OBSERVATORIO TLC

FTA Observatory
The Impacts of FTAs on Colombian Workers. No.1

Below, is a summary of the impacts of FTAs, analyzed in the Observatory's newsletter, available at: http://goo.gl/AzUPH2

FTAs PROMOTE INFORMALITY.

Recently, the Colombian Federation of Chambers of Commerce and the Superintendent of Societies reported on the creation and liquidation of companies in Colombia during 2015. According to a report, 257,835 production units were created last year; 63,029 societies and 194,806 natural persons, showing a 15 percent decrease in the total of units created from the previous year.

The abundant imports from countries with which Colombia has Free Trade Agreements, the amount of which increased from a monthly average of USD 760 million in 2006 to USD 1.8 billion in 2015, are a decisive cause of the fragility of businesses (82% small and medium) created in the country.

THE AGRICULTURAL SECTOR IS NOT RECOVERING IN SPITE OF THE DOLLAR.

The agricultural sector of Colombia remains stagnant, in spite of the high exchange rate. The government and industry announced that Colombian tradable goods could obtain better trade and economic results with an exchange rate above COP 3,200 per USD 1.00. They insinuated that the agricultural sector would recover from the destructive effects the high revaluation had on the sector for more than 10 years, when the dollar bottomed out at 1,700-1,800 COP. Now, when the results do not coincide with the projections, the underlying reasons, such as the effects of FTAs, become evident. Workers in the agricultural sector and small and medium producers bear the brunt of these effects.

WHAT WILL HAPPEN WITH THE ISAGÉN WORKERS AFTER ITS PRIVATIZATION?

In their chapters on investment, market access, competition policies, resolution of conflicts, and various clauses, Free Trade Agreements expand the trend toward privatization that has been underway since the economy opened in 1990. The FTA with the United States, as well as the European and other FTAs, establish rules favorable to foreign investors who seek to acquire strategic public assets, as in the case of Isagén.

To mention some of the labor rights Isagén workers obtained during 20 years, those that most stand out include the adjustment of salaries to above the inflation rate, a minimum salary nearly 100% above the legal monthly minimum wage in force, variable compensations, remunerated vacations, extralegal bonus, seniority premiums, housing and education, and others. The 662 Isagén workers (2014) have permanent contracts, and have worked for an average of 11.36 years in the company, with a relatively low turnover rate (3.17%).

THE LABOR "RECOMMENDATIONS" OF THE OECD.

In its most recent document on labor and social policies in Colombia, the OECD summarizes its main "recommendations" for the development and implementation of reforms that accelerate Colombia's adhesion to this international organization, which works for the adoption of suitable institutions in countries that apply free trade policies.

This document includes "recommendations" to eliminate salary barriers, starting with the national minimum wage and creating regional salaries, to strengthen the implementation of labor laws, to make the minimum pension more flexible, and other requirements.

THE LOW QUALITY OF EMPLOYMENT IN COLOMBIA

This past February 2, the Bank of the Republic released a study on the quality of employment in Colombia. Among its main findings, the report highlights that 9 of every 10 extra hours worked are not remunerated in the country, and that 3 out of 10 Colombians do not have any type of employment contract.

In the study "Quality of Work in Colombia: A Diffuse Multidimensional Index, " the authors describe that that quality of work in Colombia has undergone important changes since 2009, highlighting that "there has been an increase in long-term underemployment, part-time work, unemployment, and informality, in addition to little progress in social security (healthcare and pensions) affiliation. The data also revealed that sub-contracting has increased and many workers' salaries have gown very slowly, causing a significant increase in income underemployment."

1,500 DIRECT JOBS IN THE LIQUOR INDUSTRY AT RISK FROM FTAs.

The national government has made numerous attempts to end the state liquor monopoly in Colombia. The 2014-2018 National Development Plan, which the Congress of the Republic debated a year ago, originally included articles that met the requirements of the OECD and the Free Trade Agreements signed with the European Union, United States, and Canada. After the elimination of these articles thanks to the mobilization of national businessmen and sector workers, the national government presented a bill to satisfy foreign liquor producers, which has put significant political pressure to reduce tariffs, taxes, and benefits that national liquor industries currently have.

