanced trade than without the economic benefits that trade brings. Colombia should not be isolated because of its past but should be encouraged into the future.

Ultimately, even witnesses such as Maria McFarlane of Human Rights Watch, who opposes signature of the FTA because of human rights concerns, recognized that the negotiation process in itself was good, as it ensured that the Colombian government made real efforts during negotiations to ensure that the deal came to fruition. United Nations officials in Bogotá noted that the FTA could inspire the government to take on new responsibilities in an effort to prove its place in the international sphere.

### ***5. Job Creation in Colombia***

In addition to these socio-economic benefits, one of Colombia’s primary motives for seeking free trade agreements with Canada, the U.S. and the EU, among others, is the expectation that the trade, investment and economic growth generated from those agreements will translate into more jobs for Colombians. In Bogotá, the Committee heard

---

20 Lambert testimony.

from several people — including President Uribe — that job creation, and the social cohesion created by quality employment was a major component of Colombia's long term plan to establish peace and security in the country.

To generate this employment, the Colombian government has made it a priority to attract foreign direct investment into the country. The government is using two strategies to achieve that goal. First, it is capitalizing on the improvements made in the security situation over the past six years. The Committee met with a number of companies that have operated in Colombia for several years or even decades. They were unanimous that, although more progress was needed, there had been dramatic improvements in the levels of safety and security in the country. These improvements have attracted more companies to Colombia in recent years and the level of investment has soared.

However, in spite of these improvements, Colombia still suffers from a reputation as an unsafe place in which to do business. Indeed, the Committee met with a number of companies new to Colombia who stated their surprise at the country they found and how it differed from negative popular perception.

To help combat this perception, the Colombian government is anxious to seek out free trade agreements with countries around the world. This campaign is the second part of Colombia's strategy to attract more direct investment. As stated above, for Colombia, the actual gains from free trade with Canada are expected to be minimal, as 80% of Colombian exports already enter Canada duty free. Instead, the main benefit would be in the signalling effect that such agreements have in the business community. Free trade agreements with countries like Canada and the U.S., and with the EU, provide implicit (and explicit) assurances that investing in Colombia is a safe and potentially profitable enterprise.

As well as rectifying general unemployment and under-employment in Colombia, formal employment opportunities are needed to deal with problems arising from three interrelated factors: the demobilization of paramilitary groups; the large number of Colombians internally displaced by the ongoing conflict; and the drug trade.

While reports vary as to the extent to which paramilitary forces have demobilized, most reports, including from Colombian civil society groups, suggest that a large number of individuals have renounced violence and are re-entering society. Colombia Foreign Minister Fernando Araújo told the committee that tens of thousands are being reincorporated into civil society from demobilized groups. As President Uribe stated, free trade is part of a long term strategy to attract the investment and trade needed to generate jobs to facilitate the economic reintegration of paramilitaries and guerrillas.

Similarly, access to employment opportunities is a top priority in the strategy to address Colombia's challenge with respect to internal displacement. Millions of Colombians have been displaced, primarily because of paramilitary and guerrilla group actions, usually relating to the drug trade. In Soacha, the Committee learned that the UN agency in that

community is working to facilitate the integration of internally displaced people into society. In our roundtable meeting on the Colombian conflict, we were told that formal employment and worker training for vulnerable populations were critical to preventing illegal groups from actively recruiting new members from among the aggrieved and vulnerable in displaced communities.

Finally, the need for formal employment opportunities makes up part of Colombia's strategy in its war on the drug trade. UNODC officials in Colombia told the Committee that free trade is beneficial to Colombia inasmuch as it creates alternative economic opportunities for those growing coca or working in processing plants. No policy to combat narcotics production can expect to be successful in the long term without the availability of good formal sector jobs.

The Committee heard similar arguments in Ottawa. Thomas d'Aquino noted that a free trade agreement would create more and better jobs in the formal sector and would create new opportunities for those participating in the informal and illicit economies dominated by the drug trade. Jean-Michel Laurin agreed, stating that for some, the illegal drug trade is the only real economic opportunity many Colombians have at present. In his view, a free trade agreement would help to provide other economic opportunities and help Colombia move forward.

## ***6. Labour and Environmental Side Agreements***

In keeping with Canada's past approach to free trade negotiations, the Committee was told by government officials that a free trade agreement with Colombia will include environmental and labour side agreements that will be directly linked to the main text of the FTA. As Carol Nelder-Corvari stated, Canada is also looking "to establish new avenues for cooperation, including with respect to corporate social responsibility and capacity-building through cooperation commitments."<sup>21</sup>

Vladimir Torres emphasized that through these side agreements, trade deals can have a tremendous positive impact on labour and environmental standards. Far from lowering standards to the lowest common denominator, he argued, that side agreements help raise accountability and that countries will "be in possession of the legal tools to hold [corporations] accountable to CSR practices, to environmental good practices, and to labour good practices."<sup>22</sup>

---

21 Nelder-Corvari testimony, Director, International Trade Policy Division, Department of Finance, testimony before the Committee, 16 April 2008.

22 Torres testimony.

Environmental and labour side agreements have been a feature of all of Canada's free trade agreements that are based on the North American Free Trade Agreement (NAFTA) template. However, Cameron MacKay at DFAIT noted that significant improvements have been made to such side agreements since NAFTA was negotiated fifteen years ago.

### **a) The Labour Side Agreement**

The Committee heard that the need for a strong agreement on labour is obvious. Although the Colombian government has, by most accounts, made considerable progress in improving human rights and labour conditions in that country, all witnesses agreed that the work is far from over.

For some, a free trade agreement would have the capacity to build and improve on labour conditions in Colombia by enforcing meaningful labour standards. This point of view was re-iterated in a meeting with civil society groups in Colombia.

Indeed, the Committee heard that Canada is working to raise the bar on the content of the side agreements in the proposed Canada-Colombia free trade agreements. This is particularly true of the labour agreement. Nelder-Corvari noted that the objectives of Canada's labour side agreement are

to assist Colombia in building a stronger and more stable economy by improving working conditions and respect for worker rights and by requiring that Colombia's laws reflect internationally recognized core labour principles and that these laws be effectively enforced.<sup>23</sup>

As Pierre Bouchard, Director of the Office for Inter-American Labour Cooperation at the Department of Human Resources and Social Development stated,

The side agreement that we're seeking with Colombia on labour, if successful, would be probably the most comprehensive labour agreement ever negotiated by Canada. We are raising the bar with regard to the core obligation in the agreement and also providing for an open and robust dispute resolution mechanism with financial penalties if obligations are not respected.<sup>24</sup>

More specifically, the Committee heard that the labour side agreement includes a dispute resolution mechanism that would allow members of the Canadian public to bring forward complaints against the Colombian government for failure to enforce Colombian

---

23 Nelder-Corvari testimony.

24 Bouchard, Director , Office for Inter-American Labour Cooperation, Department of Human Resources and Social Development Canada, testimony before the Committee, 16 April 2008.

labour laws — laws which must reflect internationally-recognized labour standards. According to the proposed dispute resolution mechanism, a complaint can trigger an investigation which can then lead to ministerial consultation. If the issue is not addressed at the ministerial level, then a dispute resolution panel is formed.

What is new about the proposed Canada-Colombia labour side agreement is that the dispute resolution panel mechanism would apply to a broader range of government obligations and, more importantly, the panel would have the power to impose financial penalties on the Colombian government. That money would be deposited into a cooperation fund to be used to address labour rights issues in Colombia. As Pierre Bouchard stated, “[b]y creating a fund, not pocketing the money for the Canadian government but keeping the money in Colombia to solve the problem, then both governments would agree on the mechanism to ensure compliance.”<sup>25</sup>

There was some discussion amongst witnesses concerning the issue of levying a fine for non-compliance with core labour standards. At the time of the Committee’s hearings, no indication was available as to the severity of the financial penalties included in the side agreement.<sup>26</sup> Most witnesses favoured the idea of a labour agreement with meaningful consequences. Thomas d’Aquino, for example, openly favoured a labour side agreement “with teeth.”<sup>27</sup>

The idea of a dispute settlement mechanism that levies fines for non-compliance with core labour standards has come under criticism in some circles. Penelope Simons, Professor of Law at the University of Ottawa, suggested that a fine was an “appalling”<sup>28</sup> way of dealing with human rights issues in Colombia, while Gauri Sreenivasan of the Canadian Council for International Cooperation called that scenario “repugnant.”<sup>29</sup> Alex Neve of Amnesty International Canada suggested that rather than fine the Colombian government after violations had taken place, it would be preferable for Canada to work with Colombia to prevent and avoid human rights violations in the first place.

However, the Committee heard that Canada is already working with Colombia to do just that. Pierre Bouchard noted that Canada is not only seeking a high-level labour agreement, but will also provide financial assistance to help Colombia build their capacity to meet the obligations contained within that agreement. To that end, Canada has

---

25 Ibid.

26 According to a 7 June 2008 press release, the penalty for failure to respect ILO principles and to enforce domestic laws is up to \$15 million a year.

27 D’Aquino testimony.

28 Penelope Simons, Associate Professor, Faculty of Law, Common Law Section, University of Ottawa, testimony before the Committee, 28 May 2008.

29 Gauri Sreenivasan, Senior Policy Analyst, International Trade, Canadian Council for International Cooperation, testimony before the Committee, 30 April 2008.

recently provided Colombia with a \$1 million technical cooperation package specifically to help deal with labour issues in that country. That amount is on top of funding Canada provides for a number of other development initiatives in Colombia.

## **b) The Environmental Side Agreement**

The Committee notes that while the issue of environmental degradation in Colombia is often overshadowed by security, labour and human rights concerns, it is critical to the country's long-run economic sustainability.

There are a number of serious environmental concerns in Colombia, many of which relate to the drug trade and the activities of guerrilla and paramilitary groups. While in Colombia, the Committee heard that illegal groups are cutting down the jungle — the source of Colombia's high biodiversity — in order to grow coca crops. Moreover, the effluent from cocaine production plants is dumped raw into rivers, polluting the country's water basins.

The goal of the environmental side agreement to the FTA is to ensure that the increased economic activity generated through the agreement does not result in further environmental degradation and that Colombia does not lower its standards of enforcement to attract investment. Indeed, if a free trade agreement is successful in generating legitimate, responsible economic activity and increases government tax revenues, then it could also contribute to an improvement in the enforcement of existing environmental regulations in Colombia which, the Committee heard, is somewhat lacking because of insufficient resources.

