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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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March 2, 2016

The Honorable Juan Carlos Pinzón  
Ambassador  
Embassy of Colombia  
1724 Massachusetts Ave., NW  
Washington, DC 20036

Dear Ambassador Pinzón:

I am writing to express my continuing concerns regarding full and faithful implementation of and compliance with the U.S.-Colombia Trade Promotion Agreement (U.S.-Colombia TPA). As you know, I am a strong supporter of the economic relationship between the United States and Colombia and worked hard to ensure that the U.S. Congress approved the U.S.-Colombia TPA. I believe that the agreement overall has been a success. However, implementation of and compliance with the agreement has fallen short in several areas, resulting in limited benefits to U.S. firms seeking to benefit from the agreement and to expand their economic partnerships with Colombian firms.

For example, I am concerned by Colombia's policy toward the registration of new freight trucks over 10.5 metric tons. Prior to March 2013, the registration of a new freight truck in Colombia required either the scrapping of an older freight truck of equivalent capacity or the payment of a "scrapping fee." Colombia has since eliminated the scrapping fee option, and, as a result, a would-be purchaser of a new freight truck first must own and scrap an older freight truck. This requirement distorts the U.S.-Colombian market for freight trucks and related products and services, constitutes a nontariff barrier to trade, and is of major concern to U.S. freight truck manufacturers. Furthermore, Colombia has pursued its truck scrapping policy without transparent public consultation, adequate opportunity for stakeholder input, or transition periods for the imposition of new measures.

Colombia's assessment of consumption taxes on distilled spirits also concerns me. Colombia deliberately imposes lower tax rates on domestically produced spirits, thereby discriminating against imported spirits, through a system of arbitrary taxation breakpoints based on alcohol content. Article 2.2 and Annex 2.2 Section A of the U.S.-Colombia TPA require Colombia to eliminate these breakpoints within four years of entry into force of the agreement (i.e., by May 15, 2016). I hope that Colombia will adhere to this commitment. A related concern is the imposition, by at least one Colombian department, of higher taxes on private producers of distilled producers than on department-owned producers. I understand that consultations are occurring on these issues, and I hope that these discriminatory policies will be eliminated as soon as possible.

I also am concerned with the regulatory treatment of pharmaceutical products in Colombia. First, several stakeholders have expressed concerns that the Colombian regulatory system does not provide an adequate opportunity to participate in the rulemaking process or to provide meaningful input regarding the Colombian government's adoption of scientific standards. For example, rulemaking comment periods

often close very shortly after opening. Such a process is neither fair nor transparent. Second, Colombia has denied marketing authorizations for innovative U.S. products that have been approved by several countries that maintain stringent regulatory standards. Third, serious questions exist regarding the compliance of Colombia's 2015 National Development Plan, as it relates to pharmaceutical issues, with the U.S.-Colombia TPA, the Agreement on Trade-Related Aspects of Intellectual Property Rights, and the Technical Barriers to Trade Agreement. At a minimum, these regulatory concerns are not within the spirit of the cooperative commitments that our countries agreed to in the U.S.-Colombia TPA.

A final example of major concern is Colombia's protection of intellectual property rights (IPR). Following significant interruptions in 2013, Colombia made progress in 2014 and 2015 toward implementation of several IPR provisions contained in the U.S.-Colombia TPA. However, certain IPR commitments have not been implemented fully, especially commitments regarding digital and online copyright piracy.

I understand that your government has expressed interest in joining the Trans-Pacific Partnership agreement, should it be approved by the U.S. Congress. The *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* makes clear that adherence to existing international trade and investment agreements is a key criterion to be considered by the U.S. government in determining whether to enter into additional trade negotiations with a particular country. As a strong supporter of the U.S.-Colombia economic relationship, I hope that existing implementation and compliance issues will be resolved so that our countries can strengthen and expand our economic relationships without any impediments.

Sincerely,

A handwritten signature in blue ink that reads "Orrin Hatch". The signature is written in a cursive style with a large, prominent initial "O".

Orrin G. Hatch  
Chairman  
U.S. Senate Committee on Finance