

Open Letter to President Barack Obama Regarding Colombia-US FTA

President Barack Obama
White House
Washington, DC
United States

April 14, 2011

Honorable President Barack Obama,

The Association for Displaced Afro-Colombians USA and Colombia consider this an opportune moment for us to share with you our reaction and concerns regarding the Labor Action Plan Accord between the US and Colombia that was released on April 11, 2011 and includes strict protection measures for trade unionists and labor rights. Our perspective we hope you will consider is based upon our long-standing work over several years with afrocolombian internally displaced organizations.

In a country where forming part of trade union amounts to a death sentence, this Plan is an important step forward in initiating long term work that seeks to guarantee effective protection for the human rights and labor rights of unionized workers. For AFRODES this plan has a great impact from the commercial and political viewpoint because we are profoundly worried that it does not include conditions that protect the human rights, territory, culture and autonomy of afrocolombian and indigenous peoples. These being the groups primarily affected in the development of this five decade long conflict that does not appear to have an end. During the global year of afrodescendants and given that this accord will have negative irreversible impacts on ethnic communities, we call upon your government and the government of Colombia to adopt accords containing effective measures that will guarantee that our peoples will have their right to life and territory respected and not suffer violations of their political, economic and social rights.

For AFRODES USA and Colombia, the approval and implementation of the Free Trade Agreement will have a negative impact on the lives of Afro-Colombian grassroots communities. As such, we are opposed to it unless the United States and Colombia adopt special measures to reinstate and protect the fundamental rights of our communities. These are communities that in the past and present continue to be

vulnerable and unprotected by the Colombian government's policies. The reason we hold this viewpoint is due to the following facts and analysis:

- ***Legislative and institutional reforms to protect the lives of trade unionists and rights of workers is completely justifiable but insufficient.***

Violations of the fundamental rights, including labor rights, of afrocolombian and indigenous communities amount to both a humanitarian and human rights crisis. The characteristics of this crisis are of such a great magnitude that it is threatening the cultural survival of these ethnic groups. Putting in place a Free Trade Agreement without clear commitments or way to resolve this matter, will lead to an additional threat against our communities that will deepen pre-existing problems and as such it does not offer opportunities for our communities.

- ***Violations of Afro-Colombian and Indigenous rights are strongly linked to economic interests (legal and illegal) situated in our territories.***

Between 1997 and 2011 more than one million afrocolombians were expelled from their territories. Today, as a result they live in a situation of deeper exclusion and marginalization. Internal displacement is often accompanied with acts of extreme violence that have been broadly documented by international human rights organisms. The US government knows this very well. The implementation of a Free Trade Agreement, without having addressed these conditions and guaranteeing that we can recover our rights and exert economic and cultural autonomy as stipulated in our Constitution and laws will deepen our exclusion. Doing so will make us easy targets for armed actors, narcotraffickers and common delinquents.

- ***The Colombia State continues, without success, to design and implement public policies for the restitution and protection of the rights of afrocolombian and indigenous populations.***

The fact that the internal armed conflict has a differentiated impact on afrocolombians and indigenous peoples is well recognized by the Colombian State, United States, United Nations, Organization of American States and the International Committee of the Red Cross (ICRC).

The lack of implementation of laws and public policies that the government is obliged to implement to re-instate our rights has led the Constitutional Court to emit a series of orders (Auto 005/2009, Auto 004/2009 y Auto 092/2009) that oblige the government to

remedy this. Despite all of this, the government has not assigned resources from its budget to implement these policies.

- ***There exists rampant impunity for crimes and threats committed against our communities, organizations. These crimes continue to take place.***

Efforts made by the Colombian state, including some efforts that were supported financially by the US's USAID, have not led to the results expected. Up until now there does not exist a significant number of sentences against those responsible for human rights violations. Afro-Colombian and indigenous leaders continue to be threatened, tortured, disappeared and murdered. The current so called victims' law is inadequate in terms of the collective rights of ethnic communities. In sum, the chapter for victims of displacement is a step backwards with respect to the jurisprudence produced by the Constitutional Court in terms of prevention and protection of the rights of internally displaced persons. Such jurisprudence has been reiterated in various rulings and subsequent orders of the Court.

