

L'Accord de libre-échange des Andes (ALEA) et les conditions de travail en Colombie: de l'intensification des politiques néo-libérales aux violations croissantes des droits humains

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Résumé

Entre 2004 et 2006, deux pays des Andes, la Colombie et le Pérou, ont signé des accords commerciaux bilatéraux avec les Etats-Unis pour former l'Accord de libre-échange des Andes (ALEA). Le présent article examine l'impact de l'ALEA sur les conditions de travail en Colombie dans le contexte de l'intensification des politiques orientées vers le marché et des violations croissantes des droits humains. L'article débute par une analyse des politiques néo-libérales et de leur impact sur les conditions de travail dans un contexte autant international que régional. L'auteur évalue ensuite l'impact possible de l'ALEA sur les conditions de travail en Colombie en égard à la présente situation politique du pays.

The Andean Free Trade Agreement (AFTA) and Labour Conditions in Colombia: From the Deepening of Neoliberal Policies to Increasing Human Rights Violations

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Abstract

Between 2004 and 2006, two Andean countries, Colombia and Peru, signed bilateral trade agreements with the United States to make up the Andean Free Trade Agreement (AFTA). This article examines the impact of the AFTA on labour conditions in Colombia in the context of deepening market-oriented policies and increasing human rights violations. The article begins with an analysis of neoliberal policies and their impact on labour conditions in both the international and regional contexts. It then assesses the possible impact of AFTA on labour conditions in Colombia with consideration to the current political situation of the country.

Introduction

On November 22, 2006, the government of Colombia signed the CTPA (Colombian Trade Promotion Agreement) with the United States, amidst strong opposition and controversy from various sectors, including social and political organizations, trade unions and scholars. This agreement materialized out of the AFTA (Andean Free Trade Agreement) after a process of negotiation initiated in May 2004 between the US and three Andean countries, Colombia, Peru and Ecuador. The Andean trade negotiation was the result of the failure of the FTAA (Free Trade Agreement of the Americas) in October 2003, when Brazil and other countries opposed the American project. The AFTA negotiations finally concluded with Peru in 2005 and Colombia a few months later, whereas Ecuador abandoned the negotiations. After the Ecuadorian presidential election, the new government of Rafael Correa decided not to negotiate such a trade agreement with the US.

Although labour conditions were not explicitly discussed in the CTPA negotiations, several provisions, especially those

related to conditions of trade and investment, as well as those related to the agricultural sector, directly affect the conditions of workers in Colombia. This article begins with an examination of the impact of AFTA on labour conditions in Colombia, in the context of the deepening of market-oriented policies and increasing human rights violations. It analyzes neoliberal principles regarding labour conditions at both the national and international level. It then assesses the possible impact of AFTA on labour conditions in Colombia by examining the various provisions of the agreement, followed by a discussion of the political situation of the country and its impact on working conditions.

The International and Regional Context

The Theoretical Discussion

The New World Order that has emerged from the end of the Cold War has been determined by the generalization of market-oriented policies and financial globalization throughout the world. During the past three decades, governments from diverse political orientations have adopted neoliberal policies, which in the countries of the South have centred on the reduction of public expenditures, the elimination of social subsidies, the withdrawal of social safety nets, the privatization of state-owned companies, and the creation of appropriate conditions for foreign investment. The most powerful economies of the world and the international financial institutions, namely the World Trade Organization (WTO), the International Monetary Fund (IMF), and the World Bank (WB), have directed their policies towards developing countries on the fulfillment of such priorities.

These policies have had an enormous impact on the social and working conditions of labour throughout the world, but especially in the countries of the South. The generalization of so-called free-market policies and the privatization of state-owned companies have been accompanied by a process of de-industrialization in many countries, as well as by the 'flexibilization' and deterioration of working conditions. Policies stemming from the WTO and from bilateral and regional trade agreements, implemented by the United States and the European Union, have been aimed at deepening neoliberal restructuring in order to increase the income of the multinational corporations and benefit the national economies of the most powerful countries.

The flexibilization of working conditions has been ex-

plained by analysts from various perspectives. The movement of manufacturing operations by large corporations from advanced to less-developed countries and the process of global economic restructuring that started taking place during the 1960s were accounted for within the Marxist tradition. The theory of the "New International Division of Labour" (NIDL), first coined by Froebel, Heinrichs and Kreye, emerged to explain this transformation in the world economy (Froeber et al, 1980: 33). According to this theory, such a movement was motivated by the corporate search for better investment conditions and cheaper labour costs, amidst declining profits and increasing labour costs. The profit squeeze, which in Marxist analysis is known as the falling rate of profit, was caused by the emergence of a highly competitive international market. This, in turn, was a result of the recovery of Western Europe and Japan after the devastation of World War II, combined with technological advances in production and the consequent recession that affected the US economy during the 1970s.