To that end, Canada is negotiating a side agreement that, according to Carol Nelder-Corvari "promotes high levels of environmental protection."<sup>30</sup> Dean Knudson, Director General, Americas at the Department of the Environment informed the Committee that Canada is looking to include specific provisions into the environmental side agreement and the formal FTA:

They will require that countries provide a high level of environmental protection, improve their environmental governance, effectively enforce their domestic environmental laws, maintain procedures, and conduct environmental impact assessments. They will ensure that enforcement-related laws and administrative rulings are available to the public to provide sanctions or remedies for violating an environmental law, and that fair, equitable, and transparent proceedings occur.<sup>31</sup>

---

30 Nelder-Corvari testimony.

31 Dean Knudson, Director General, Americas, Department of the Environment, testimony before the Committee, 16 April 2008.

Knudson also noted that within the text of the formal trade agreement there will be a provision stating that in the event of an inconsistency between the obligations under the FTA and those contained in multilateral environmental agreements, the latter would prevail.

It is worth noting that, while the environmental side agreement includes a dispute resolution mechanism, the Committee heard that there are no provisions for a dispute resolution panel. In essence, the dispute resolution mechanism is the same as that described for the labour side agreement, only in the case of the environment agreement, it stops at the level of ministerial discussions.

Several witnesses, both in Canada and Colombia were of the opinion that labour and environmental issues should be addressed in the main text of the free trade agreement. In their view, side agreements could effectively marginalize labour and environmental issues and send the signal that the provisions contained in the side agreements were of secondary importance.

However, the Committee heard from DFAIT officials, as well as Canadian representatives in Colombia, that the main reason why environment and labour issues were addressed in side agreements and not in the main text of the FTA was because of jurisdictional concerns in Canada. Labour is specifically a matter of provincial jurisdiction in Canada, while both levels of government have a jurisdictional claim on the environment.

In the view of some witnesses, the specific location of the text of a treaty provision matters much less than the provision itself. As Pierre Bouchard stated,

I think most stakeholders are gradually coming to the understanding that what matters is the obligation in the agreement. Where they are located is more a matter of format and less important.<sup>32</sup>

While views on the effectiveness of environmental provisions in free trade agreements are mixed (see the arguments against the FTA that follow), the idea of including these provisions was supported by a number of participants in the Committee's meetings in Colombia. We heard that environmental side agreements are not, as some have suggested, a throwaway, but could help the environmental situation in Colombia if the environmental provisions are strong. As one participant stated, even at its weakest, an environmental side agreement is a re-affirmation of a commitment to multilateral treaties.

## ***7. Corporate Social Responsibility***

In addition to comments about human rights and the environment, an important issue brought forward to the Committee regarding the Canada-Colombia free trade

---

32 Bouchard testimony.

agreement was corporate social responsibility. As already noted, several witnesses expressed concern that much of the foreign direct investment in Colombia takes place in rural and isolated areas where there may not be a visible government presence. Moreover, it was widely reported to the Committee that Colombia lacks the resources necessary to enforce its own laws and regulations. In such an environment, some witnesses suggested that foreign companies will have an incentive to shirk their responsibilities and not act in a socially responsible manner.

To address CSR concerns, the Committee heard from DFAIT officials that Canada is looking to establish new avenues for cooperation, including with respect to CSR and local capacity-building within the Canada-Colombia FTA. As Carol Nelder-Corvari stated,

Recognizing that Canada's corporate presence in Colombia is largely concentrated in the extractive sectors and that corporate practices can have an important impact on local communities, our FTA negotiations have included discussions on how governments and industry can work together in the area of corporate social responsibility. Our investors in these countries are very active on this front, and many have been recognized for their CSR efforts. These discussions will be reflected in commitments to promote recognized principles of reasonable business conduct in appropriate sections of the FTA.<sup>33</sup>

The idea of incorporating CSR principles in a free trade agreement received broad support from witnesses representing the business community. Thomas d'Aquino argued that the environment, human rights and CSR should carry the same degree of prominence as trade itself. For his part, John D. Wright of Petrobank Energy and Resources Ltd. gave his support to the idea of incorporating CSR commitments into a trade agreement:

I don't think we would have any problem with sort of a normalization of corporate social responsibility in setting some minimum standards and so forth. I think one of the greatest things that Canada has to export is our ability to... deal with the competing parties in any kind of a business negotiation and to find a win-win solution, and I think that's really what corporate social responsibility is ultimately going to be about.<sup>34</sup>

While in Colombia, the Committee had the opportunity to meet with a number of Canadian companies with an investment presence in the country and came away impressed with their level of commitment to CSR. We heard from numerous sources that

---

33 Nelder testimony.

34 John D. Wright, President and Chief Executive Officer, Petrobank Energy and Resources Ltd., testimony before the Committee, 26 May 2008.

the key to investment success in Colombia is community participation and engagement. Without the support of the local community, we were told that companies are doomed to failure.

To that end, Canadian companies cited a number of development projects and training programs aimed not only at ensuring that the local community participates in the investment project to the fullest extent possible, but also to ensuring that the long term benefits of the investment remain with the community well beyond the lifespan of the venture itself.

For the most part, companies emphasized the importance of providing education and training in local communities. Their goal is to give Colombians access to a wide variety of job opportunities created by the investment project, not just — as one participant put it — to the “picks and shovels” variety. However, CSR projects extended well beyond the training of potential workers. The Committee heard that some Canadian companies are working to reduce poverty by building homes and bringing fresh water to communities where none was available. They are also helping to build institutional capacity at the municipal level by helping to train local government employees. Finally, companies such as Enbridge reported that they are involved in human rights training programs — teaching soldiers and security officers how to do their jobs while respecting and not violating human rights.

Given the encouraging CSR record of Canadian companies already active in Colombia, it was suggested that one of the benefits of a free trade agreement with Colombia would be that it would further increase the number of Canadian companies investing in that country. More Canadian companies investing in Colombia would help to create more job opportunities in remote areas and further contribute to community development. As Brian Zeiler-Kligman of the Canadian Chamber of Commerce stated,

Canadian companies are global leaders in the area of environmental practices and labour practices, and other corporate social responsibility practices, and already...their presence in the Colombian market has helped them to make improvements to the labour and human rights situation in Colombia. Certainly,...concluding a Free Trade Agreement between Canada and Colombia will enable more Canadian companies to get established in Colombia and help the situation even more.<sup>35</sup>

---

35 Brian Zeiler-Kligman, Policy Analyst, International, Canadian Chamber of Commerce, testimony before the Committee, 2 June 2008.

## ***8. Supporting an Ally***

Finally, for the Government of Canada, a free trade agreement with Colombia supports its broader foreign policy objective of re-engagement in the Americas and strengthening bilateral relations with key partners in the hemisphere — democratic countries that support free and open trade and investment.

In a region with a long history of political instability, Colombia stands out as a stable democracy with strong institutions, internal conflict notwithstanding. Moreover, political trends in the region are leaving Colombia increasingly isolated as neighbours like Ecuador and Bolivia have shifted towards populist governments in the mould of Venezuela's Hugo Chavez.

As tension builds between Colombia and Venezuela over accusations that the latter is providing arms and financial support to left-wing insurgents in Colombia, an FTA with Colombia could signal Canada's alliance with a like-minded country in the region and act as an important counterweight to the anti-Western tendencies of leaders such as Chavez.

Concerns have been expressed that if the current government in Colombia is not supported by its allies in the west, then Colombia could become vulnerable to a fate similar to that of its neighbours, further destabilizing the region and undermining Canada's foreign policy objectives in the Americas.

Indeed, the goal of supporting a key ally in the Americas was one of the considerations behind the United States-Colombia Trade Promotion Agreement (CTPA). The United States government believes that approving and implementing the CTPA will be a "critical signal of America's support for the Colombian people, who have chosen to strengthen ties with the United States in the belief that reciprocal market access will contribute to the overall growth and development of their nation."<sup>36</sup> A key underlying objective of this agreement is to ensure that Colombia remains a loyal partner in the U.S. government's fight against narcotics trafficking and terrorism. Jeffrey Schott, Senior Fellow at the Peterson Institute for International Economics noted that the reason the U.S. chose to negotiate an FTA with Colombia was to foster closer engagement in recognition of the progress made in that country to date. The CTPA is currently stalled in the U.S. Congress as fast-track approval has been denied.

---

36 Office of the United States Trade Representative (2007), p.1.

## **B. The Case Against a Free Trade Agreement**

### ***1. Colombia's Human Rights Record***

On the opposite side of the spectrum, a number of organizations, particularly trade unions in Colombia and human rights advocacy groups in Ottawa, emphasized that Canada should not sign a free trade deal with Colombia — a country with one of the worst human rights records in the hemisphere. Alex Neve of Amnesty International Canada, Maria McFarlane of Human Rights Watch, Pascal Paradis of Lawyers Without Borders, Gerry Barr of the Canadian Council for International Cooperation and Ken Georgetti of the Canadian Labour Congress, argued that signature of an FTA with Colombia would appear to condone the country's deplorable human rights record and implicitly endorse the Colombian government. These witnesses noted that rather than sully its own image through its close relationship with Colombia, Canada needs to work to uphold its reputation as a human rights leader in the international sphere.

In addition to the human rights abuses rampant in the country, these witnesses emphasized the Colombian government's apparently close ties with paramilitary groups perpetrating abuses. They said that the flagrant human rights abuses carried out in the course of the on-going internal crises only highlight these ties and the fact that the government is unable or unwilling to stamp them out. As one example, Maria McFarlane emphasized that the government's efforts to demobilize the paramilitary groups has been ineffective, as the large majority of those who have turned in their arms have not been tried or investigated for their crimes.

Signing an FTA would only serve to legitimize a government that is clearly not yet deserving of such support. As stated by Gerry Barr, "Should we sign a deal with a country with arguably the worst human rights record in the hemisphere and with a government mired in political scandal for its close links to paramilitary death squads? Our view is no."<sup>37</sup>

On a more specific level, Maria McFarlane noted that the victims of human rights abuses and violence in Colombia are primarily union members, human rights advocates, journalists, indigenous peoples and Afro-Colombians. Yet, an FTA with Colombia would essentially give duty-free access to goods that are often produced by the very workers and union members whose human rights are being violated. She argued forcefully that Canada should not encourage trade in goods produced by workers who often cannot work or assemble without fear for their lives.