The OECD, together with the European Union, United States, and Canada require Colombia to reduce taxes on imported products and end the state liquor monopoly, given that they consider these practices to be discrimination against imported products. The new formula the executive has proposed to charge a consumption tax proposes the payment of 200 COP per alcoholimetric degree (without distinguishing between liquors above or below 35 degrees, which benefits foreign liquor) and a 25% tax on the final good (ad valorem tax) of all liquors, regardless of origin. The reform is intended to make foreign liquors pay less taxes, which would reduce the cost of their products, the sale price, and allow them to take part of the market that today national liquors occupy. On the other hand, its proposes that national and imported products pay the same rate of this tax starting in 2019, which would provide foreign liquor the same treatment as national liquor, thus fulfilling the demands of FTAs and OECD requirements.

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[1] *http://www.banrep.gov.co/sites/default/files/publicaciones/archivos/dtser_230.pdf*

FOOD INSECURITY IN COLOMBIA

Concerns are increasing regarding the increase in food imports to Colombia that are increasing in price due to the high USD exchange rate. According to the National Administrative Department of Statistics (DANE), agricultural imports measured in tons have increased from 9.8 million in 2013 to 11.5 million in 2015. It is expected that massive imports will arrive from countries with which Colombia has Free Trade Agreements in the upcoming months.

The national government's decision to control the inflation of foodstuffs (which already surpasses 12%), consists in reducing tariffs on foodstuff in the basic food basket. In other words, the remedy is worse than the illness, as imports are increasing in price thanks to an ever-increasing dollar (by mid-February, the dollar crossed the threshold of 3,500 COP).

ONLY 5 PERCENT OF CANADIAN TRANSNATIONALS HAVE LABOR UNIONS

In August 2011, the FTA with Canada entered into force, and since then the conditions of workers in Canadian companies in Colombia have not improved. In the 95 Canadian companies registered in the country, there are only 5 unions, 2 of which lack collective labor agreements.

Of the 95 companies, 13 are devoted to gold exploitation, 2 to coal extraction, 10 provide services to extractive industries, 25 to the exploitation of hydrocarbons, 22 to the extraction of metals, and the rest in financial, technology, transportation, and industry services. Canadian investment in Colombia is the fifth highest, with 1.7 billion Canadian dollars (around 1.53 billion USD) accumulated during the FTA. According to Proexport, Colombia is the 14th largest destination of new Canadian IED Greenfield in the world. It is worth mentioning that the most important investment sectors are coal, oil and natural gas, precious metals, the real estate sector, hospitality and tourism, and renewable energy.

FOOTWEAR AND LEATHER, AT RISK FROM FTAs

The recent Andi Industrial Opinion Survey revealed that the leather and footwear sector in Colombia is facing a downturn due to the exchange rate, massive imports, and workforce.

According to Andi, "33% of surveyed business people affirm that the exchange rate is the main problem the industry faces, while 25% report that the cost and provision of raw materials concerns them."

The footwear sector is made up of around 6,000 companies, which manufacture, import, market, and export. Valle de Cauca, Bogota, Antioquia, Nariño, and Caldas are the main regions where this activity is carried out. 65% of these companies are small and medium sized, employing between 5 and 10 workers. In total, the leather and footwear industry employ more than 20,000 workers with an average monthly salary of 1,100,000 COP, according to the DANE Annual Manufacturing Survey.

WOKERS MOBILIZE AGAINST FTAs ON MARCH 17

Colombian workers, led by the National Unitary Command (Comando Nacional Unitario), which brings together trade union federations, social organizations, and political sectors, announced a list of requests and demands that the workers would protest on March 17 in several cities throughout Colombia.

The demands include the evaluation and revision of the Free Trade Agreements. They also include the defense of national production, agricultural as well as industrial, through tariffs, taxes, financial mechanisms, the rejection of tariff-free food imports, and the dismantling of the state monopoly on Colombian liquor producers.

EPS WILL BE OWNED BY FOREIGN BUSINESSES THANKS TO THE TLC

The crisis of the Colombian health system is an opportunity for big healthcare businesses throughout the world. Based FTA, transnational medical services companies began to acquire EPS in Colombia, in particular those that face severe financial problems. Health empires, such as Christus Health already has businesses in the United States, Mexico, and Chile.