According to the theory of the NIDL, the traditional division of the world into a few industrialized countries on the one hand, and a great majority of developing countries integrated into the world economy solely as raw material producers on the other, has been undermined by the tendency to relocate manufacturing operations from the advanced industrialized countries to developing nations (Froeber et. al, 1980: 45). There were three preconditions to this process: (1) the existence of an almost inexhaustible reservoir of cheap labour in the developing countries; (2) the division and subdivision of the production process, which is now so advanced that most of these fragmented operations can be carried out with minimal levels of skill; and (3), the development of transportation and communication technologies which have created the possibility, in many cases, of the complete or partial production of goods at any site in the world. These facts account for the expansion of export-oriented zones and maquiladora-type industries throughout the developing world. Besides being extremely cheap, this labour-force has other advantages. It can be easily mobilized for production during practically the entire year, and in many cases it can reach levels of productivity comparable with those of similar processes in the advanced industrialized countries. The huge size of this reserve army allows for an 'optimal' selection of the most suitable labour-force (for example,

young women) for the specific work required (Froeber et al, 1980: 34).

The process of conglomerate mergers has been another key strategy pursued by large corporations throughout the world in order to increase their economic power. This strategy has allowed such firms to control the market in its different stages, diversify into more dynamic sectors, reduce their tax burden and purchase existing plants and equipment for less than the cost and risk demanded by new investments. The process of economic concentration and oligopolization has been apparent in every economic sector. It is also worth noting that, despite the dispersal of manufacturing operations to less-developed countries, the key decision-making processes affecting production continue to be carried out in the advanced industrialized countries. Most importantly, the process of capital accumulation - the realization of profits - remains centralized in the industrialized countries.

There is considerable evidence that economic matters are still at the centre of world disputes: acute economic competition manifesting in continuous trade disputes; recession and increasing unemployment in the advanced industrialized countries during the past three decades; the increasing drive against immigration in these countries; as well as the worsening poverty and economic instability plaguing the less-developed nations. Confrontations over the control of resources and markets are currently at their peak all over the world. A key feature of the economic disputes among world powers has been their long-lasting practice of protectionism. Forced to compete against each other, countries refuse to dismantle trade barriers. The main contradiction exhibited by this global economic competition is that advanced-industrialized countries pressured developing countries to open up their economies to foreign trade and to adopt export-led policies, while they themselves are greatly restricting the access of products from those countries to their domestic markets. The stalemate of negotiations and the permanent dispute in the Doha Round of the WTO, ironically called the Development Round, reflect this situation.

Some authors have insisted that political demobilization and exclusion of segments of the population are not accidental but a key element of export-oriented industrialization (EOI). This is due to the fact that the EOI model of development basically relies on the existence of disciplined low-cost labour (see Deyo,

1990; Gereffi and Wyman, 1990). This argument, drawn from the experience of East Asian countries, holds true for the restructuring of the world economy under so-called free market principles. Despite the fact that it accounts for the political and economic development of another region, this explanation is quite relevant to the conceptualization of the neoliberal authoritarian trend throughout the world. This model can only be implemented through the "flexibilization" and disciplining of the labour force, which implies the deterioration of the living and working conditions for the workers and the deprivation of many of their political rights.

The International and Regional Contexts

For Latin America, in particular, changes in the global situation have meant an intensification of the economic domination and political control traditionally exercised by the United States. The push for greater liberalization of the economies of these countries and the call for the conformation of a free trade zone in the whole continent, under American auspices and parameters, have been important steps in its strategy of re-colonizing the region.

Without a doubt, the external debt crisis, which emerged during the early 1980s, strengthened the leverage and control exercised by international financial institutions in the political and economic decision-making processes in the entire region. In addition to benefiting the tycoons of the international finances, the renegotiation of the external debt during the 1980s and 1990s became a turning point for the implementation of neoliberal policies, and marked the loss of any vestige of autonomy on the part of these countries regarding the formulation of development policies. During the 1990s, even though inflation was basically under control, economic and social conditions worsened as a consequence of the bankruptcy of national industrial and agrarian producers experienced by many countries due to the complete opening up of their economies and implementation of other market-oriented reforms. It is clear then that the adoption of such policies, presented as the solution for the debt crisis, has instead exacerbated the economic and social situation.

