

WORKING TOWARDS A FREE TRADE AGREEMENT FOR PERU

ON APRIL 12th, 2006, Peru's Minister of Foreign Trade and Tourism Alfredo Ferrero Diez Canseco signed the Peruvian Free Trade Agreement (FTA) with the United States in the presence of President Alejandro Toledo. In the proceeding 18 months, the fight to get the trade deal ratified by the US Congress has been ongoing, with Democrats, Republicans and various international parties lobbying to get their voices heard. Marisa Ferreira, LLM 2003 and a Foreign Legal Specialist with Saul Ewing LLP, has been involved in the struggle to ratify the agreement in the United States.

The path to ratification has certainly not been an easy one, and the election of the Democratic Congress in November 2006 has changed the focus of the political negotiations. The new Congress has been slow in guiding the FTA to the next stage of the process and only by May 10th had both the Democrats and Republicans come to an agreement to balance the interests of labor unions, corporations, and a host of amendments on social, labor, intellectual property and environmental protections. After the Bush administration's commitment to swift ratification of the deal, progress stalled, only to be rescued again on September 27th, when the leadership of the House Ways and Means Committee and the Senate Finance Committee indicated that they would back the bill.

These frequent starts and stops are a part of Marisa's daily routine. Saul Ewing LLP was initially hired to represent the Peruvian asparagus and vegetable industry, and subsequently the textile and apparel industries. It is part of Marisa's role to network with embassies, business coalitions and Congressional staffers, while following the negotiations closely on behalf of her clients. She helps to build business and political alliances, connecting interests on the US side with their counterparts on the other side, be it in Peru or elsewhere. Her day consists of talking to coalitions, lobbyists, consultants and staffers to discuss their concerns and educate them on the intricacies of the issues behind the deal, a skill she attributes to both her legal education and her work as a sociologist and anthropologist before becoming a lawyer. "I can be putting together trade numbers and analyzing an industrial trade deal one day, while the next day I can be spending all my time negotiating with officials on a commercial deal and how to avoid it conflicting with either Constitution. It helps me to develop both my legal skills and negotiating skills," she explains. Back in January, she freely admits that she was highly concerned about the FTA ever being ratified in the United States. With every problem solved, another would quickly be uncovered. But her belief that the deal is beneficial for Peru has meant that she has persevered. "Two of the biggest export industries in Peru provide large numbers of formal jobs in the country, and this deal will help them to expand

internationally. One of my goals is to help improve the economy to make these jobs permanent, so that taxes are paid to the state, and the state can convert these funds into roads, hospitals and schools. With this trade deal, I see improvements within 10-15 years."

The current preferential treatment provided by the U.S. to the Andean region must be frequently renewed, which has become increasingly difficult of late. The agreement expired in December 2006 and Marisa worked to renew it until June of this year, when it was again extended until February 2008. After this extension expires, Peruvian companies will once again be paying large duties on products exported into the United States, making it difficult for any foreign firm to make a secure long term investment in Peru, and reinforcing the need for US approval of the FTA.

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Turning to the bigger picture of FTAs, Peru is the first of four such agreements currently in the pipeline. FTAs are also being considered with Colombia, Panama and the Republic of Korea, each of which has their own hurdles to overcome with the US Congress. In the case of Panama, the September election of Pedro Miguel González Pinzón as president of the assembly has significantly delayed US approval, due to allegations of murder in the case of U.S. Army Sgt. Zak Hernández in 1992. In the case of Korea, both cars and beef appear to be major stumbling blocks. And in the case of Colombia, the question of human rights has been raised by Democrats worried about the killing of trade unionists and the punishment of officials linked to right-wing paramilitaries. Marisa, however, is reluctant to see this as an immovable obstacle, noting that the violence in Colombia has decreased rapidly in the last few years. "It's a question of what comes first, the chicken or the egg," she poses. "Colombia still has problems, but should you wait for a country to become completely free of human rights violations and then trade with them? Or do you continue to trade with the country to ensure permanent conditions to develop business and promote job security, and in doing so economic security? Peru is a good example of the success of the second option.

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