Since January 1, the transnational healthcare company Christus Health has owned a percentage of Coomeva EPS, which covers 3 million affiliates and a net income of COP 2.4 trillion. The EPS' costs are COP 2.3 trillion; its losses are COP 35 billion, and has debts to its service providers around COP 500 billion, according to data at the end of the 2014 fiscal year.

The entry of this health giant into Colombia sets a precedent, as large investors are now interested in participating in the lucrative business of EPS, with little foreign participation, which is now a market protected by FTAs.

OPPOSITION TO FREE TRADE GROWS: POTATO PRODUCERS OPPOSE MORE FTA IMPORTS

During the XVIII National Congress of the Federation of Colombian Potato Producers, the Congress released a public communique, addressed to the President of the Republic, opposing the intentions of the processing industry to import potatoes, joining the demands of other agricultural producers who oppose the effects of FTAs, the reduction of tariffs, and massive imports.

According to national producers, in December 2015, Juan Manuel Santos received a letter in which processors requested to import more dried potato, arguing a national shortage. These processors, with close ties to the packaged french fry market for large fast food chains (such as McDonalds, Burger King, and others) hope to obtain a larger share of the market and increased profits with greater vertical integration (controlling the entire chain, from production of the good to distribution).

WITH FTAs IN HAND, MINING COMPANIES SUE THE COLOMBIAN STATE

Eco Oro Minerals (Canada) and Tobie Mining and Energy (United States) filed lawsuits against the State of Colombia, alleging violations of the Free Trade Agreements and Investor Agreements between Colombia and these North American countries. Both suits involved a large economic burden and the diminished economic health of Colombia.

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[2] *https://www.sectorial.co/articulos-especiales/item/51522-tasa -de-cambio,-materias-primas-y-mano-de -obra,-las-preocupaciones-del-sector-cuero-y-calzado*

[3] *EPS (empresa promotora de salud) are private healthcare companies, which the government regulates. All Colombian workers in the formal sector must be affiliated with an EPS.*

[4] *As of June 2016, the USD/COP exchange rate hovers around 3,000 COP per 1 USD.*

CARLOS SLIM VS COLOMBIA: ANOTHER LAWSUIT FOR “NON-COMPLIANCE WITH FTAs”

Colombia’s lawsuits from large foreign companies is a never-ending story. Several days ago it came to light that AMX (América Móvil, of the Mexican magnate Carlos Slim) would request compensations from an arbitration tribunal for violations of the Mexico – Colombia FTA and international law. The goods to be returned to Slim’s company are valued at close to COP 11 trillion.

The long-standing conflict between Claro and Movistar with the ICT Ministry began in 1994 when they procured some state goods (cellular telephony) which, according to decisions from the Constitutional Court, should have returned to Colombia in 2014.

What is striking about this case is that there was “total disinterest in the case on the part of the ICT Ministry, because the Constitutional Court issued its ruling in 2013, and just now the ICT Ministry called an arbitration tribunal on this important topic. And if the contracts ended in March of 2014, it is unacceptable that these multinationals continue to exploit these goods without paying anything to the Nation, when in the concession contracts signed in 1994, the reversion of these goods to the national patrimony was clear,” Senator Robledo mentions in a letter to Minister David Luna.

INFLATION CONTINUES GROWING DUE TO INCREASES IN THE PRICE OF IMPORTED FOODS

Inflation continues to increase, and demonstrates that the economic policies to contain it are failing. Driven by the increase in prices of imported food, inflation is the highest it has been in 10 years, and has now overtaken the increase in minimum wage for 2016.

Food imports are largely responsible for this result: between January and November 2015 (the most recent dates for which data is available), 10.6 million tons of agricultural and agro-industry products were imported, whose value reached USD 5.369 billion. For the Society of Colombian Farmers (SAC), these numbers meant a 9.9% increase in volume, the highest growth rate in the past nine years. Rice imports increased 264%, cereals 9%, and corn 16%, among others.

The social consequences are evident: the total 12 month inflation (7.98%) and of food prices (12.35%) outstrips the increase in minimum wage for 2016 (7%), leading to diminished purchasing power for Colombian workers.

COLOMBIANS’ CONFIDENCE IN THE ECONOMY PLUMMETS. WHAT DOES THIS HAVE TO DO WITH FTAs?