Ultimately, witnesses who argued that Canada should not sign an FTA with a country with one of the worst human rights records in the hemisphere were proponents of

---

37 Gerry Barr, President and Chief Executive Officer, Canadian Council for International Cooperation, testimony before the Committee, 30 April 2008.

the view that Canada should wield a stick to encourage improvement in Colombia, rather than offering Colombia rewards. They said that rejecting the free trade deal would send a strong signal to the Colombian government that human rights are a vital key to gaining legitimacy in the international sphere.

## ***2. The Negative Effect of Investment Projects on Human Rights***

By creating a secure and rules-based environment for trade and investment, a Canada-Colombia FTA is expected to result in an increase in Canada's already significant direct investment presence in Colombia. For some witnesses, this increase in direct investment could have a negative effect on human rights conditions in Colombia. Most believed that foreign investment is not itself inherently damaging to human rights, but that it is impossible for companies with investments in a conflict zone like Colombia to have a neutral commercial presence. Gauri Sreenivasan was among those who shared this view:

[T]here has been wide-ranging evidence gathered and academic analysis done to show that there are predictable dangers for human rights and the environment that flow from Canadian corporate investments in active conflict zones like Colombia. Canadian academics have highlighted that any company operating in a conflict zone automatically becomes party to the conflict, even with the best of intentions. They are, for example, paying taxes and royalties to one party in that conflict.<sup>38</sup>

While for most people, paying taxes to support a democratically-elected government trying to end internal fighting is a positive way to involve oneself in a conflict, it is true that many multinational companies do operate in areas where labour and human rights problems exist. Sreenivasan emphasized that oil and mining companies are active in some of the most conflict-ridden zones in the country, and large scale agricultural plantations and mining companies and their security forces have been known to force individuals from their land by violence or intimidation. Moreover, when foreign companies are present in conflict areas, nearly all corporate activity affects, or is affected by, the conflict in some way. For example, companies may hire private security firms to ensure the safety of their facilities and workers. In such cases, Penelope Simons suggested that companies are "likely to become complicit in violations of human rights that might be committed by the security forces that are protecting their business interests."<sup>39</sup>

Another example is that some companies are accused of providing financial support to guerrillas or paramilitary groups while operating in areas where those groups have a strong presence. While this "financial support" is most often in the form of "protection" payments to ensure the safety of facilities and workers, the fact remains that companies are then complicit in funding the activities of illegal groups.

---

38 Sreenivasan testimony.

39 Simons testimony.

Most instances where the interests of corporate investment, illegal groups and human rights collide are in the remote areas of Colombia, where the internal conflict is fiercest and the natural resource wealth is greatest. This issue is of particular importance to Canadians because, as Gauri Sreenivasan noted, Canadian oil and mining companies are investing in some of the most conflict-ridden zones of the country.

The overlap between [conflict and natural resources] is sobering. Colombian regions that are rich in minerals and oils have been marked by violence. They are the source of 87% of forced displacements, 82% of violations of human rights and international humanitarian law, and 83% of assassinations of trade union leaders in the country... given the violent way commerce is undertaken, profit is extracted, and exports are generated, that Canadian investment in trade would be complicit in that violence.<sup>40</sup>

A second issue related to foreign direct investment and human rights is internal displacement. As discussed earlier, this is a major issue in Colombia. While the vast majority of displacement takes place at the hands of the paramilitary and guerrilla groups, during the Committee's meetings in Colombia, several participants noted that economic displacement was growing more common. We heard that agri-business expansion in palm oil plantations had, in one region of the country, resulted in the displacement of subsistence farmers off their land. The Committee also heard evidence to that effect during its hearings in Ottawa: small-scale farmers or miners were being displaced by large-scale agricultural plantations or mines. Gauri Sreenivasan argued that accelerating investment based on the illegal expropriation of land "makes Canada complicit in the human rights problems."<sup>41</sup>

Internal displacement has significant social implications for Colombia. The Committee learned that many displaced individuals move to communities like Soacha. These communities create considerable social challenges for the Colombian government as it struggles to provide basic services and economic opportunities to people living in those regions. The issue is all the more dire as settlements of displaced people are known recruiting grounds for narco-traffickers and other illegal groups.

However, not all witnesses shared the view that foreign investment in conflict zones was, by its mere presence, complicit in the conflict. The Committee learned of numerous instances where socially responsible investment by Canadian companies resulted in growth, opportunities and development in the surrounding communities, in spite of the fact that many of those investments did take place in regions where illegal groups had a presence. These witnesses argued that the solution to human rights concerns in rural and remote areas was more foreign investment, not less.

---

40 Sreenivasan testimony.

41 Ibid.

### ***3. Impact of Foreign Companies on the Environment***

The Committee heard that to the extent that free trade agreements result in increased investment, there may be corresponding issues of environmental degradation. This danger comes in one of two forms: a lack of adequate monitoring and enforcement of existing environmental regulations; and shortcomings in domestic environmental policies.

The issue of monitoring and enforcement relates directly to the conflict in Colombia. Although the situation has improved considerably, the Colombian government still does not have an effective presence in all parts of the country. As a result, its capacity to perform functions such as enforcing environmental regulations is limited and, according to some witnesses, business' compliance with these regulations is low. For this reason, some argue that as free trade increases investment activity, there is a corresponding increase in the likelihood of significant environmental damage.

The Committee heard similar arguments from Alex Neve, who cited an example of a multinational project in Colombia that had received US\$18.2 million in Canadian funding. According to Neve, this project had a devastating effect on the local environment. In the absence of adequate capacity and resources for enforcement, witnesses expressed fear that increased foreign investment will cause similar situations to occur.

The second issue is that for some, beyond issues of inadequate enforcement, Colombia's existing environmental policies and regulations are simply not sufficiently well-developed. Environmental groups in Colombia informed the Committee that Colombia has some internationally-recognized environmental legislation and is a signatory to nearly all major international environmental treaties. However, they pointed out that there was a struggle between two visions in Colombia: economic and environmental. These witnesses noted that many sectors in Colombia have seen environmental laws softened or made of secondary importance to economic sustainability.

In general, the Committee heard that more work is needed to build stronger environmental policies and to strengthen evaluation and monitoring standards. For example, the Committee was told that Colombia needed to adopt policies to protect sensitive areas and to guard against environmental threats. It was noted that the Colombian government had not taken any steps to identify environmentally sensitive areas to protect from oil and gas exploration. The issue of deforestation of the jungle in Colombia to make room for large-scale agricultural plantations was also of great concern.

For some witnesses, it was imperative that these issues be addressed before Colombia signs or implements any free trade agreements. The Committee heard that in most cases, the environmental side agreements included in trade deals commit countries to respecting their own environmental standards, or to respecting certain multilateral environmental treaties. However, in these witnesses' view, Colombia's environmental

standards and policies were as yet insufficient. Without otherwise addressing these concerns, some argued that there would be little to stop foreign companies from engaging in environmentally-harmful activities.

It is important to note, however, that many of those who participated in the environmental panel in Bogotá were not against free trade per se. Indeed, many thought that free trade had the potential to improve environmental conditions in Colombia. Their main concern was that steps first needed to be taken to strengthen Colombia's environmental policies, as well as monitoring and enforcement of those policies.

#### ***4. Labour and Environmental Side Agreements***

Ultimately, a number of witnesses had little faith that a free trade agreement, and its accompanying side agreements on labour and the environment would be effective in addressing human rights concerns or in deterring environmental degradation in Colombia. These witnesses' skepticism was based in large part on the historic record of similar side agreements in other free trade agreements.

Mark Rowlinson of the Canadian Association of Labour Lawyers, for one, observed that in his experience, the past record of hemispheric trade agreements as they relate to the protection of labour rights left much to be desired.

Preferential trade agreements have not generally provided any real mechanism in our submission to ensure that labour rights are protected when implemented by contracting parties. Therefore, our message to this committee in a nutshell is that there's no basis to believe that the insertion of labour provisions into a proposed trade agreement between Canada and Colombia will have any positive effect on the labour rights climate in Colombia.<sup>42</sup>

Rowlinson reminded the Committee that the labour side agreement proposed in the Canada-Colombia FTA was based on the NAFTA template. Although he noted that DFAIT officials had testified that improvements had been made to the Colombia agreement; in his view, labour side agreements based on the NAFTA model had three significant shortcomings:

1. Agreements focus on the enforcement of existing statutes rather than on raising labour standards;

---

42 Mark Rowlinson, Labour Lawyer, Canadian Association of Labour Lawyers, testimony before the Committee, 26 May 2008.

2. Agreements that do require parties to maintain ILO core labour standards only require them not to derogate from that obligation in a manner that affects trade between the two parties; and
3. The enforcement mechanisms in existing labour provisions are slow, cumbersome, not independent and frequently not transparent.<sup>43</sup>

Finally, Rowlinson questioned the effectiveness of the remedies that were available under labour side agreements. Specifically, he suggested that financial penalties may not be an effective deterrent against the Colombian government:

[T]his committee needs to think about whether or not the provisions of that agreement are actually going to do something to improve the labour rights situation in Colombia, whether or not there is going to be a sufficient deterrent on the Government of Colombia to actually act and stop these labour rights violations that are taking place in Colombia. In our view, given the previous hemispheric trade agreements and given all of the information we have about the likely content of this trade agreement, the answer to those questions has got to be no.<sup>44</sup>

Gauri Sreenivasan also questioned the value of labour side agreements. In her view, a paragraph in a side deal addressing human rights abuses does not deal with the more fundamental problem: a lack of political will on the part of the Colombia government to deal with workers' rights in a meaningful way. She stated that the political will necessary to accomplish real change cannot be created in a free trade side agreement.

Speaking to the Committee after negotiations of the FTA with Colombia were completed, Ken Georgetti told the Committee that from what he had seen in the information released to the media, the labour side agreement "was little more than empty rhetoric to distract from the real issues."<sup>45</sup> He pointed to the proposed maximum \$15 million fine that would be imposed "if someone gets caught murdering a trade union activist",<sup>46</sup> and said that what is really needed from a labour side agreement is a commitment from the Colombian government that it will respect human rights and life.