The Enterprise for the Americas Initiative (EAI), unveiled by the administration of George Bush Sr. in June 1990, was based precisely on the proposition that trade is the key to

hemispheric prosperity. This project was aimed at constituting a unified free trade zone from Alaska to Patagonia, a project presented in December 1994, during the hemispherical summit of Miami, as the Free Trade Area of the Americas (FTAA). The North American Free Trade Agreement (NAFTA), enacted on January 1st, 1994, represented the first step toward the economic integration of the entire continent in the FTAA, a process that was supposed to have been completed by 2005. However, as previously indicated, this project collapsed in late 2003 due to the opposition of several countries from the South, particularly Brazil. To compensate for the failure of this agreement, the US decided to negotiate similar agreements with other Latin American countries and sub-regional groups such as Chile, Central America and Dominican Republic (CAFTA-DR) and the Andean countries).

The United States, in particular, has benefited substantially from the economic reforms that have been undertaken throughout the region. These reforms have resulted in the reestablishment of vital export markets for American products. This has also benefited international and domestic financial capital, which has considerably increased its profits at the expense of the productive sectors of these countries.

From the reforms imposed by the Washington Consensus², those which have caused a greater social impact (considerably affecting labour conditions) have been the reduction of the economic and social role of the state in order to benefit the private sector and the public expenditures cuts by the state. The reduction of the state is deeply rooted in the classical liberal notion of a minimal “night-watchman” state, whose only function is the protection of individuals and their property, leaving them free to pursue their individual projects. According to this idea, progress is only achieved when private initiative and freedom are promoted. The argument in favor of the reduction of the state is based on the alleged efficiency of the private sector, combined with the also alleged inefficiency of the public sector ‘per se’. The implementation of this neoliberal strategy has involved the elimination and/or privatization of key state enterprises, with the consequent loss of jobs, throughout the two past decades, in Colombia as well as elsewhere in Latin America.

The reduction of public expenditures is clearly connected with the monetarist priority of promoting fiscal balance at any

cost, in order to meet the goal of servicing the external debt and retaining other financial commitments on the part of the state. This policy constitutes the central point of the agreements signed by most of the Latin American countries with the IMF and its fulfillment has led to a large reduction in social investment, which has contributed to the deterioration of the living conditions of most of the Latin American people.

A key feature of the global situation is the consolidation of American hegemony throughout the world. The implementation of the neoliberal agenda in Latin America was instrumental in strengthening political and military power, and in the economic recovery of the US, as well as in its good performance during the 1990s. However, beginning in 2001, at the onset of the administration of George W. Bush, the American economy was confronted again with signs of recession. The terrorist attacks of September 11 took place in this context. A year later, Bush presented, and got approval by Congress, for the National Security Strategy of the United States. The announcement of this strategy, known as the Bush Doctrine, was considered by various academic and political sectors as an open declaration of hegemony on the part of the United States.

The article will further demonstrate how, in the consolidation of its global economic domination, the United States requires trade agreements to be signed with countries all over the world in order to confront the increasing competition from developed industrialized countries. In such bilateral agreements, the US has been able to impose tougher conditions than those resulting from the WTO, as a means of facilitating foreign investment for its multinationals.

The Colombian Trade Promotion Agreement (CTPA)

The Importance of the Free Trade Agreements for the US

The Doctrine of National Security of the US, conceived of as a key instrument in the government's struggle against terrorism, is also very clear regarding the priority of free-market policies and announces a comprehensive strategy to create free trade agreements with all the countries of the world, with specific mention of the creation of the Free Trade Area of the Americas (FTAA). In a similar vein, the document reaffirms Washington's commitment to working with the IMF in order to "streamline the policy conditions for its lending and to focus its lending strategy

on achieving economic growth through sound fiscal and monetary policy, exchange rate policy, and financial sector policy” (United States Government, Sept. 2002: 3-7).

According to the Office of the United States Trade Representative (USTR), trade has been crucial for America’s prosperity by “fueling economic growth, supporting good jobs at home, raising living standards and helping Americans provide for their families with affordable goods and services” (USTR, July 2006). During the last decade, trade has helped raise the Gross Domestic Product by nearly 40 per cent. The USTR further states that the two major trade agreements of the 1990s, NAFTA and the Uruguay Round, have generated annual benefits between \$1300 and \$2000 for the average American family. By the same token, if remaining global trade barriers were eliminated, states the USTR, the annual income of the US could improve by an additional \$500 billion (USTR, July 2006).