Colombian consumers have lost confidence in the Colombian economy. According to the Consumer Opinion Survey and the Economic Conditions Index, which measures household prospects and economic perceptions, the country is going through a difficult time. Free Trade Agreements are the cause of a commercial imbalance of USD 16 billion. This is the primary factor of the current account deficit, the Achilles’ heel of the national economy.

WHAT DO FTAs HAVE TO DO WITH THIS?

In February, the Consumer Confidence Index (ICC) continued in negative, increasing from -21.3% to -21% between January and February. This represents a fall of 35 percentage points compared to February 2015, and a minimal recovery of .3% compared to the first month of 2016, according to the Consumer Opinion Survey (EOC). Meanwhile, the Economic Conditions Index (ICE), which refers to peoples' perception of the economy, has fallen 4.1% compared to January. In 12 months it has fallen 47.2%.

THE FTA PAPERS

In recent weeks, news of political leaders, bankers, athletes, and artists tied to the 11.5 million documents on offshore societies and other models of tax evasion in Panama have resonated. According to the UN, between 21 and 32 trillion dollars are hid in tax havens annually through law offices that "launder" the money of large transnational companies and wealthy individuals. What is the connection between the Panama Papers with FTAs? If Panama has 18 bilateral trade and investment agreements with the United States, the European Union, and Canada, why has it permitted the creation of offshore companies since 1970?

Tax havens and offshore territories, together with other international practices such as "letter box companies," allow big companies and large fortunes to evade their tax responsibilities, both in their home countries, as well as in the countries where they are established. According to the International Consortium of Investigative Journalists (ICIJ), in the leaked files from Panama, they found that more than 500 banks, their subsidiaries, and affiliates have worked with Mossack Fonseca since the 1970s, a company which helps its clients manage its offshore businesses. UBS Bank created more than 1,100 offshore companies through Mossack Fonseca, while HSBC Bank and its affiliates created more than 2,300.

THE CONSTITUTIONAL COURT ALLOWS THE IMPLEMENTATION OF FTA WITH KOREA

Last week, the Constitutional Court ruled that the FTA with Korea is constitutional. In its decision, the Court demands that President Santos issue a declaration regarding a one year safeguard permitting a limitation on capital transfers. In any event, the Court has allowed the implementation of the FTA with Korea, which constitutes a serious threat to national industry and employment.

With this Court decision, this FTA is added to the list of economic agreements that are deepening the country's crisis, and that are responsible for the largest trade deficit in history. Korea contributes with a trade deficit of US 856 million in 2015, created in large part by the imbalance in the trade of industrial goods.

The entry into force of this trade agreement, in addition to the accumulative effects of the other FTAs, calls for the reopening of the debate regarding the country's development model and the economic inappropriateness of these treaties. "Reality showed that FTA supporters were wrong, causing an enormous and social cost."

TRANSNATIONAL PHAEMACEUTICAL COMPANIES USE FTAs TO END GENERIC MEDICATIONS IN COLOMBIA

The association of transnational pharmaceutical companies has just added Colombia to its "black list" of countries with inadequate intellectual property practices for the economic interests of these large companies. These companies exercise enormous pressure to modify legislation and take over the pharmaceutical market in the country, eliminating any kind of generic, low cost medications.

Several Colombian NGOs have denounced this practice, including the Health Oversight and Cooperation Committee (Comité de Veeduría y Cooperación en Salud (CVCS)), of which the Medication Information Center of the National University forms part, which consider that "this process, in addition to arbitrary, is illegitimate, as it violates the World Trade Organization's (WTO) prohibition on the unilateral adjudication of trade conflicts related to agreements signed within that body."

THE OECD PREPARES FOR A NEW WAVE OF PRIVATIZATIONS IN COLOMBIA

In November 2015, the National Government, through the National Council of Economic and Social Policy, released Conpes Document 3851, which regulates the actions of alienation, democratization of capital, acquisition, fusion, division, and other activities associated with managing the portfolio of state participation in 111 companies in the country. This document is one of the OECD requirements for Colombia's entry into the multilateral organization.

Currently, the National Government has participation or property in 111 companies, mainly in the gas and oil, transportation and telecommunications, and energy sectors. According to the aforementioned document, the assets of these companies represent 32% of the GDP, or COP 240 trillion. Additionally, the 2014 revenue of these companies reached the equivalent of 30% of the Government's investment budget.
This new wave of privatizations in Colombia would have negative effects on the thousands of workers in these 111 state companies. As is well known, privatizations are accompanied with personnel cuts, sub-contracting or outsourcing of mission-related activities of companies, union persecution, loss of labor rights, and other negative effects.