In terms of the environmental side agreement, a number of witnesses, including Geoff Garver, an environmental consultant, pointed to the history of past FTAs to express fear that any environmental side agreement with Colombia would ultimately prove ineffectual in terms of real environmental protection. Two main issues were raised in the Committee's meetings. First, there was skepticism about the enforcement mechanism of environmental side agreements. As noted earlier, unlike the labour agreement, there is not

---

43 Ibid

44 Ibid.

45 Ken Georgetti, President, Canadian Labour Congress, testimony before the Committee, 9 June 2008.

46 Ibid.

expected to be a provision for a dispute resolution mechanism or financial penalties for non-compliance in the environmental side agreement with Colombia. Without scope for redress, such an agreement may have little or no impact on the environment in Colombia.

The second issue is that the main challenge facing Colombia in terms of the environment is enforcement and compliance. As noted earlier, environmental groups in Colombia informed the Committee that Colombia has some very good environmental legislation but that the government lacks the resources to effectively enforce those provisions. An environmental side agreement would therefore have little effect on the actual environmental record in Colombia. Moreover, some witnesses suggested that without adequate regulatory enforcement, increased investment and economic activity (by those in the extractive sectors for example) had the potential to worsen environmental conditions.

Geoff Garver also noted that there were flaws with the type of environmental agreement Canada has negotiated. He argued that, fifteen years after it was introduced, the record of the NAFTA side agreement on the environment, upon which the agreement with Colombia is based, has fallen far short of expectations. One reason offered was the lack of adequate funding; the budget of the Commission for Environmental Cooperation (CEC), the administrative body created under the NAFTA side agreement, has a budget of \$9 million – unchanged since 1995.

Garver also stated that, if Canada's environmental side agreement with Peru is any indication, the deal with Colombia will in fact be a step back from the NAFTA agreement on the environment. He noted that, while the NAFTA agreement has its faults, under the terms of that deal, an individual can file a complaint with the CEC and receive a detailed, factual investigation of the concern and an independent, objective report on the complaint. By comparison, under the Peru agreement, there is no independent review or analysis. Instead, as Garver stated, "you can file a question with a bureaucrat."<sup>47</sup>

### ***5. Basing the Trade Agreement on the NAFTA Template***

In addition, a number of witnesses expressed concern about the fact that the Canada-Colombia free trade agreement used NAFTA as a negotiating template. In their view, NAFTA includes significant shortcomings that should not be duplicated in this bilateral agreement. Witnesses pointed to two specific issues: the investor-state provisions in the Canada-Colombia agreement that are modelled on Chapter 11 of NAFTA; and the effect that a NAFTA-style agreement will have on the poor in Colombia.

Penelope Simons spoke in detail about the investor-state provisions of NAFTA-style trade agreements:

---

47 Geoff Garver, Environmental Consultant, testimony before the Committee, 9 June 2008.

These agreements create strong protections for corporations, but impose no correlative obligations to respect human rights. In addition, some of these provisions can operate to restrict the capacity of the host state like Colombia to regulate in the public interest in ways that would promote and protect human rights.<sup>48</sup>

As Simons noted, under Chapter 11-style investor-state provisions, where domestic laws, regulations or policies discriminate against foreign investors by violating national treatment or most-favoured nation obligations, the foreign company may take the host state to binding arbitration. She stated that this arbitration process could require the Colombian government to pay hundreds of millions of dollars in compensation, even in cases where regulations were put in place to protect human rights.

A related issue is the fact that while trade agreements will create more rights for corporations, there are no concomitant obligations in relation to investor conduct. According to Simons, model obligations could include: the requirement to conduct impact assessments before engaging in any direct investment activity; obligations to comply with labour laws; and the requirement of the company's home state (Canada) to ensure access to the courts for victims of human rights violations that were committed by corporate nationals.

The second concern — that a NAFTA-style agreement will harm the poor — was brought to the Committee's attention during its meetings in Colombia. The Committee also heard from witnesses who argued that a free trade agreement with Canada will serve only to exacerbate the already wide gap between the rich and the poor in Colombia.

This view was especially prevalent amongst members of Colombia's public sector unions. Public sector unionists argued that they did not oppose trade itself, but rather this "neo-liberal" model of agreement. In their opinion, a NAFTA-style trade agreement would jeopardize Colombia's sovereignty by providing too many rights to corporations operating in Colombia, not enough rights to the Colombian government itself, and voiding the rights of persons altogether.

These union leaders also told the Committee that the agenda of trade negotiations between developed and developing countries is steered by the former and that, as a result, rich nations benefit while poorer ones languish. In particular, they expressed concern about the experience of Mexico under NAFTA. In their view, since NAFTA, the economic situation for the poor in Mexico has deteriorated; employment has become more precarious; and outsourcing has increased. They were adamant that Colombia should avoid a similar experience.

---

48 Simons testimony.

## ***6. The Need for Transparent and Inclusive Negotiations***

Canada-Colombia free trade negotiations progressed quickly since they began in July 2007. However, while in Colombia, the Committee heard concerns that Colombian businesses were actively consulted during trade negotiations, but civil society groups and labour unions were not. For some, this lack of broad public consultations undermined the legitimacy of trade negotiations. Moreover, some argue that without considering the views of civil society and labour, governments may not gain a true understanding of the impact of the agreement.

For their part, most witnesses in Canada acknowledged that they, or associations to which they belonged, were consulted prior to, and over the course of, free trade negotiations. However, this was not true of all witnesses. Given the controversial nature of this trade negotiation, and the fact that the content of the texts of the agreement are not yet publicly available, some Canadians called for a more open dialogue about the agreement. Before the agreement was signed, the Committee heard from Roger Falconer, leader of the Organizing and Strategic Campaigns Department at the United Steelworkers union. He stated that,

If negotiations of a Canada-Colombia agreement are to continue, there must be transparency with respect to the negotiation of the agreement. Trade agreements have a significant impact on the lives of workers. It is unconscionable that, increasingly, these agreements are negotiated in secret, without any significant consultation.<sup>49</sup>

Mark Rowlinson agreed that more transparency was needed in trade negotiations, although he stated that an open dialogue and debate on the Canada-Colombia accord should occur once the agreement is finalized:

[O]nce it is completed, the text of the trade agreement should be released to the public. The Government of Canada should engage the trade union movement, civil society organizations and professional organizations in a full consultation process about the agreement, and then, at the end of the day, the agreement should be subject to ratification...by the House of Commons.<sup>50</sup>

---

49 Roger Falconer, Department Leader, Organizing and Strategic Campaigns Department, United Steelworkers, testimony before the Committee, 4 June 2008.

50 Rowlinson testimony.

## ***7. Colombia is not a Major Market for Canada***

Finally, some witnesses suggested that Canada should not pursue a free trade agreement with Colombia because of its relative lack of importance to Canadian trade and investment. Indeed, even though trade with Colombia has grown rapidly in recent years, that country accounted for only 0.15% of Canada's merchandise trade worldwide in 2007 and was the source of only 0.12% of imports into Canada.

For example, Glen Hodgson of the Conference Board of Canada noted that Canada's trade with Colombia is lower than it is with Delaware or Rhode Island. In his view, Colombia was not a major player for Canada compared to other, closer, markets. For this reason, he argued that a free trade agreement with Colombia would not have a significant effect on improving Canadian international competitiveness and further integrating Canada into the global economy.

Indeed, it was suggested that pursuing free trade agreements with countries like Colombia was not an efficient use of Canada's finite negotiating resources; Canada would be better served pursuing free trade agreements with entities like the European Union or countries like China or, perhaps, Brazil. As Hodgson stated,

[I]t's really a question of setting national priorities. Is Colombia really the next country on our list, or should we be thinking about, for example, free trade with the EU on the heels of our free trade agreement with the EFTA countries?<sup>51</sup>

Not all witnesses agreed with this point of view, however. Thomas d'Aquino observed that while Colombia may not be on par with Brazil or the EU in terms of market significance, it is an important country in the hemisphere. In his view, if Canada were to base its pursuit of free trade agreements solely on market size, then there would only be a handful of countries of interest to Canada and the rest would be dismissed. Moreover, it was also suggested that an important distinction between Colombia, and Brazil or the EU, is that Colombia was willing to negotiate an FTA with Canada while neither Brazil nor the EU has expressed any interest in so doing.

## **CONCLUSION**

During its fact-finding mission to the country, the Committee heard that the key to interpreting recent events in Colombia is to distinguish between a "snapshot" of the country as it exists today, and a "movie" — seeing the present situation in the context of history. From the "snapshot" perspective, the situation in Colombia is dire. Instances of violence,

---

51 Glen Hodgson, Vice-President and Chief Economist, Conference Board of Canada, testimony before the Committee, 28 May 2008.

murder, forced displacement and other human rights abuses abound. The drug trade has an enormous detrimental effect on the rural population and the environment. Government enforcement of laws and regulations is weak, and its ability to exert an effective and visible presence across the Colombian territory is limited.

On the other hand, the “movie” version of Colombia tells the story of a transformation. While the abuses and challenges listed above are undisputed, even by the Colombian government, there is agreement that the situation in the country has improved over the past six years. Violence, killings and kidnappings are a fraction of what they were earlier in the decade; the influence of guerrilla and paramilitary groups has diminished greatly; local governments are once again in control in rural areas; and the national government is making progress in areas of justice, institutional stability and corruption. The result has been a surge in foreign direct investment, an improvement in economic conditions and modest progress in alleviating poverty.

While making the distinction between the “snapshot” of Colombia and the “movie” is not difficult, the fact is that, improvements notwithstanding, the security, human rights and corruption situation in Colombia remains poor. As a result, the Colombia presented to the Committee by our various witnesses, and the Colombia we saw firsthand, is a country of wide contradictions: the human rights situation is much improved, but egregious violations of human rights continue to take place; economic growth and business conditions have improved, yet complaints of union-related abuses persist and poverty rates remain unacceptably high. In addition, the government is working to demobilize illegal armed groups, prosecute members of those groups and pay reparations to victims; yet many former paramilitaries have re-mobilized, the number of murder convictions remains small, and dozens of Members of Congress are in jail or under investigation for ties to paramilitary groups.

