March 6, 2018

The Honorable Robert Lighthizer
Ambassador
United States Trade Representative
600 17th Street NW
Washington, DC 20006

Dear Ambassador Lighthizer:

I understand that Colombia is seeking accession to the Organization for Economic Cooperation and Development (OECD). I am concerned that many important trade problems in Colombia remain unresolved. There are several issues that Colombia must address before acceding to the OECD, to demonstrate that it is ready to meet that body’s high standards. Recent policies and regulations enacted by Colombia’s Government are adversely affecting U.S. manufacturing and innovative industries in ways contrary to Colombia’s international trade commitments and inconsistent with standards expected for OECD members.

For example, Colombia’s mandatory “one-for-one” truck scrapping program, which requires that an old truck be scrapped to buy a new truck, continues to be problematic. In 2012, truck manufacturers in the United States exported nearly 13,000 truck units to Colombia, making it one of the most important export markets in South America. Since then, the Colombian market has contracted by over 70 percent. Nearly 90 percent of the trucks affected by the scrapping program are imported, and the policy is a serious barrier to trade. In September 2016, the Colombia revised the program, with the goal of eliminating the one-for-one requirement by January 1, 2019, and allowing a limited number of scrapping certificates available before that date. However, the certificate process is difficult to navigate, and market access remains unacceptably restricted.

Additionally, U.S. chemical companies are worried about Colombia’s approach in drafting a comprehensive chemicals regulation. Colombia must provide transparency and a sufficient timeline for implementation, with opportunities for regulatory cooperation and in a manner that is fully consistent with Colombia’s commitments, and ensure fair market access for U.S. companies.

Intellectual property protections are also of concern. Colombia’s 2014-2018 National Development Plan (NDP) departs from World Health Organization standards by tying marketing approval of innovative biopharmaceuticals to criteria not used by other OECD countries. In addition, Article 70 of the NDP, which allows the Health Minister to actively intervene in patent approval processes, is worrisome because it shifts the focus away from providing innovative products to consumers and instead puts a disproportionate emphasis on cost in the country’s underfunded health system. Article 72 of the NDP also departs from OECD and World Trade Organization standards, as it introduces pricing criteria as preconditions for granting marketing authorizations for innovative products. Instead, OECD economies properly include only science-based criteria in approval processes, such as the product’s proven safety, efficacy and quality.
Furthermore, Colombia has established an improperly expedited pathway for the approval of biosimilar products, which allows products that have not been tested in humans to enter the market and compete with established products, placing the patient’s health at risk. U.S. innovators are placed at a competitive disadvantage because they are unable to compete with untested products that have not undergone appropriate clinical trials, even though OECD members are required to do so. These actions create tremendous uncertainty for innovative companies looking to bring new products to Colombia.

Admitting Colombia into the OECD before addressing these specific, and in many cases, longstanding concerns would make it more difficult to resolve these issues in the future. It would set a damaging precedent in the region, signaling to other countries that want to join the OECD that they need not meet the OECD’s accession requirements nor uphold the organization’s core values in order to accede.

I encourage the USTR to engage in a frank, constructive, and substantive dialogue with Colombia concerning these and other trade issues to ensure that Colombia commits to specific, concrete outcomes that address longstanding concerns. I am hopeful that Colombia will address these issues and I would then welcome its induction into this unique organization.

Sincerely,

Leonard Lance
Member of Congress