Thus, regional and bilateral free trade agreements (FTAs) are crucial for the United States. Since 2001, the Bush administration has signed and put into practice FTAs with Australia, Chile, Jordan, Morocco and Singapore. The US has also concluded negotiations, in this regard, with Bahrain, Central America and Dominican Republic (CAFTA-DR), Oman, Peru and Colombia, the Republic of Korea, Panama, the five countries of the Southern African Customs Union (SACU), Thailand, and the United Arab Emirates (USTR, Feb. 2006b).

According to Fink and Reichenmiller (2006), the increasing number of bilateral and regional FTAs pursued by the US in various regions of the world represents a considerable shift in the international diplomacy of this country. In the past, the US relied mainly on multinational trade institutions to advance its economic and commercial interests. The authors further argue that the strong pressure on investment conditions and on intellectual property rights (IPRs) protection, put in these agreements, has to do with the importance of the exports of intangible assets, a sector in which the US plays a leading role.

Since the creation of the World Trade Organization (WTO) out of the GATT (General Agreement on Tariffs and Trade) in 1994, the two most controversial issues that have arisen have been the preservation and strengthening of agricultural subsidies on the part of advanced industrialized countries and the TRIPS Agreement (Trade-Related Intellectual Property Rights),

and its implementation in the pharmaceutical sector. Both issues have a significant impact on economic and social conditions, especially in the poorest countries. They have also been crucial for the US in bilateral and regional trade agreements, as will be seen in the case of the AFTA.

The Myth of Foreign Investment

Within neoliberal thought, foreign investment is conceived of as the only path to generate economic and social development and, thus, create jobs. Therefore, reforms are promoted to make countries more attractive to foreign investors, especially those related to labour conditions. Such an argument is very well expressed in these trade agreements. Nevertheless, recent experiences of Latin American countries undergoing economic reforms demonstrate that this idea does not correspond to reality. Reports from varying international organizations such as the International Development Bank (IDB), the World Bank, and ECLAC (CEPAL), all acknowledge the increasing concentration of wealth, rising poverty and deterioration of job quality and working conditions from the 1990s on in Latin America, precisely when foreign investment increased. In fact, the historical experience of the most industrialized countries reveal that in order to achieve development, state policies were designed specifically to consolidate national sovereignty and to strengthen the domestic market.

Foreign Direct Investment (FDI) by multinationals increased immensely in Latin America during the 1990s, particularly in the form of generalized privatization policies. This type of investment was fundamental to the recovery of the US economy during the past decade (this included the purchase of fixed assets and included mergers and acquisitions, joint enterprises, investment in equipment, real estate, and remittance of capital to foreign-owned companies).

Nevertheless, given that the privatization process has almost concluded in Colombia and elsewhere in Latin America, prospects for foreign investment in the region are uncertain. According to a report by the OECD (Organization for Economic Cooperation and Development), a considerable increase in FDI by multinationals in the more advanced developing economies in the world was apparent in 2003, whereas it dropped for the second consecutive year in Latin America (OECD, June 2004). Another

report by ECLAC states that foreign investment in the region dropped 19 per cent in 2003. In Colombia the decline was more dramatic, with a drop of 34 per cent as the country accounted for only 4 per cent of the total amount of investment for the region. In Latin America as a whole, FDI shifted from \$44 billion in 2002 to \$36 billion in 2003. The explanation provided for this reduction in investment is the end of the privatization boom (Sesit, 2004: 1-17).

In 2005, there was again an increase of FDI into Latin America to \$68 billion, a figure 11 per cent higher than the previous year. However, according to ECLAC, it is clear that the region's participation in world trade has fallen, and it is less competitive internationally (ECLAC, 2006). More importantly, during the past two decades there has been a trend among multinationals to invest in non-productive sectors or to acquire state companies. This strategy on the part of foreign multinationals does not generate new jobs. On the contrary, the liquidation and privatization of state companies has been accompanied by the elimination of thousands of jobs, especially in the industrial sector. In Colombia, official figures registered an increase of FDI of 227 per cent in 2005. However, as the report states, this increase corresponds to the sale of the country's main brewery, Bavaria, to SABMiller, as well as the sale of other Colombian companies to international capital (PROEXPORT, 6 Dec. 2005).