Given these seeming contradictions, the Committee received much conflicting advice from witnesses in Ottawa and Colombia as to whether Canada should continue with its free trade negotiations with Colombia or, now that it has been finalized, whether to sign and implement the agreement. The issue comes down to a question of constructive engagement. Whether in Ottawa or Bogotá, all witnesses agreed that Canada should actively engage with Colombia to help that country continue to improve its record on human rights and the environment; to foster peace and security; and to build the institutional capacity within the government to achieve these goals. The sole point of contention was whether or not a free trade agreement was an appropriate form of engagement. As Glen Hodgson stated,

[I]f you start pursuing free trade with a country that has a history of human rights abuses, is that a tacit approval or support or endorsement of those policies, or is free trade really a means of getting into a deeper engagement with that country?<sup>52</sup>

---

52 Hodgson testimony.

Hodgson noted that research at the Conference Board of Canada concluded that free trade with countries that are not as open or free as Canada is probably a necessary condition for expanding dialogue with those countries. He observed that many countries had adopted such an approach with China; New Zealand and Australia — advanced democracies that respect human rights — have pursued free trade deals with China in spite of allegations of human rights abuses in that country. In his view, free trade and market liberalization were tools that could be used to make progress in areas like human rights, the environment, and democratization.

A number of witnesses agreed that, through closer engagement and economic growth, free trade can have a positive impact on human rights and the environment in Colombia. Vladimir Torres argued that trade agreements can create opportunities to enable other types of agreements and even help to raise standards for environmental protection and increase accountability in CSR practices. The Committee also heard that a free trade agreement would not only signal Canada's support for an ally in Latin America, but more importantly, would provide Colombia with the economic tools necessary to achieve its long-term goals of addressing issues of security, poverty, corruption, human rights abuses and environmental degradation.

Other witnesses also supported the idea that Canada should actively engage with Colombia to assist the country in the challenges it faces with regard to human rights and the environment. However, they did not believe that a free trade agreement was an appropriate vehicle through which to do so. For them, the pursuit of free trade is based on a number of fundamental principles, such as respect for human rights, which must be in place *before* a trade agreement is signed. As Maria McFarlane stated, "We believe that any free trade agreement should be premised on respect for fundamental human rights including especially the rights of the workers who are producing the goods that are to be traded."<sup>53</sup> McFarlane and others, such as Gilles-Philippe Pagé from Peace Brigades International, saw a contradiction between Canada's values and international human rights commitments on the one hand, and supporting the Uribe administration in Colombia on the other.

Moreover, the Committee heard that refusing to sign or ratify a free trade agreement does not mean that Canada would, or should, disengage from Colombia. Some argued that rather than pursuing FTAs, Canada should instead increase its development assistance and international cooperation efforts in Colombia to help the country address issues such as internal displacement and institutional capacity-building. Others noted that suspending FTA negotiations would not affect the Colombian economy, which has been prospering in the absence of any major trade liberalization agreements.

---

53 Maria McFarlane, Senior Researcher, Human Rights Watch, testimony before the Committee, 2 June 2008.

Indeed, several witnesses called on Canada to suspend negotiations or to delay ratification of the agreement until such time as independent organizations verify that human rights abuses no longer take place in Colombia. Maria McFarlane suggested that doing so can put pressure on Colombia to push the reform agenda forward.

By delaying consideration of the free trade deal, Canada would be creating valuable leverage that can be used to finally get Colombia's government to seriously address anti-union violence and impunity in a sustained manner.<sup>54</sup>

Negotiation of the Canada-Colombia free trade agreement, and the two parallel agreements on labour and the environment concluded over the course of the Committee's study. However, the agreement has not yet been officially signed by the Minister of International Trade, David Emerson, pending a legal review of the agreement by both sides. For this reason, the texts of the agreements have not been released to the public and legislation to implement the terms of the deal is therefore not imminent.

Without access to the texts, the Committee is not in a position to comment on the quality of the agreement, whether in terms of the market access gains for Canadian businesses, or the extent to which the deal makes progress towards engaging Colombia on important issues such as human rights, the environment, labour rights and corporate social responsibility. Until the deal is officially signed and the texts released, there is, therefore, a window of opportunity for the Government of Canada to reflect on the terms of the agreement and the observations made in this report.

Finally, given the importance of the issues raised by the witnesses in the course of this study, the Committee deplores the attitude of the government who announced the conclusion of negotiations with Colombia before receiving the Committee's recommendations.

## **RECOMMENDATIONS TO THE GOVERNMENT OF CANADA**

### **Recommendation 1:**

**The Committee recommends that the Government of Canada should not sign and implement a free trade agreement with the Government of Colombia until the Canadian government has taken into account the recommendations contained in this report, including those of the dissenting reports.**

---

54    ibid.

**Recommendation 2:**

**The Committee recommends that the Government of Canada maintain close ties with Colombia without signing a free trade agreement until there is confirmation that the improvements noted are maintained, including continued improvement as regards displacement, labour law and accountability for crime, and until the Colombian government shows a more constructive attitude to human rights groups in the country.**

**Recommendation 3:**

**The Committee recommends that the Government of Canada draw on the work of the organization Rights and Democracy to give an independent body the mandate to conduct studies regarding the impact on rights and the environment when it is negotiating economic agreements with countries at risk, as in the case of the agreement with Colombia.**

**Recommendation 4:**

**The Committee recommends that an independent, impartial, and comprehensive human rights impact assessment should be carried out by a competent body, which is subject to levels of independent scrutiny and validation; the recommendations of this assessment should be addressed before Canada considers signing, ratifying and implementing an agreement with Colombia.**

**Recommendation 5:**

**The Committee recommends that any trade agreement with Colombia ensure that separate deals on labour and the environment exceed the template of the North American Free Trade Agreement (NAFTA) in order to set a higher standard for future negotiations.**

**Recommendation 6:**

**The Committee recommends that any trade agreement with Colombia must be accompanied by legislated provisions on corporate social responsibility and reporting mechanisms to monitor the implementation of universal human rights standards by Canadian entities investing in Colombia.**

**Recommendation 7:**

**The Committee recommends to the Government of Canada (a) that any trade agreement with Colombia include a compliance and enforcement mechanism for both the environment and human rights, comparable to the Commission for Environmental Cooperation (CEC) model, exceeding the template set by NAFTA; (b) that such mechanisms must be independent and objective, receiving adequate funding to complete their tasks and include a built-in inflation escalator; (c) that they should include a process that ensures public monitoring and input through such mechanisms as citizenship submissions.**

**Recommendation 8:**

**The Committee recommends that the Government of Canada develop new social responsibility standards for corporations as regards compliance with universal human rights standards. Non-compliance with these basic standards could lead to Canada imposing penalties on these corporations.**



## APPENDIX A LIST OF WITNESSES

Associations and Individuals	Date	Meeting
<b>Embassy of the Republic of Colombia</b> Jaime Giron Duarte, Ambassador of the Republic of Colombia to Canada	2008/04/14	25
<b>Embassy of the Republic of Panama</b> Romy Vasquez de Gonzalez, Ambassador of the Republic of Panama to Canada		
<b>Department of Finance</b> Carole Nelder-Corvari, Director, International Trade Policy Division	2008/04/16	26
<b>Department of Foreign Affairs and International Trade</b> James Lambert, Director General, Latin America and Caribbean Bureau Cameron MacKay, Director, Regional Trade Policy Division, Americas Betti-Jo Ruston, Deputy Director, Regional Trade Policy Division - Americas		
<b>Department of Human Resources and Social            Development Canada</b> Pierre Bouchard, Director , Office for Inter-American Labour Cooperation		
<b>Department of the Environment</b> Dean Knudson, Director General, Americas		
<b>Department of Agriculture and Agri-Food</b> Denis Landreville, Lead Negotiator, Regional Negotiations	2008/04/28	27
<b>Department of Finance</b> Dean Beyea, Senior Chief, International Trade, Policy Division, International Trade and Finance Branch		
<b>Department of Foreign Affairs and International Trade</b> Cameron MacKay, Director, Regional Trade Policy Division, Americas		
<b>Amnesty International</b> Alex Neve, Secretary General	2008/04/30	28
<b>Canadian Cattlemen's Association</b> John Masswohl, Director, Governmental and International Relations		
<b>Canadian Council for International Cooperation</b> Gerry Barr, President and Chief Executive Officer		

Gauri Sreenivasan, Senior Policy Analyst, International Trade		
<b>Canadian Federation of Agriculture</b>		
Bob Friesen, President		
<b>Canadian Sugar Beet Producers' Association Inc.</b>		
Bruce Webster, General Manager		
<b>Department of Foreign Affairs and International Trade</b>	2008/05/07	29
Dan Daley, Director, South America Division		
Alexandre Levesque, Director, Central America and Caribbean Division		
Peter McGovern, Director General, Bilateral Commercial Relations, Asia and Americas		
Barbara Tink, Trade Commissioner, Latin America and the Caribbean Commercial relations		
<b>Canadian Association of Labour Lawyers</b>	2008/05/26	30
Mark Rowlinson, Labour Lawyer		
<b>Canadian Manufacturers &amp; Exporters</b>		
Jean-Michel Laurin, Vice-President, Global Business Policy		
<b>Lawyers Without Borders</b>		
Denis L'Anglais, Member of the Board of Directors, Colombia Group		
Pascal Paradis, Director General		
<b>Petrobank Energy and Resources Ltd.</b>		
John D. Wright, President and Chief Executive Officer		
<b>Canadian Council of Chief Executives</b>	2008/05/28	31
Sam Boutziouvis, Vice-President, Economics and International Trade		
Thomas d'Aquino, Chief Executive and President		
<b>Conference Board of Canada</b>		
Glen Hodgson, Vice-President and Chief Economist		
<b>Pulse Canada</b>		
Carl Potts, Director of Market Development		
Greg Simpson, President, Simpson Seeds Inc.		
<b>University of Ottawa</b>		
Penelope Simons, Associate Professor, Faculty of Law, Common Law Section		
<b>Canadian Chamber of Commerce</b>	2008/06/02	32
Shirley-Ann George, Vice-President, International		
Brian Zeiler-Kligman, Policy Analyst, International		

**Canadian Sugar Institute**

Daniel L. Lafrance, Senior Vice-President of Finance and Procurement,  
Lantic Sugar Limited and Rogers Sugar Ltd  
Sandra Marsden, President

**Human Rights Watch**

Maria McFarland, Senior Researcher

**Peterson Institute for International Economics**

Jeffrey J. Schott, Senior Fellow

**Unified Workers Confederation**

Luis Hernán Correa Miranda, Vice-President

**Canadian Foundation for the Americas (FOCAL)**

2008/06/04

33

Alexa Barrera, Project Manager,  
Trade and Development

Vladimir Torres, Project Manager,  
Trade and Development

**Enbridge Inc.**

Leigh Cruess, Senior Vice-President,  
International

D'Arcy Levesque, Vice-President ,  
Public and Government Affairs

**Peace Brigades International**

Gilles-Philippe Pagé, ,  
Colombia Project

**United Steelworkers**

Roger Falconer, Department Leader,  
Organizing and Strategic Campaigns Department

**As an individual**

2008/06/09

34

Geoff Garver, Environmental Consultant

**Canada Pork International**

Edouard Asnong, President

Jacques Pomerleau, Executive Director

**Canadian Labour Congress**

Ken Georgetti, President

Sheila Katz, National Representative for the Americas,  
International Department



# **APPENDIX B LIST OF BRIEFS**

---

## **Organizations**

---

**Amnesty International**

**Canada Pork International**

**Canadian Association of Labour Lawyers**

**Canadian Chamber of Commerce**

**Canadian Council of Chief Executives**

**Canadian Labour Congress**

**Canadian Sugar Institute (Sandra Marsden)**

**Canadian Sugar Institute (Daniel L. Lafrance)**

**Canadian Wheat Board**

**Department of Foreign Affairs and International Trade**

**Human Rights Watch**

**Lawyers Without Borders**

**Pulse Canada**

**United Steelworkers**

,



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 25 to 34, 36 and 37](#)) is tabled.

