



U.S. Chamber of Commerce

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Statement of the U.S. Chamber of Commerce

ON: Colombia's Labor Reform

TO: Chamber of Representatives,
Congress of the Republic of Colombia

BY: Cesar Vence
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U.S. Chamber of Commerce

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Good morning, my name is Cesar Vence, and I am the Executive Director of the U.S.-Colombia Business Council at the U.S. Chamber of Commerce (the “Chamber”). On behalf of the Chamber, I would like to extend my sincerest gratitude to the leadership of the 7th Commission, the Honorable Agmeth Escaff and Vice President Hugo Alfonso Archila, and to the Honorable Representative Maria Fernanda Carrascal for the invitation to be here today.

The U.S. Chamber is the world’s largest business federation, and we are proud to represent the top U.S. investors in Colombia. The Chamber is proud to work in partnership with the ANDI, AmCham Colombia, and other organizations to ensure that Colombia continues to be an attractive destination for U.S. investment.

I am pleased to be here on behalf of the Chamber and our member companies to discuss opportunities to support the growth of Colombia’s formal economy, while also ensuring that Colombia remains an attractive destination for foreign direct investment.

Strategic Importance of the Bilateral Commercial Relationship

Today’s hearing on Colombia’s Labor Reform is timely and important. We were in Bogotá two weeks ago with a delegation of business leaders to meet with members of government to foster public-private collaboration to promote investment, facilitate trade, and boost sustainable development in Colombia.

Indeed, the Chamber has a longstanding partnership with Colombia to advance shared priorities and the bilateral relationship through our U.S.-Colombia Business Council.

Colombia and the U.S. enjoy a mutually beneficial commercial relationship, and the diplomatic ties between the U.S. and Colombia run deep. The bilateral partnership is one that has endured the last 200 years through times of social, political, and economic crisis.

It is worth noting that the bilateral relationship between the two countries continues to be strong, as reflected by the recent meeting between President Petro and President Biden in Washington. We see this as an opportunity to continue strengthening the commercial bilateral relationship and the relationship between Colombia’s Congress and the U.S. private sector.

Meanwhile, the Chamber has been a committed partner to both governments: we were a leading advocate for the U.S.-Colombia Trade Promotion Agreement and Colombia’s accession to the OECD.

As Colombia seeks to create an inclusive and vibrant economy, we, the private sector, stand ready to be constructive partners and look forward to serving as an engine for inclusive economic growth and economic development in vulnerable communities throughout the country.

Challenges with Colombia's Labor Reform

Despite positive developments in the U.S. and Colombia commercial relationship, we are concerned that the recently introduced Labor Reform could set back years of progress and undermine its principal objective of strengthening the commercial relationship and creating labor security by generating costs that cannot be readily absorbed by businesses. This, coupled by the highest corporate tax rate in the region, are unsustainable and would decidedly undermine the private sector's ability to invest, generate employment, and help advance the government's important priorities tied to innovation, industrialization, rural development, and energy transition.

We see this moment as an opportunity to not only make Colombia more competitive and productive, but also to create an economy where businesses of every size thrive, invest, grow, and help Colombians join the formal labor market.

We take this opportunity to express our desire to work in partnership with Congress to reexamine the proposed Labor Reform and take the necessary steps to ensure that Colombia continues to be a competitive and attractive investment destination. It is in this spirit of partnership that we outline the four main challenges for the business community presented in the current text of the Labor Reform:

1. Outsourcing

Articles 12, 13, and 54 establish that contractor and subcontractors, the latter ones have not been defined, who conduct the beneficiary company's main activity, must receive the same salaries and extralegal benefits that exist within the company.

These provisions would generate a significant economic burden—it is estimated that equating salary and other benefits with the beneficiary company will generate an additional cost of 30% to 50%-- and also affect the company's freedom of enterprise right outlined in Article 333 of the Political Constitution.

These conditions would impact business viability, and therefore contribute to the loss of jobs. With over 60% of total employment in Colombia being informal, we should instead seek opportunities to incentivize the growth of the formal labor market. These provisions threaten to do the opposite.

2. Protection of Workers in Automation Processes

Article 32 stipulates that in automation processes that may involve the termination of jobs, workers who occupy positions that could be affected or replaced in a modernization or automation process, after consultation with the existing trade union organizations in the company, have the right to be reconverted through training, relocated to another position or area of the company, or negotiate collective dismissal.

It is understood that these automation processes generate some mitigable labor impacts, but having to submit a process of modernization or technological innovation at an extra cost estimated at 20 or 30% above the legal compensation will disincentivize growth and investment and slow productivity. We are concerned that these provisions could generate inefficiencies, higher costs and discourage hiring.

3. Union Activity/Labor Relations

With regard to freedom of association, the Chamber is committed to fostering trust and mutual respect between employers and workers who together serve their customers and communities. Balance and respect exist at the core of employee and employer relations. This reform assumes that the good relations with non-union employees are a detriment to the unions and places the union as the sole voice of the workers. We are concerned that the reform implies that the only way for an employee and its employer to have a relationship is through a union, which is counter to basic principles of self-determination, freedom and autonomy.

4. Labor Costs

The reform includes several proposals, including surcharges for work completed on Sundays and holidays, family leave, unjust firing, the shortening of the dayshift and the expansion of the nightshift, that will create a significant cost to the private sector. The disproportionate impact of this reform will be to push enterprises out of the formal sector and into the informal sector. It will be felt by the micro, small and medium enterprises, and the Colombian consumer.

Foreseen Impacts on Investment and Jobs

We are working with our companies to quantify the impact of the reform, but our initial assessment is that companies will be forced to cut back hours, lay off staff, and in some cases cease operations completely. We are concerned, that as written, the reform will undermine the government's goals of creating a more inclusive, dynamic, and sustainable economy by reducing Colombia's

competitiveness and ability to attract and retain foreign direct investment, which would have a direct impact on Colombian micro, small and medium enterprises and consumers, and may lead to an increase in informality.

Recommendations for Congressional Action

There are a number of actions Congress can take to advance opportunities for private sector investment in Colombia. The Chamber highlights the following recommendations for Congress to review and support:

1. Continue this important dialogue and work closely with the private sector to ensure that the reform increases productivity, addresses informality, and incentivizes job creation, while also addressing labor standards and regulations.
2. Colombia is currently facing an inflation of around 12.8% and an unemployment rate of 11.4%, and it has an effective rate for companies of around 52%. We ask that Congress considers the current macroeconomic situation and the implications of the proposed reform.
3. Strengthen the rule of law through enhanced regulatory transparency, predictability, stability, accountability, and due process.

Conclusion

We look forward to working with the Congress to advance a trade and investment agenda in Colombia that supports inclusive economic growth and ensures a level playing field for businesses capable of delivering meaningful opportunities for Colombian workers.

The U.S. business community is committed to contributing to a more sustainable, equitable, and inclusive Colombia. U.S. companies are firmly committed to these objectives in their day-to-day business and through their investments in their employees, the environment, and the communities in which they operate across Colombia.

Thank you again for the opportunity to present our views and for your consideration.