A recent UNCTAD report states that global flows of FDI reached \$1.2 trillion in 2006, directed mainly to developed countries, such as the US, the United Kingdom and France (UNCTAD, 2007). The US regained its position as the largest host country for FDI in the world in 2006, while the European Union accounted for about 45 per cent of the total FDI inflows. Inflows to Latin America and the Caribbean slowed down as flows to Colombia fell by 52 per cent (UNCTAD, 2007). According to a report by the United States International Trade Commission, the US is the largest destination of FDI in the world, with \$1.5 trillion in 2004 (USTR, July 2006: 6-7).

The Results of the CTPA

A report from the Advisory Committee for Trade Policy and Negotiations (ACTPN) of the US states that the Colombian Trade Promotion Agreement “[f]ully meets the negotiating principles and objectives laid out in the Trade Act of 2002, and is

strongly in the interest of the United States. It will level the playing field for America's farmers and ranchers, manufacturers, and service establishments. It will provide increased market access for American goods and services" (ACTPN, 2007). The report also recognizes that "the Colombian agreement meets or exceeds the negotiating achievements of other recent agreements, including the Peru agreement and the Central America-Dominican Republic agreement" (ACTPN, 2007).

Advocates of the free-trade agreement with the US have insisted that the Andean countries' economies are of very little importance for the US. Therefore, the AFTA is presented a kind of "benign concession", on the part of Washington, to these countries. However, the trade relationship with the Andean countries is significant to the US economy. Total trade with Colombia, Peru and Ecuador was approximately \$24 billion in 2004 (ACTPN, 2007). Exports from the US to these countries accounted for \$8.3 billion the same year and included machinery, organic chemicals, plastic, and cereals, while exports of agricultural products accounted for \$1 billion. At the same time, goods imported from the three Andean countries totaled \$15.3 billion in 2004. These countries represent a market of over \$8 billion for US exports, and receive almost \$8 billion in US foreign direct investment (ACTPN, 2007).

Colombia, the third most populous country in the region after Brazil and Mexico, is also the second largest agricultural market for the United States in Latin America. According to Robert Portman of the United States Trade Representative, US exports of goods to Colombia in 2005 were \$5.4 billion. Top products exported by the US to Colombia in 2005 were: machinery, organic chemicals, electrical machinery, and plastic. American exports of agricultural products to Colombia represented \$667 million in 2005. The main products included coarse grains, wheat, cotton and soybeans (ACTPN, 2007).

In an official report from the US government concerning the CTPA it is stated the following: "The primary impact of the US-Colombia TPA will be increased US exports to Colombia, as a result of enhanced US access to the Colombian market. US imports from Colombia are not expected to grow significantly as a result of trade liberalization under the TPA because most Colombian products already enter the US market free of duty" (USITC, 2006).

According to other figures, US merchandise imports from Colombia amounted to approximately \$8.8 billion in 2005, ranking the country 31st amongst US import suppliers. Colombia accounted for less than 1 per cent of the \$1.6 trillion in US imports in 2005. Imports were concentrated in petroleum and related products, coal, coffee, gold, fresh flowers and bananas (USITC, 2006). It is clear, then, that the trade agreement with Colombia will be very profitable for the US, as far as bilateral trade is concerned.

Labour Provisions

During the two years of negotiation of the trade agreement labour issues were not discussed. Chapter 17 of the trade agreement, however, is dedicated to labour provisions (USTR-Colombia, 2006). At this point, the text reaffirms the obligations of the two signing countries as members of the International Labour Organization (ILO) and its commitment to the *Declaration of Fundamental Principles and Rights at Work*. The document also calls for respect to the Constitution in both countries and recognizes the right of each Party to adopt or modify its labour laws or standards (USTR-Colombia, 2006). It is clear that labour provisions focus on the enforcement of existing regulations. In fact, these provisions correspond to what all the Colombian administrations have been implementing under pressure from the IMF and other international institutions throughout the neoliberal period.

The Report of the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC) makes the following remarks regarding the Colombian trade agreement:

- It does not include enforceable provisions requiring that the government fulfill its obligations under the ILO core labor standards.
- It does not prevent Colombia from “weakening or reducing the protections afforded in domestic labor laws to encourage trade or investment”. Colombia has passed several reforms to ‘flexibilize’ the labour market in 2002, including extending the causes of dismissal, cutting the notice period for employment termination and drastically reducing severance benefits. In 2005, the government of Álvaro Uribe Vélez introduced a pension reform that prohibits the negotiation of pension benefits in collective bargaining.