Respectfully submitted,

Lee Richardson, MP  
Chair



## **Dissenting Opinion**

### **Liberal Party of Canada**

The Liberal Party of Canada supports working with Colombia to improve trade. As the party of free trade we understand the importance of finding new markets for our products and diversifying our trade. An agreement with Colombia however is complicated by the country's long standing reputation as having the worst human rights record in the Western Hemisphere. Of particular concern is the high level of killings amongst labour activists. A trade agreement with Colombia should be contingent on an independent human rights assessment which clearly demonstrates the progress of the Colombian Government on these important issues. The agreement itself should also ensure that deals on labour and the environment exceed the template of the North American Free Trade Agreement in order to set a higher standard for future negotiations. A free trade agreement with Colombia must also be accompanied by legislated provisions on corporate social responsibility and reporting mechanisms to monitor the implementation of universal human rights standards by Canadian entities investing in Colombia.

It has long been the position of the Liberal Party that trade and human rights should not be done in isolation. For example under Prime Minister Chretien, the Government actively pursued a dialogue on human rights with China while engaging in trade and investment talks.

A free trade agreement with Colombia should be a model for how we address human rights and environmental issues in future negotiations. The Government is strongly urged to ensure that these concerns are addressed in a meaningful way. If we can't properly address human rights with Colombia than how can the Government possibly consider tackling contentious agreements with larger markets. Getting Colombia right will set a precedent that will give the Government strength in future negotiations.

The Conservative Government however has rushed a deal with Colombia from the start, in an obvious attempt to further the Prime Minister's political agenda in the Americas. This agenda mirrors that of U.S. President George Bush and appears to be more focused on signing deals as quickly as possible no matter what the cost.

Concerned over the handling of human rights and the environment in the Colombia negotiations, the Liberal Party initiated this study of the International Trade Committee to advise the Government on how/if they should proceed with the negotiations. However in an effort to undermine the work of the Committee, the Government went ahead and concluded negotiations on June 7<sup>th</sup> before the release of this report.

The Liberal Party's support of any signed agreement is contingent on the Government addressing issues of human rights and the environment in a meaningful and enforceable manner. Canada should be taking the lead in advocating a principled trade policy, we owe to Colombians and we owe to ourselves.

## **Dissenting Opinion**

### **Bloc Québécois**

#### **No, four times No!**

The Bloc Québécois wishes to express that it strongly disapproves the current report, which is biased and does not reflect correctly the opinion of the Committee. Furthermore, in the current circumstances, the Bloc wants to state its strong opposition with the conclusion of a free-trade agreement between Canada and Colombia.

#### We say no because it is bad trade policy

Let's be honest: the Colombian market is not particularly interesting. Trade between Canada and Colombia is limited. Last year, Québec only exported 82 M\$ in Colombia. Most goods that Canada sells in Colombia, like western grain, would anyway find a buyer during the current food crisis. Exporters from Canada and Québec would, at best, see minimal benefits in the conclusion of this agreement.

Indeed, the main government objective in concluding this agreement has nothing to do with trade and everything to do with investments. Since this agreement would contain investment protection provisions, it would help Canadian investors in Colombia, mainly in the mining sector.

We can understand that some Canadian companies can be attracted by this possibility but we don't see what the populations of Québec and Canada, that the parliamentarians are supposed to represent, would gain.

If we rely on every investment protection agreement that Canada signed over the last 20 years, the one with Colombia would contain provisions allowing an investor to directly sue a foreign government if it adopts regulations that diminish the output on its investment.

Such provisions are particularly dangerous in a country where labour and environmental laws are at best insufficient. In fact, any legislative change will necessarily increase the constraints for the investors, which exposes the government to judicial proceedings. Such an agreement, by protecting a Canadian investor against any improvement in the Colombian standard of living, is likely to delay the necessary social and environmental progress in Colombia.

The Colombian subsurface is very rich. Years of civil war resulted in many parts of the territory not being developed. But those regions are those where the situation is the most fragile. Bringing foreign investments where there is a civil war and violence of all kind is reckless and likely to turn those regions into a powder cask.

### We say no because it is bad foreign policy

The government of Canada regularly repeats its intention to deepen its relations with Central and South America. We agree with it. But what country does it choose to enter South America? Colombia, a country whose government is isolated on the continent and whose sole unconditional support is the Bush administration. It is not a very clever choice.

Canada has, in the past, been an appreciated honest broker in zones of conflict. With the Conservative government, that Canadian policy has been thrown away and, with it, Canada's good reputation abroad. Five years ago, the Conservatives wanted Canada to participate to the war in Iraq. Two years ago, they made their mark during the war in Lebanon by clearly siding with one belligerent and against the other. This year, it sides with the most right-wing government in South America.

Mixing ideology and foreign policy leads to bad foreign policy. With this free-trade agreement, Canada moves further apart from most South American countries and contributes to isolate itself on the world stage. And it makes Canada unfit to play a role of honest broker and facilitator on the continent. It is bad foreign policy.

### We say no because we disapprove the government's behaviour

Democracy is fragile. It relies on the respect for democratic institutions and, for a good part, the goodwill of political actors. As representatives of the population, we cannot accept contempt for democratic institutions and process. We would then approve an authoritarian drift and would only have us to blame if it continues.

We are used to marks of contempt for democratic institutions and process on the part of the Conservative government. The Prime Minister's office ordered committee chairs to sabotage the work of Parliamentary Committees. Control of information is so excessive that it frankly prevents access to information. It regularly refuses to implement decisions of the House of Commons. Even the Trade Committee tasted Harper's medicine when the government rejected the report asking to exclude water from trade agreements.

In the case of free-trade with Colombia, the government pushed contempt even further. The committee made a serious study, as one can see in the current report. It held wide consultations and hearings and even traveled to Colombia. But the government decided to conclude the agreement before the Committee finished its work.

The government's message to Parliamentarians is as follows: I do not care what you think, say or do. And it delivers the same message to the population, especially to the numerous witnesses that presented a brief to the committee. We can't accept that behaviour. Such lack of respect for democracy can't become a precedent. Democratic institutions must not function that way in the future.

### We say no because we respect human dignity

Colombia has the worst situation in terms of human rights on the hemisphere. There are 3 million displaced persons in Colombia, second only to Sudan on the planet. Assassinations of unionists are numerous and most of them are unsolved. There are numerous allegations of collusion between the government and right-wing militias, 30 parliamentarians face charges of corruption, including a close family member of President Uribe.

It is true that the situation is not as catastrophic as it was a few years ago but it is far from ideal. There is no worst moment to abandon the possibility to use the economic leverage to intensify pressure on the Colombian government.

When they want to promote human rights in the world, countries use the carrot and the stick: they support efforts to improve the human right situation and they withdraw advantages to countries where the situation worsens.

By concluding this agreement, Canada would deprive itself from the capacity to pressure Colombia. In fact, not only it would not be able to withdraw advantages to Colombia in case of a major setback in the human rights situation but it would literally give away both the carrot and the stick to the Colombian government. The US Congress understood it and it is why it rejects a similar trade agreement with Colombia as long as important progress has not been made.

The government repeats that the trade agreement comes with side-agreements on labour and environment. Such side-agreements are clearly inefficient. On the one hand, they are not part of the trade agreement. Thus, investors can continue in impunity to destroy the rich Colombian environment, displace whole populations if it facilitates their extracting activities or kill union activists.

The side agreements would only condemn the Colombian government to pay a fine. And that fine cannot exceed 15 M\$ a year. Thus, when the maximum fine is paid, the side agreement will not allow any further condemnation. And what are worth 15 M\$ when you are prospecting foreign investments that amount to billions?

We acknowledge that those side-agreements, while not effective enough to compensate the perverse effects of the trade agreement, are a step in the right direction. If the government decides to set aside the free-trade agreement and to only sign the side agreements on labour and environment, it can count on our support.

But when it comes to the free-trade agreement itself, the Bloc Québécois will not accept to abandon Canada's capacity to promote human rights in Colombia in exchange of mining rights.

#### We want good trade agreements

Contrarily to the Conservative Party, the Bloc Québécois is not a party of narrow minded ideologists, especially when it comes to trade issues. Instead of rushing to conclude ill designed agreements that promote free-trade and whose only merit is to help a Bush administration's ally, we evaluate them on a case by case basis. And this agreement doesn't pass the test: it is of little interest for the

Quebec nation and would likely be harmful, both to Canada's reputation abroad and to the human rights of the population of Colombia.

Contrarily to the NDP, we are not opposed to trade liberalisation as long as it is done correctly and that it contributes to the prosperity of the countries that adhere to it. Bloc Québécois supported NAFTA, and it has been a good thing for Québec. This spring, we supported an agreement with EFTA and pressed the government to enter into negotiations with EU for an eventual free-trade agreement. In those three cases, such agreements are in the interest of Quebec and have limited perverse effects. It is not because of a systematic opposition to trade that we oppose the free-trade agreement with Colombia. It is a bad deal.

And contrarily to the Liberal Party, we don't hesitate to stand up to defend Québec's interests and values.

So what do we think of a free-trade agreement with Colombia? For now, it is out of the question.

