The Colombia and Panama Free Trade Agreements: National Security and Foreign Policy Priorities

House Foreign Affairs Committee, Subcommittee on the Western Hemisphere

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The subject for this hearing, "National Security and Foreign Policy Priorities," recognizes the challenges and complexities of the dialogue on trade. The Panama and Colombia trade promotion agreements, like trade agreements that have preceded them and will follow them, become about many things – among these are economic gains, losses, and changes; security; foreign policy; international leadership; and politics. No trade agreement alone will accomplish all of a country's economic objectives, much less the many broader issues that attend to these discussions. While we must acknowledge what a trade agreement is and is not, we also should consider how it supports the evolution of democratic, transparent, and fair institutions and systems and how such longer term, systemic changes benefit the citizens of both countries. In this respect, I focus my attention on how trade agreements such as the Colombia and Panama agreements support the U.S.'s national security and foreign policy interests.

As the U.S. Ambassador to Mexico before and after the NAFTA was approved and since then, I have witnessed not just the economic and trade-related changes NAFTA created, but also systemic changes that have made Mexico internally a stronger democracy and a more equal partner with the U.S. as well as our second largest export market. Our bilateral relationship today is stronger, broader, and more mature in part because of NAFTA.

Strong, growing economies benefit U.S. businesses and employment. No country today grows (or even maintains) merely by producing only for its domestic market. Colombia has 45 million potential consumers. Panama's smaller population has the highest per capita incomes in the Central American region, in addition to the administration and management of the strategically important Panama canal. Colombia and Panama already have access to the over 250 million U.S. consumers through various U.S. unilateral preference programs. Various studies demonstrate the benefits on balance of these two trade promotion agreements. Everyone knows that every trade agreement will have some negative economic consequences, and such impacts often are visible and acute. These consequences can and should be anticipated and addressed. As this Committee discusses the two agreements, many experts will be able to provide the statistics that support those conclusions and highlight those risks. But no one should question the basic premise that the U.S. economy and U.S. workers benefit when U.S. exports are the products and services that consumers in Panama and Colombia choose.

A trade agreement also should be viewed as part of the mosaic of actions and activities that enhance institution building, stability, and broader policy and national security dialogues.

They are one of many vehicles to define and support broader domestic and international economic and development agendas. They provide a means to facilitate international trade, improve investment climates, increase competitiveness, create and maintain jobs, and expand consumer choices. Alone they will not overcome ineffective institutions or inadequate infrastructure. If such expectations exist, neither the Colombia nor Panama trade agreement, or any others, could satisfy anyone.

But continuing inaction risks the U.S. credibility that advances broader national security interests and other policy objectives. Implementation of the agreements alone will not position the U.S. as the hemispheric leader or align political, social, and international perspectives. Long gone are the days, if in fact they ever existed, where U.S. economic or technical assistance would be able to sway other governments' policy choices. Efforts that involve political, social, and international cooperation will continue as long as they are in each country's own best interests.

The failure to move forward with these two negotiated agreements runs counter to U.S. national interests and foreign policy priorities. Earlier this year, six former USTRs, two former White House Envoys to the Americas, and 11 former Assistant Secretaries of State for the Western Hemisphere whose services spanned the last six U.S. presidents provided specific examples of shared U.S. and Colombian national interests:

> "Colombia has partnered with the United States to help the Mexican government defeat violent drug cartels along the U.S.-Mexico border. In Afghanistan, at U.S. request, Colombia has provided counter-narcotics training and assistance to the Karzai government. And Colombia Chairs the U.N. Committee implementing U.S. backed sanctions against Iran."

Since negotiation of the Panama agreement and motivated in part by that agreement (as well as the OECD), the Panamanian government has strengthened its financial controls. More effective controls will not only benefit Panama and the U.S., but all countries committed to making it harder for illicit money to move along with legal monies through increasingly globalized financial systems.

I have seen long-term and systemic benefits generated by trade agreements realized in the countries with which the U.S. has negotiated agreements. These are important for traders and investors, but are equally important to protect the rights and opportunities of the citizens of those countries. They often are not a direct result of a specific negotiated obligation, but rather evolve to implement the kind of systems that a trade agreement envisions and requires.