- It does not require that Colombia effectively enforce its own laws regarding employment discrimination, which is a key labour right contemplated by the ILO (2006: 7).

Rules of Investment

The rules of investment are likely to have a strong impact on labour conditions given the fact that such rules are modified in order to facilitate foreign investment and that the key component of this strategy is lowering labour costs. The agreement includes several investment provisions in order to establish a stable legal framework for US investors in Colombia. It was conceived of as a way to protect all forms of investment, including enterprises, debt, concessions, as well as intellectual property rights. Through the 'Most Favored Nation' provision, the agreement gives the investors the right to establish, acquire and operate investments in Colombia on equal footing with local investors.

As the official document of the CTPA declares, the investment rules that were approved are more generous with foreign investors than the provisions of the WTO (USTR, Feb. 2006a: 6). Clearly, this threatens national sovereignty and the ability of the state to intervene in favour of national development. No doubt, some of the most harmful provisions in this regard are those concerned with international dispute settlement. The objective of such a mechanism is to allow a group of specialists to solve the differences resulting from a trade relation in an impartial and transparent way. However, the US was able to impose the use of private international tribunals, controlled by its multinationals, to solve investor-state disputes. The dispute mechanism includes submission of claims to arbitration, selection of arbitrators, conduct of the arbitration and transparency of the arbitral proceedings. As the text puts it, "[t]he investor protections in the Investment Chapter are backed by a transparent, binding international arbitration mechanism, under which investors may, at their own initiative, bring claims against a government for an alleged breach of the chapter" (USTR, Feb. 2006a: 6).

Through this provision the power of the state is subordinated to the interests of transnational companies as companies are allowed to sue the state for approving a law they consider detrimental to their expected profits. Thus, the approval of a minimum wage increase or a law of environmental protection by the Colombian government could lead a foreign company to sue the

government before international tribunals. By the same token, if the company decides that either its activity or its public image has been affected by state policies, the company could denounce the state to the international tribunal and, in both cases, claim multi-million dollar compensations. Through the CTPA and other free-trade agreements promoted by the US, American multinationals acquire an international legal status equivalent to that of the states, whereas the authority of such companies becomes higher than domestic legislation. Clearly, the norms of investment contemplated in the agreement are very favorable for large US producers. In a report by the ACTPN (2007) it is stated that the senior producers' advisory committee to the US government "applauds the comprehensive nature of the investment provisions ... stresses the importance of covering both existing and prospective investments, and has urged consistently that such investment provisions be part of all future agreements". It also states that "[t]he ACTPN is very pleased that the Colombia agreement enables binding third party arbitration for investor-state disputes not only for investments concluded after the agreement goes into effect, but also for many types of investments that pre-date the agreement" (ACTPN, 2007).

A very sensitive issue that affects the living conditions of people has to do with the rights of investors and the access to medication. Regarding intellectual property rights (IPRs) protection, the agreement makes a number of significant improvements, as an official document from the US government acknowledges. The agreement stipulates the restoration of patent terms in order to compensate for delays in the granting of the original patent, limits the ground for revoking patents, clarifies that test data and trade secrets submitted to the government office for product approval will be provided with protection against unfair commercial use for a period of five years for pharmaceuticals and 10 years for agricultural chemical products; and, requires a system to prevent the marketing of pharmaceutical products that infringe on patents (USTR, Feb. 2006a). According to Oxfam, the provisions agreed upon in AFTA regarding intellectual property rights protection are even more restrictive than those contained in CAFTA, "despite the fact that Andean negotiators from each country's health ministry went to considerable lengths to oppose them" (Oxfam, 2006: 3).

Other Key Provisions of the CTPA

The Colombian government made several concessions to the US that are likely to cause a fall in employment levels and thus directly affect labour's living and working conditions. Some of these concessions included in the bilateral agreement, are the following: "Regarding market access, the agreement will eliminate duties on 80 per cent exports of consumer and industrial products to Colombia. Additionally, 7 per cent of US exports would enter duty-free within five years of the implementation, and the remaining tariffs will be eliminated in ten years after the beginning of the agreement" (ACTPN, 2007). Colombia's average applied duty on overall imports of manufactured goods is 11.3 per cent, and the elimination of these duties will be very positive for US producers. Colombia also agreed to allow the trade in remanufactured goods such as machinery and computers under the provisions of the agreement. The agreement includes several provisions that contemplate rules of origin. In textiles and apparel, products that meet the agreement's rules of origin requirement will immediately enter the country without tariff. As the LAC report argues, rules of origin and safeguard provisions "invite producers to circumvent the intended beneficiaries of the trade agreement and fail to protect workers from the import surges that may result" (LAC, 2006: 4).