INTERNATIONAL MONETARY FUNDS DEMANDS WORKERS SUFFER THE CONSECUENCES OF THE CRISIS

In its annual review of the economies of member countries, referred to as Article IV, the IMF insisted on the need to "implement without delay" a tax reform in Colombia this year, and indicated that an additional adjustment to the monetary policy is also required. In general, the IMF undertakes an evaluation of Colombia's economic policy and applauds the decisions that are contrary to workers' interests.

In the aforementioned report, the IMF recognizes that the economic slowdown in Colombia starting in 2015 is occurring with a strong "moderation of internal demand," which "will facilitate a softer landing in 2016-2017." In simple terms, the IMF is celebrating that the crisis is translated into less consumption by Colombians, less investment by national businessmen, a reduction in social spending, and a historical gap in foreign trade.

BLEAK EMPLOYMENT PROGNOSIS IN COLOMBIA

The economic model of Free Trade Agreements: foreign investment as a main source of growth and specialization in mining and energy sectors, has had serious social effects in Colombia. These effects have begun to be felt, but the worst is yet to come. According to projections of multilateral organizations, Colombia will be the country that loses the most jobs as a result of declines in the economy and production.

Projections of mediocre growth in Latin American countries during recent years stem from a worrying perspective regarding employment, in particular for oil exporting countries. For countries dependent on mining-energy exports (participation in total exports of greater than 50%), unemployment could increase between 1.5 and 2%.

Colombia is the country whose economy is most sensitive (in terms of employment) to changes in economic growth. Unemployment increases .44%, or 10,500 jobs, for each percentage point of economic decline.

WTO TRADE FACILITATION EXPANDS FREE TRADE

The director-general of the World Trade Organization, Roberto Azevedo, visited Colombia to ratify the Trade Facilitation Agreement, which the WTO hopes will increase world trade by USD 1 trillion through the full liberalization of agricultural products, information technology products, telecommunication satellites, medical supplies, videogames, and other goods. In other words, the agreement seeks to expand free trade in Colombia without considering the balance of this same model is that after 25 years, its results in the country were unfavorable.

This issue is one of the famous “Singapore issues” that prevented progress in the WTO’s agenda of liberalization. The Agreement as conceived would be more beneficial for rich countries than for developing ones. The OECD estimates that a reduction in trade costs for 1% of world trade would increase global revenue by more than USD 40 million, of which 65% would go to developed countries.

NOVARTIS AND U.S. BLACKMAIL AGAINST COLOMBIA

The fight between the Colombian State and the Swiss Pharmaceutical company Novartis consists in the possibility of declaring a medicine that combats leukemia, and whose patent is close to expiring, as a public interest medication. The pressure of transnational pharmaceutical companies on Colombia went so far as to have United States’ senators with ties to the pharmaceutical industry and related special interest groups threaten to “interfere with other interests Colombia might have in the United States.”

This situation caused three NGOs (Misión Salud, Ifarma and the Medication Information Center of the National University) to urge the National Government to declare an obligatory license for this medication, whose patent is valid until 2018. At that point, Novartis, one of the most powerful multinational laboratories, broke off conversations with Colombia to reach an agreement on the price of the medication Glivec. In this context, Colombia could issue a license that would permit the production and sale of the medication by national laboratories, significantly reducing its price.

AN AVALANCHE OF NORTH AMERICAN ETHANOL, ANOTHER CONSEQUENCE OF THE FTA

The National Government just submitted to debate a resolution to modify resolution 90454 of 2014, which relates to the ethanol business. In essence, it seeks to eliminate the 0% tariff for fuel alcohol from the United States. This decision would affect more than 2.1 million people who depend on cane sugar and its derivatives.

This resolution is tied to the Free Trade Agreement signed between Colombia and the United States, which reduces tariffs on the importation of ethanol starting the day it enters into force. As a result, imports increased from 14.9 million in 2012 to 22.3 million in 2014. Later, as a result of the crisis in the prices of energy products and changes in political decisions in the United States, imports fell to 1.86 million liters in 2015. To counteract this fall, Colombia sought to clear the way for ethanol from North America.