## **Dissenting Opinion**

### **New Democratic Party**

*“There is a systematic persecution of labour leaders. It is easier to create an armed group than a labour union in this country.”*

**- Gabriel Perez, Confederación General del Trabajo**

*“Death is stalking our union leaders”*

**- Javier Hernández, Acting Representative,  
Offices of UN High Commissioner for Human Rights**

*“Do not be caught by the mindset that says if you don't support this government, you give power to the terrorists and guerrilla forces. This is the polarization of politics that has crippled the space for public discussion of democracy in Colombia today. Every day, with countless acts of bravery, Colombian trade union leaders, journalists, and indigenous people stand up to speak against the violence that has been unleashed on them from all sides. They are building the basis for a middle ground and for a government that can be held accountable for its crimes and held to its responsibilities to meet citizens' basic rights”.*

**- Gerry Barr President and Chief Executive Officer,  
Canadian Council for International Cooperation (CCIC)**

Once again, the minority Conservative Government has demonstrated outright disrespect for Parliament and its Committees by concluding the Canada-Colombia Free Trade negotiations prior to the release of this Committee's Report. Sadly, the Conservative government has chosen to ignore caution and concerns before proceeding with this very controversial agreement. The announcement that the agreement had been signed was made on Saturday, June 7, 2008 - before the Standing Committee on International Trade had heard from all of the witnesses, and before the Committee completed its Report, or issued its final recommendations. This demonstrated a complete disregard for democratic consultation and the contribution that many key witnesses have made in Ottawa and in Bogota on this complicated and contentious issue. This affront to democracy raises concerns for all Canadians. Indeed we have heard an outcry from many Canadians who are genuinely concerned about the ramifications of the Conservative government's pre-emptive timing, on all future parliamentary consultative processes.

The unilateral decision is especially disturbing considering that time spent by the Committee in Colombia reinforced the conclusion that countless other witnesses and experts have submitted to this Committee: a Canada-Colombia Free Trade Agreement (FTA) will not enhance or facilitate respect for human and labour rights of Colombians

as the Conservatives claim it will. It in fact has the potential to aggravate the current, systemic oppression and abuse of human rights reported by many witnesses heard by this Committee.

The NDP reiterates its firm belief that all trade agreements must be built upon the fundamental principles of fair trade, which are fairness, social justice, respect for human rights, labour rights, and the environment. Such necessary preconditions simply do not exist in Colombia where the human rights situation and persistent impunity of the authorities results in appalling conditions. For reasons discussed below, the Government of Canada should halt the current Canada-Colombia free trade process until such a time that an independent, comprehensive Human Rights Impact Assessment is developed and implemented. The recommendations from such an assessment should be addressed before Canada considers signing an agreement with Colombia.

### **The Current Situation in Colombia**

Despite their efforts, Colombian government officials appearing before the International Trade Committee in Bogota failed to make the case that human rights have improved in their country. The Colombian government's claim that the quality of life and employment conditions have improved is in large part achieved by manipulating statistical information. The pressures exerted by the Uribe government have led to the resignation of two directors of the National Statistics Center, and the new director has redefined unemployment so that any person who works at least eight days a year is considered fully employed by the National Statistics Center of Colombia. The result is a misleading representation of reality, and explains why unemployment rates have been shown to be improving.

The Uribe government has also changed the definition of paramilitaries, so that it may be claimed that they are no longer operating in Colombia. The reality, as explained by **Patricia Cespedes of the Central Unitario de Trabajadores du Colombia** is that all regions of Colombia have a paramilitary presence which is in fact increasing. Over the last 20 years 6.5 million hectares of land have been taken by the paramilitaries. Witness testimony further illustrates the menace presented by paramilitaries, in addition to other harsh facts about life in Colombia:

- The violence against workers and members of civil society by paramilitaries in Colombia, who are closely associated with the current Uribe government, has been ongoing and increasing.
- The lowest estimates show 2,665 trade unionists murdered since 1986, as well as a host of violent acts committed against workers, farmers and journalists. On average, every three days during the last 21 years, a trade union worker has been assassinated. Over 400 leaders of labour unions have been assassinated during the current Uribe regime.

- In the first three months of this year (2008) there was an 89% increase in the increase in the number of killings of unionists, in comparison with the first three months of 2007
- Since President Alvaro Uribe was elected in 2002, human rights reports show an increase in military repression from 17% to 56% in 2006. These figures were communicated during an alternative briefing on Colombia requested by Canadian civil society and trade union groups with direct input from the grassroots of Colombia.
- Colombia has the second highest internally displaced rate in the world, second only to Sudan. Last year alone some 305,000 new cases were documented. , The majority of those displaced in Colombia have been evicted from lands situated in areas of mineral, agriculture or other economic interest. The FARC guerilla group, as well as government officials, paramilitaries, military officials, and family members linked to the President of Colombia, have come under scrutiny recently for their roles in orchestrating and profiting from illegal land grabs, or wide scale human displacement, from resource rich land.
- In what has become known as the para-political scandal, investigations have begun into wide scale systemic linkages between scores of Government officials –the vast majority of whom are in the ruling government’s party and right-wing para-military death squads. One third of Colombian politicians, including Senators, Ministers, mayors, governors and other congress people (29) are now in jail, thirty were convicted of crimes and at least sixty members of the legislature remain under investigation. The Supreme Court, not the government, has ordered these investigations.
- The committee heard testimony about how the President of Colombia has launched attacks on the Supreme Court, extradited top para-militaries on lesser charges where they will be effectively silenced, and undermined the work of lawyers investigating human rights abuses. We also heard how local civil society leaders, journalists, and unionists have been stigmatized recently and labeled as guerillas by government officials, and para-militaries, for defending human rights concerns. In Colombia, such stigmatization can carry the weight of a death sentence.
- Over 90% of those who committed murders against trade unionists have not been charged, a conviction rate that provides absolutely no incentive or repercussions for taking a person’s life.

By proceeding unilaterally with this very controversial agreement, the Conservative government has chosen to ignore legitimate concerns about abhorrent labour conditions and human rights violations in Colombia. In Ottawa, statements made by several key Canadian witnesses before the Committee confirm this conclusion:

*“If Canada embarks on free trade negotiations with Colombia, we believe it is our duty to urge caution. We must first assess whether Colombia’s human rights record makes it a country with which Canada wants to be associated.... It is a country facing a horrendous internal armed conflict that has lasted for more than 40 years. It is still qualified as the worst human rights crisis in the hemisphere by independent international bodies, such as the United Nations and the Organization of American States. Gross human rights violations are still committed, including with the participation of public forces or the complicity of state agents.”*

**- Pascal Paradis, Director General for Lawyers without Borders**

*“The climate of terror among union activists restricts the workers' abilities to form trade unions, to negotiate salaries, and to improve on the miserable working conditions that exist now. It provides corporations with a pool of very cheap, fearful labour, which in turn I guess will generate higher profits for someone. The Colombian government claims the situation regarding the murder of trade unionists is improving, and is shown by the fact they say, “Only 39 trade unionists were murdered in 2007. We would say, so much for improvements of murder rates, but we didn't know murder rates were tolerable, even at one.”*

**- Ken Georgetti, President of the Canadian Labour Congress**

*“Amnesty International takes no position for or against free trade per se, or any other particular approach or trading policy. We recognize that trade and investment in themselves are neither inherently good nor bad for human rights, but that human rights needs specific, determined attention to ensure that trade and investment policies do not impair human rights protection.*

*In the Colombian context there is serious reason to be concerned that such careful, concerted attention and safeguards are entirely lacking and that human rights will inevitably be further imperiled as trade and investment is opened up in these circumstances. We outlined that concern in an open letter to Prime Minister Harper last July, and again in December in a letter to the International Trade Minister Emerson.”*

**- Alex Neve, Secretary General for Amnesty International**

Colombian government officials appearing before the International Trade Committee in Bogota made statements to the Committee, which were in direct contradiction to the reliable testimony that other witnesses had impressed upon the Committee concerning the prevailing abuse of human rights in Colombia.

We were also disturbed by statements made in the committee hearings by Ambassador Jaime Giron-Duarte, Colombia’s ambassador to Canada, who stated that unionists are not killed in Colombia as a result of their labour activity, but rather as a result of a generalized pattern of violence in the country. At the very same time the ambassador was reassuring the committee that Colombia is fully committed to addressing its human rights problems. His testimony contradicted a large number of witnesses who made it clear that unionists continue to be targeted systematically because of their attempts to

unionize, and bargain for collective agreements. It begs the question: if the government of Colombia can't name the problems for what they are, how committed are they to really fixing them?

### **Will the FTA improve human rights due to a “Trickle-Down” Effect?**

The Conservative government assures us that trade with Colombia will facilitate and encourage the implementation and recognition of human rights, but this claim is not backed by any conclusive evidence. The Conservative government has not provided us with any conclusive empirical evidence to support their claim that Free Trade will have a positive impact on human rights. There is no evidence that privileged trade with other countries advances human rights or democracy. On the contrary, history tells a different story.

England promoted free trade in the 18<sup>th</sup> century only after Lord Hastings and his company plundered India and destroyed its thriving textile and iron industry. Most of the alleged free trade liberalization occurred under the watch of monarchic or totalitarian regimes where freedoms were curtailed. In the long term, British cotton manufacturers took full advantage of the new eastern markets, resulting in the elimination of the Indian cotton industry. Initially, free trade was considered to be the machinery by which economic supremacy and political domination was achieved, rather than a tool for development.

Can we then take seriously Mr. Tom D'Aquino's assertion that trade liberalization will improve human rights? Mr. D'Aquino claimed before this Committee that the free trade imperative was one of the reasons for the collapse of the Soviet Union. Such assertions are not supported by facts or historical evidence.