Colombia will also give market access to American firms in most service sectors, unless a specific exception is stated. Such exceptions, however, are quite limited in the agreement. The country agreed to go further than its commitments made in the WTO and dismantle services and investment barriers, including measures such as the requirement for US firms to purchase local goods or to hire national rather than US professionals. Colombia also agreed to eliminate the requirement for US companies to establish a branch within the country in order to provide a service. These provisions include sectors such as telecommunications, financial services, construction, all professional services, and energy. The country also agreed to join the Information Technology Agreement (ITA) of the WTO, which will eliminate Colombia's trade barriers to information technology products (Villarreal, 2006).

Regarding government procurement contracts (Chapter 8), American companies will be granted non-discriminatory rights to participate in contracts from Colombian government

ministries, agencies, public enterprises, and regional governments. According to the report by the United States International Trade Commission (USITC), “US industry estimates that non-discriminatory access to Colombian government procurement could increase US exports between \$100 million to \$500 million annually” (USITC, 2006).

The Agrarian Sector

With respect to agricultural products, the Colombian government agreed to eliminate tariffs well before the deadline agreed upon before the negotiations started. The agreement will immediately grant duty-free treatment to products like high quality beef, cotton, wheat, soybean meal, fruits and vegetables (including apples, pears, peaches, and cherries), and many processed food products including frozen french fries. To sum up, over 80 per cent of imports from the US will enter the country without tariffs once the agreement is implemented, 7 per cent in 5 years and the remaining in 10 years. The Colombian negotiators made more concessions to the American negotiators than those made by the Central American countries in the CAFTA-DR agreement in terms of reducing barriers to agricultural trade. According to a report by the USITC, US grain exports to Colombia could increase by an estimated 55 to 77 per cent, over the \$339 million in US grain exported to Colombia in 2005, as a result of better market access resulting from the CTPA (USITC, 2006: 3-22).

A recent study by Garay, Barberi and Cardona presents a detailed analysis of the CTPA and its perceived impact on the agrarian sector. After assessing the interests of the two countries in the negotiation and the perceived impact on the agrarian sectors of both Colombia and the US once the agreement is put into practice, the study concludes that Colombia achieved no significant concessions by the US. The authors argue that the trade agreement will become an additional obstacle to solving the violent conflict of the country, especially if it is taken into account that key agricultural products corresponding to the peasant economy will disappear once the agreement is implemented (Garay et al, 2006).

All of these provisions outlined in the CTPA will considerably affect living and working conditions in Colombia, in both the cities and the countryside. Industrial and agricultural produc-

ers will be threatened due to the elimination of trade barriers and tariffs proving detrimental for the productive sector. It is clear that the Colombian producers, with very few exceptions, cannot compete with the producers of the largest economy of the world.

Human Rights Violations and Politics

In addition to social and economic concerns, the LAC report presents key objections to the agreement regarding the current political situation in Colombia, characterized by significant restrictions to the rule of law and to basic democratic guarantees on the part of the government of President Álvaro Uribe Vélez. In fact, the perceived links between the President and of his government and paramilitary organizations has been a source of concern for trade unions and social and political organizations in the national and international sphere. Trade union leaders have been executed by these groups, with the indifference and/or tacit complicity of key members of the government, and despite international pressure against the Colombian government in this regard, no international sanctions have been imposed on the government.

However, there is a strategic consideration on the part of the American government. Currently, the Colombian government is the only ally of the United States in Latin America and the Andean Region. In fact, the Bush administration is relying on this alliance, given the fact that other Andean countries such as Venezuela, Bolivia and Ecuador have elected governments which share a very critical position in regards to American policies in the region and the world. Such a situation explains why the trade agreement with Colombia is perceived also as an important political issue for the US government, as stated in a press release from the USTR: “The U.S.-Colombia Trade Promotion Agreement will contribute to our collaborative efforts to promote peace and enhance stability and security across the Andean Region. The Agreement will also provide a strong framework to address labor issues, with targeted remedies for labor violations. We look forward to working with members of Congress to ensure bipartisan support for the agreement” (USTR, Nov. 2006).