- ***Afro-Colombian leaders and organizations continue to be attacked for exercising their right to freedom of expression and for reclaiming their human rights and constitutional rights.***

Our organizations have systematically denounced the death threats that we keep receiving from paramilitary groups. These threats have become a daily occurrence and have resulted in assassinations of many prominent leaders. Until now there do not exist investigations into the later. It is of great concern that the Colombian government has not only not strengthened protection mechanisms for threatened leaders but that it has not made public pronouncements supporting the work of specific organizations that have received such threats. Many of those it does not name are credible organizations that have received national and international recognitions.

- ***The right that ethnic communities have to be involved in the decisions that affect them continues to be implemented without guaranteeing that it is done adequately.***

The Colombian State has ratified international conventions such as Convention 169 of the International Labor Organization (ILO). By doing so, it has committed itself to guarantee that afrocolombian and indigenous communities are guaranteed the right to be previous consulted. Despite this fact, it has not adopted laws that require this. This has allowed for legislative and administrative decisions that affect communities move

forward without these communities having a say in them. Precisely many communities that will be affected by investments tied to the Free Trade Agreement were not even informed of the content of this agreement. This reality is worrisome given the historic tendency exhibited in afrocolombian territories whereby large scale development projects tied to foreign capital correlate with zones of the country that have experienced forced displacement.

Mr. President, the internally displaced afrocolombian communities are interested in the Colombian State being successful in implementing policies that lead to the restitution and protection of our rights. We also value the United States interest in strengthening commercial ties that will benefit both countries. However, we recognize that the tendencies, factors and phenomena that have produced the displacement of more than a million afrocolombians and indigenous persons. This is a reality that cannot be excluded from the commitments made by both governments in order to approve the Free Trade Agreement, as well as other agreements be they commercial, political or military. This commercial agreement will have profound implications on the lives of these communities, without a doubt, its implementation and development will take place in regions of the country where these communities live. These are also areas of the country that have lived at the margins of social and political investment.

From this perspective and based upon the considerations explained above, AFRODES USA and Colombia, cordially ask that you urge the Colombian government to fully implement the following obligations prior to advancing with the implementation of the FTA:

- Incorporation and implementation of the recommendations made by six Democratic Members of Congress (Jim McGovern (MA-3), George Miller (CA-7), Rosa DeLauro (CT-3), Mike Michaud (ME-2), Linda Sanchez (CA-39) and Jan Schakowsky (IL-9) on March 17, 2011, as well as the statements made by Representative Hank Johnson (GA-4) and the various national and international human rights and labor organizations.
- Effective implementation of Constitutional Court Orders 005-2009, 004-2009 and 092/2008 and law 70 of the black communities.
- Prohibiting passage of legislation that undermine and attack against the rights of the collective rights found in law 70 and that generate conditions that increase the vulnerability of afrocolombian communities in terms of the effects of the war and exclude economic alternatives.

- Re-instituting lands to Afro-Colombian communities. Prosecuting businesses and leaders of paramilitary groups that under military influence have displaced, disappeared, tortured and murdered afrocolombian leaders and community members in order to take over their lands.
- Changing policy and taking action so that there is a guaranteed dismantlement of paramilitary, guerilla, narco-trafficking and common criminal groups in areas where afrocolombians and indigenous peoples reside.
- Designing a Plan of Action for the protection and promotion of Afro-Colombian and Indigenous human rights and respect for international humanitarian law that applies to persons displaced and those who are confined (unable to flee).
- Investigating and prosecuting major crimes committed against the afrocolombian people including the following: aerial bombardment done by the 17th Brigade of the Colombian military in the Joint military and illegal paramilitary known as "Operation Genesis" that took place on December 19, 1996 and February 1997 in Riosucio Chocó. This operation led to the mass displacement of over 20,000 afrocolombians and a not quantified number of disappearances in this region of Colombia; the 2002 massacre of 119 afrocolombians including women and girls in Bojayá (Chocó) committed by the FARC guerillas; the massacre in Naya municipality (Cauca) by paramilitaries in 2001 and others.
- Giving financial and Budget support for the ethnic development plans, plans and projects constructed by the Community Councils who manage the collective territories of the afrocolombian communities.
- Work jointly with black and indigenous communities to look for measures and plans that lead to the re-establishment of trust and effective policies that benefit all of the communities affected by the internal armed conflict.

Mr. President, these petitions are fundamental to guaranteeing the survival of an ethnic population that is on a path of disappearance in the future.

Señor Presidente, estas peticiones son fundamentales para garantizar la supervivencia de una población étnica que parece estar marcada a desaparecer en el tiempo.

With admiration and respect,

AFRODES-USA

AFRODES-COLOMBIA