Ms. Penelope Simons, Associate Professor, Faculty of Law, Common Law Section, University of Ottawa, explains:

*“There's no necessary link between trade liberalization and investment protections that are created by free trade agreements on the one hand and democratic development, the protections of human rights and the rule of law on the other...*

*These agreements create strong protects for corporations, but impose no correlation obligations to respect human rights. Some of these provisions can operate to restrict the capacity of the host state like Colombia to regulate in the public interest in ways that would promote and protect human rights...*

*A free trade agreement with Colombia will not improve the human rights situation in Colombia. What it will do is to increase protections for corporate actors, and it may also restrict Colombia's capacity to regulate in order to protect human rights, and it will impose no legal obligations on corporate actors to ensure they respect human rights.”*

Gauri Sreenivasan of the Canadian Council for International Cooperation indicates that within or without a free trade framework, neutral commercial presence is generally not possible:

*“Beyond that issue [of free trade] in Colombia, Canadian oil and mining companies are active in some of the most conflict-ridden zones of the country, even beyond the issue of royalties. These zones are characterized by high levels of military and paramilitary control. The overlap between the two is sobering. Colombian regions that are rich in minerals and oils have been marked by violence. They are the source of 87% of forced displacements, 82% of violations of human rights and international humanitarian law, and 83% of assassinations of trade union leaders in the country”.*

Canada and Colombia have negotiated an agreement with a framework similar to the North American Free Trade Agreement (NAFTA). Experience clearly shows that this sort of agreement benefits large multinational corporations without providing real benefits to working families, who are financially worse off today than they were before the agreement was signed.

For more than a generation, the maquiladoras located in free trade zones along the US-Mexico border have been a source of low wages and environmental destruction, perpetuating the abuse of workers and maintaining poverty levels. These tax free zones have been given additional impetus under NAFTA. Multinational corporations, thriving in the area thanks to NAFTA, are able to successfully defeat attempts to unionize with the help of Mexican authorities, keeping the workers' vulnerable and wages low.

During the fourteen years of NAFTA, the citizens of Canada, Mexico and the United States have experienced growing inequality and stagnating wages despite promises to the contrary by NAFTA supporters. In the case of Mexico the collapse of opportunity has been so severe that out-migration to the U.S. has more than doubled to an all-time high of nearly 500,000 people per year. The poor and the middle class have borne the brunt of the damage and dislocation, while the richest few enjoy unprecedented levels of wealth.

Since the first Canada-US Free Trade Agreement was signed in 1989, average market family incomes in this country have actually declined for 3 out of every 5 Canadian families, while 80% of Canadian families have seen their share of the income pie go to the top income earners, who now take home 50% of all income.

And what about the new jobs created since NAFTA? We have seen in Canada hundreds of thousands of good, family sustaining jobs in the manufacturing sector lost and most new jobs are temporary or part-time, without benefits or security. A 10-15% decline in median and average wages accompanies these losses, when people are forced to take jobs in the services sector.

As for the increase in continental trade, a 2000 Industry Canada study revealed that the increase in trade between Canada and the United States in the last decade has been

mostly a result of the low Canadian dollar and the growth of the US economy, not NAFTA. The intensity of our trade relationship is determined by US economic growth and exchange rates; the NAFTA factor accounts for less than 10%!

Moreover, Labour side agreements under NAFTA have not been effective in protecting or improving labour or environmental standards; to the contrary, over 1 million agricultural jobs have been lost in Mexico since NAFTA was signed.

As the evidence submitted to this Committee (April 16, 2008) indicates, the Canada-Colombia FTA is primarily centered on agriculture. Eighty per cent of Colombian exports to Canada are already tariff free. However, Canadian agricultural exports to Colombia are hit with a tariff as high as eighty per cent, which provides some protection for local producers from an onslaught of agricultural imports. A free trade agreement on the other hand would have the devastating effect of allowing tariff-free Canadian agricultural products to flood Colombia, to the very real detriment of the Colombian industry. It would also entrench special rights of foreign investors even against the public interest. Certainly that is the last thing the people of Colombia needs while trying to build a secure social infrastructure and democratic institutions.

### **Kill a Trade Unionist – Pay a Fine!**

Evidence given by senior Canadian negotiators before the Standing Committee on International Trade, reaffirmed in the June 7<sup>th</sup> press release of the Harper Government, confirms that the type of labour protection clauses being sought in the FTA will punish those who murder workers with a compensation order – which amounts to a simple monetary transfer on the government's books. The penalty for killing trade unionists was capped at \$15 million, in any one year, paid by the Colombian government into a development fund. To put this in perspective, one year's maximum payment of \$15 million equates to \$5,628 per trade unionist already killed. How should Canadians feel if Harper agreed to the same kind of treatment of those who intentionally set out to kill labor organizers within our own borders? What a senseless lack of appreciation of human life.

Mr. Mark Rowlinson, representing the Canadian Association of Labour Lawyers, testified on May 26, 2008 before the Committee confirming that their experience with hemispheric trade agreements has shown that the protection of labour rights in these agreements leaves much to be desired and that there continues to be a systematic failure to enforce labour rights in many parts of Central and South America, especially in Colombia. He explained:

*“There is no basis to believe that the insertion of labour provisions into a proposed trade agreement between Canada and Colombia will have any positive effect on the labour rights climate in Colombia. As a result in our view Canada should not consider free trade with Colombia until there is a clear and dramatic improvement in the general human rights conditions in Colombia”.*

## **No real protection for the environment**

According to the UN High Commission for Refugees over 4 million Colombians have been displaced over the last 20 years, with 305,000 new cases last year alone, particularly affecting Afro-Colombians and indigenous communities. These displacements are primarily due to collaboration between plantation companies and paramilitaries to forcefully acquire land and destroy the forest in order to allow for expansion of agricultural production.

Trade agreements must provide strong protection and enforcement mechanisms to ensure such abuses do not occur; however, evidence was brought forth by expert witnesses who confirm the weaknesses of the environmental provisions side agreements accompanying the FTA. The standards for environmental protection in the FTA are lower than the already weak statutes of NAFTA and in the absence of an even playing field between participatory countries environmental protection side agreements are simply inefficient.

So, virtually, the only form of enforcement is the complaint mechanism, which would be to simply to file a question with a bureaucrat with no independent review and no rigorous analysis. . This means that there are no effective proactive measures for environmental monitoring and preventative enforcement. The weakness of the FTA's complaint mechanism would be increased by the lack of enforcement of environmental laws in Colombia. Therefore, the process is seriously flawed.

## **Not Just Trade, just Politics**

The United States has signed a free trade agreement with Colombia's Uribe government, which is quite similar to the agreement between Canada and Colombia. So far, however, the U.S. democrats have blocked the ratification of the free trade agreement because of human rights concerns. Responding to assertions in Canadian Parliament that a free trade agreement will help to improve democracy and curb violence against labour leaders, U.S. Congressman Michael Michaud (D-ME-02) stated:

*"I don't buy Prime Minister Harper's argument... The president of Colombia, if he wants to truly treat the workers fairly and deal with labour rights and low standards, he can pretty much do that now. He doesn't need a trade agreement to deal with that."*

**- Michael Michaud, quoted by Theophilos Argitis, Bloomberg, May 7, 2008**

The Canada-Colombia FTA has promotional value for the Uribe Government because it would provide his government with a precedent that might help to sway the U.S. Congress in favour of an agreement despite prevalent human rights concerns. When Canada facilitates trade with a government that abuses human rights it sets an example that shouldn't be followed and legitimizes the regime by assisting in the denial of human rights.

Mr. Glen Hodgson, Vice President and Chief Economist, Conference Board of Canada, confirmed that Colombia is not a “top tier market for Canada” and that only 0.15% of Canadian exports actually go to Colombia:

*“Our annual trade with Colombia is about the same level as that with South Dakota and is actually smaller than that with Delaware or Rhode Island. Compared to other markets much closer, Colombia is not really a major player. Eighty per cent of Colombia’s imports to Canada are actually duty free already. The gains from free trade are probably not as great as they would be in other cases”.*

Senior Canadian negotiators, who appeared before the Committee on April 16, 2008 indicated that the Canadian government should sign this agreement in order to prevent the U.S. from having a more advantageous relationship with Colombia than Canada. Even if this inappropriate suggestion were a proper or relevant consideration, it is misleading in so far as it suggests that Canada’s level of trade with Colombia would exert any influence on the Uribe government or its approach to human and labor rights. Canada would influence the respect of human rights in Colombia about as effectively as it does in Mexico or in the US.

The NDP reaffirms its position that the Government of Canada should halt the current Canada-Colombia free trade process until such a time that a Human Rights Impact Assessment is developed and implemented. The Canada-Colombia free trade agreement ought to be renegotiated employing the principles of fair trade, including environmental and cultural considerations, and respect for labour rights and the rights of all the parties affected:

1. The government of Canada should not sign and implement a Trade Agreement with the government of Colombia at this time.
2. An independent, impartial, and comprehensive human rights impact assessment should be carried out by a competent body, which is subject to levels of independent scrutiny and validation; the recommendations of this assessment should be addressed before Canada considers signing, ratifying and implementing an agreement with Colombia.
3. Any future agreement should contain enforceable legislated provisions on corporate accountability that implement universal human rights standards.
4. When this agreement is tabled in the House of Commons, the CIIT should, as a first priority, study the text with experts and civil society at large and call for a vote on this treaty in Parliament as a stand alone order of business.



# MINUTES OF PROCEEDINGS

## Meeting No. 37

Wednesday, June 18, 2008

The Standing Committee on International Trade met at 3:42 p.m. this day, in Room 209, West Block, the Chair, Lee Richardson, presiding.

*Members of the Committee present:* Dean Allison, Guy André, Hon. Navdeep Bains, Ron Cannan, Serge Cardin, Sukh Dhaliwal, Peter Julian, Gerald Keddy, Larry Miller and Lee Richardson.

*Acting Members present:* Hon. Denis Coderre for Joyce Murray and Susan Kadis for John Maloney.

*In attendance: Library of Parliament:* Michael Holden, Analyst; Laura Barnett, Analyst.

Pursuant to Standing Order 108(2) and the motion adopted by the Committee on April 2, 2008, the Committee resumed its study of the ongoing free trade negotiations between Canada and Colombia, with a focus on how environmental impacts and human rights concerns are addressed in trade agreements.

The Committee resumed consideration of a draft report.

It was agreed, — That the Committee adjourn immediately after having completed the review of its draft report and its recommendations.

It was agreed, — That the draft report, as amended, be adopted.

It was agreed, — That the report be entitled: Human Rights, the Environment and Free Trade with Colombia.

It was agreed, — That the Chair, Clerk and analyst be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report.

It was agreed, — That the Committee append to its report dissenting opinions from Parties.

It was agreed, — That, pursuant to Standing Order 109, the Committee request that the Government table a comprehensive response to the report.

At 5:30 p.m., the Committee adjourned to the call of the Chair.

Jacques Lahaie  
Clerk of the Committee