However, the Democratic Party majority in the US Congress, the trade union movements of the US and various NGOs do not share the Bush administration’s perspective. According to the already mentioned LAC Report, the labour provisions of the FTA with Colombia will not protect the fundamental human rights of

workers: “Rather, the provisions represent a big step backwards...The complete lack of effective measures is particularly troubling given the well-documented violations of trade unionists rights in Colombia, up to and including the torture and murder of trade unionists by state actors or paramilitary groups that enjoy, at the very least, the tacit support of the military” (LAC, 2006: 3-4). As the same document declares, the combination of unregulated trade and increased capital mobility not only puts jobs at risk, but also places workers from both countries in direct competition over the terms and conditions of their employment. The report refers to extreme labour conditions in Colombia, where industrial conflicts are at times “resolved” by torture or murder (LAC, 2006: 3-4).

In a similar vein, in a statement issued a few months ago, the American Federation of Labor and Congress of Industrial Relations (AFL-CIO) expressed its concerns about the political situation and the prevailing impunity in Colombia regarding human rights violations and murders that affect trade union leaders. It is stated that Colombia is the most dangerous country in the world in which to be a trade unionist. Relying on figures from the Colombian Escuela Nacional Sindical (National Union School), the document states that 2,262 union officers and union members have been brutally and systematically murdered since 1991. The document states:

The AFL-CIO has concluded that no trade agreement with Colombia should be considered until the country meets an established set of human rights benchmarks. These benchmarks would include: completely severing all ties with paramilitary organizations and international criminal networks, making significant advances in the investigation and prosecution of crimes against trade unionists and providing meaningful and adequate protection for unions and trade unionists. The government must also bring its labour laws into conformity with ILO recommendations ... Until these benchmarks are met, the US should not consider any trade pact with Colombia (AFL-CIO, 2007).

In addition, the Democrat majority of the US Congress has insisted again and again that human rights violations of Colombian union leaders and the parapolitics scandal³ are key obsta-

cles to ratifying the CTPA. More recently, an editorial from the influential *New York Times* claimed that the US Congress should not approve the trade agreement with Colombia and expressed the view of the paper in the following terms:

Only Colombia's deal should be delayed. President Álvaro Uribe and his government have not done enough to bring to justice the paramilitary thugs — and their political backers — responsible for widespread human rights violations. Colombia is eager for the trade deal, and it has made some progress on human rights. But more is needed and withholding ratification can still be used as a lever to change Mr. Uribe's behavior. Meanwhile, Congress should move quickly to pass the Peru deal, for all the reasons in the Democrats' sensible letter — and to show Colombia what it's missing (*The New York Times*, 8 Oct. 2007).

Conclusion

With the generalization of neoliberal policies during the 1990s and the struggle against terrorism after September 11, 2001, the US has been able to consolidate its political and military hegemony throughout the world. However, it continues to face increasing confrontation, in economic and commercial terms, with the other economic powers of the world. In this dispute, the US has taken advantage of its power in international organizations, especially the WTO and the IMF, in order to ensure better investment conditions for its multinationals throughout the world.

Against this context, beginning in 2001, the US has developed an aggressive economic strategy, in order to negotiate trade agreements with countries throughout the world. In fact, this policy has been considered a strategic one within the Doctrine of National Security of the Bush administration. Through these agreements, the US has been able to obtain very favorable or “plus” conditions of investment for its multinationals, regarding various issues.

In such a context, the final approval of the CTPA by the US Congress and the implementation will deeply affect the Colombian productive sector and thus, the working and living conditions throughout the country. This agreement represents the deepening of the neoliberal agenda adopted by the Colombian governments from the 1990s on. As was argued throughout the article,

these policies have had a negative impact on the social and working conditions in Colombia and elsewhere in the region.

The political situation prevailing in Colombia, marked by the persistence of violence against union and social leaders, has notoriously deteriorated with the current government due to its perceived links with the paramilitary leaders. No doubt, this fact is an additional source of concern for democratic social and political organizations throughout the world.

Endnotes

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2. For Washington it should be understood that not only the American government, but also the financial international institutions and the think-tanks, committed to the neoliberal thought and reforms.
3. The “parapolitics” scandal, which emerged in late 2006, has led to the indictment and imprisonment of 37 legislators and government officials, many with close ties with President Álvaro Uribe. They have been accused and convicted of collaboration with the paramilitary organizations.

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