- Improved transparency of government actions and quality of institutions. The U.S. services sector for the past 30 years has maintained a trade surplus.[1] Services exports generally depends less on tariffs imposed at the borders, and more on fair, transparent, efficient, and effective internal regulations, licensing and certification processes, and independence and professionalism of regulatory

[1] http://www.census.gov/foreign-trade/statistics/historical/gands.pdf. Services represents approximately 75% of US economic output and about 80% of US private sector employment. In 2009, US services exports exceeded $507 billion and had a services surplus of approximately $132.3 billion. Source: Coalition of Services Industries.

officials. Unusual in Latin America, 77% of Panama's GDP is in services, developed around the transportation and commerce generated by the Panama Canal and by the Colon Free Zone on the canal's Atlantic gateway.[2]

- Strengthening rule of law and the quality of legal and judicial institutions and systems.
- Fostering a strong, independent private sector that can buffer the impact of political changes, providing stability as governments transition; create private sector jobs, reducing the fiscal commitments on governments and resources available for other spending; and foster changes that build stronger societies, such as public sector institutions can produce the skilled and educated workers needed as economies develop.

To share a few examples from Mexico where I think the NAFTA helped provide the catalyst, framework or structures to strengthen institutions or enhance the credibility of a government's policy choices:

- Customs cooperation create a secure border that identifies and detains illegal commerce, with the least adverse impact on the significant amounts of legitimate trade that crosses the U.S. – Mexico border daily.
- Intellectual property protections continue to strengthen. In 1993, Mexico created IMPI, the Instituto Mexicano de la Propiedad Industrial (Mexican Institute of Industrial Property), that provides information to rights' holders, the public, and research institutions; provides advice on filing for protection industrial property, and is the point of contact for protection of the rights of holders of trademarks, inventions, and similar products.[3] Its Director was honored with the WIPO Gold Metal in 2008 in recognition of his vision and leadership and for promoting respect for intellectual property rights in areas national and international, as well as strengthening development policies and competitiveness of the Mexican economy. He received the "Venice International Award for Intellectual Property

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[2] CRS, The Proposed U.S.-Panama Free Trade Agreement, March 1, 2011.
[3] http://www.impi.gob.mx/wb/impi_en/Home/_lang/en

2006" from the Venice Centre for Intellectual Property, only the third such award made.

- Regulatory burdens and inconsistencies are being minimized. In 2000, Mexico created Cofemar, the Comisión Federal de Mejora Regulatoria ("Federal Commission for Regulatory Improvement") with the mandate to promote transparency in the development and implementation of regulations and to ensure that the benefits they generate outweigh their costs, thereby maximizing the benefits to society.[4] Its efforts are designed to make Mexico more attractive to investment and to help avoid complaints such as those filed under the NAFTA dispute resolution process that result in judgments against Mexico because of regulatory actions.
- Competition and transparency in government procurements has improved. In addition to amending the legal regime, Mexico launched Compranet, an electronic system for government procurement through which all federal agencies post the calls for bids, terms, notes, results, and contracts related to their procurement.[5]
- Freedom of information has been enhanced. Mexico created the Instituto Federal de Acceso a la Información Pública ("Federal Institute for Access to Public Information"), to implement Mexico's transparency (FOIA) act that came into force in 2003.[6] Constitutional amendments in 2007 require the federal and every state government to launch an electronic system allowing access to information and procedures for appeal, from any location in the world.
- The North American Steel Trade Committee (NASTC), in which the governments and steel industries of North America continue wide-ranging work to seek common policy approaches for enhancing the competitiveness of North American steel producers. Within the NASTC, the three countries' governments and steel industries can track developments in certain steel producing countries to identify and address, as appropriate, distortions in the global steel market. It has

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[4] http://www.cofemer.gob.mx/contenido.aspx?contenido=138.
[5] www.compranet.gob.mx.
[6] http://www.ifai.org.mx/English.

- submitted joint comments to the Chinese government on China's proposed changes to its steel industrial policies.[7]
- In 2011, Mexico recognized the equivalence of U.S. and Canadian standards for exporting certain electrical and electronic products to Mexico. A Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment between the United States and Mexico is planned to be signed in 2011.

The U.S., Colombia and Panama all negotiated the agreements in good faith. The result of honest and tough negotiations will always be that neither party gets everything it wanted and neither party fails to gain some benefits. The relevant question thus must not only be whether an agreement ensures achievement of a particular economic objective, but rather whether it reflects and helps advance both countries' broader economic, political, security, and foreign policy objectives. I believe that the response for both the Panama and Colombia agreements is yes.

[7] http://www.ustr.gov/trade-topics/industry-manufacturing/industry-initiatives/steel.

United States House of Representatives
Committee on Foreign Affairs

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1. Name: JAMES R. JONES	**2. Organization or organizations you are representing:** SELF BUT I AM CEO OF MANATT JONES GLOBAL STRATEGIES
3. Date of Committee hearing: MARCH 17, 2011	
4. Have you received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? ☐ Yes ☑ No	**5. Have any of the organizations you are representing received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?** ☐ Yes ☑ No
6. If you answered yes to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.	
7. Signature: Jim R. Jones	

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