



# CAFTA Facts

Office of the United States Trade Representative  
CAFTA Policy Brief – February 2005

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## **CAFTA's Strong Protections for Labor Rights A Comprehensive Strategy**

### **Laws on the Books: In Line With ILO Standards...**

- A study by the International Labor Organization (ILO)<sup>1</sup> demonstrated that labor laws on the books in Central America and the Dominican Republic are generally in line with the ILO's core labor standards.
- Indeed, labor laws in effect throughout the region are broadly similar to the labor laws of Morocco, and in some areas (such as child labor) are stronger.<sup>2</sup> Congress gave broad bipartisan support to an FTA with Morocco in 2003.
- The labor chapter of CAFTA is more robust than the U.S.-Jordan FTA in its procedural guarantees of access to fair, equitable and transparent proceedings for the enforcement of labor laws. CAFTA also contains more substantial institutional arrangements for consultations and dispute settlement.<sup>3</sup>

*"An American-Jordan free trade accord [included] nearly identical language on labor and environment. Cafta actually goes further than the pact with Jordan, since penalty fines collected for not enforcing labor laws would be sent back to the offending country to fix the offense."*

*The New York Times,  
November 24, 2004*

### **...But Enforcement Needs Attention and Resources, And CAFTA Responds**

Critics have argued that *enforcement* of labor laws in the region needs more attention and resources. CAFTA is specifically designed to improve labor law enforcement through a comprehensive, 3-track strategy.

#### **Track One: Require Effective Enforcement, Backed By Monetary Fines**

- The CAFTA's labor provisions require that countries not fail to effectively enforce their labor laws, and backs this requirement through an innovative dispute settlement system.
- A country failing to effectively enforce its labor laws in a manner affecting trade could be subject to a stiff monetary fine, up to \$15 million (per year, per violation) or the potential loss of trade benefits if the fine is not paid.
- The monies from these fines would be paid into a fund and would be used, only in a manner that the U.S. approved, to remedy the specific labor problems identified.

<sup>1</sup> "Fundamental Principles and Rights at Work: A Labour Law Study", Dominican Republic (2004) and Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua (2003), International Labor Organization

<sup>2</sup> See "Labor Laws in CAFTA-DR and Morocco", USTR CAFTA Policy Brief, for a detailed comparison.

<sup>3</sup> See "A Comparison of the Labor Provisions in the U.S.-Jordan, CAFTA-DR, and Morocco FTAs" USTR CAFTA Policy Brief

### **Track Two: Identify Specific Ways to Improve Labor Enforcement**

- Labor issues have been a key part of the U.S.-Central American dialogue since well before the start of negotiations. As a direct result of this dialogue, Central American countries and the Dominican Republic have already made a number of improvements.<sup>4</sup>
  - Costa Rica created a center for alternative dispute resolution, and appointed 37 new labor court judges.
  - El Salvador raised the budget for its Labor Ministry by 20%, raised the number of labor inspectors by 55%, and cut the average time to hear a labor complaint in half.
  - Guatemala threatened to revoke the export licenses of companies in export processing zones that weren't complying with labor laws, resulting in the first-ever collective bargaining agreement with trade unions in an export processing zone.
  - Honduras is working on a significant re-write of its labor code, issued regulations to strengthen access of labor inspectors to employer premises, cut the time for processing labor cases in half, and increased the number of labor inspectors.
  - Nicaragua amended the regulations on Trade Union Organizations, and removed the requirement for elected union leaders to be Nicaraguan citizens. This decree also allows federations and confederations to participate in any procedures in order to resolve labor disputes, including strikes. Created a special labor prosecutor, and issued an important court ruling to protect union leaders from dismissal.
  - The Dominican Republic passed a series of laws to address trafficking in persons and unfair practices against the most vulnerable workers and instituted a work permit program that allows Haitian laborers to work without risk of deportation and protects the payment of fair wages.

Going beyond the steps already taken, a cooperative effort of Central American Labor Ministries and the Inter-American Development Bank (IDB) is developing recommendations for additional specific improvements in labor law administration and enforcement, and will identify the resources required to make those improvements.

### **Track Three: Build the Capacity to Enforce Labor Laws**

- In the FY05 Foreign Operations Appropriations bill, Congress provided \$20 million specifically for Central America and the Dominican Republic] directed toward "labor cooperation, capacity building on fundamental labor rights and the elimination of child labor, and improvement in labor administration."
- The Administration will work with the IDB and others to target these funds toward the areas of greatest need identified in the forthcoming study and through other needs assessments.
- In addition, the Department of Labor awarded \$7.75 million in grants in 2003-2004 to:
  - Improve workers' awareness of their rights under the law;
  - Strengthen the inspection services of Labor Ministries through training;
  - Develop alternative dispute resolution mechanisms for workers and employers.

### **Private Sector Initiatives**

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<sup>4</sup> For a full list of examples, see "Labor Protections: What Has Been Done", USTR CAFTA Policy Brief.

- USAID has obligated \$2 million to launch “Continuous Improvement in the Central American Workplace (CIMCAW),” a multi-stakeholder alliance to build capacity at the factory level to foster continuous workplace improvement in labor standards.
- The effort combines the expertise, networks and experience of US apparel companies that include Gap Inc. and Timberland, with specialists in workplace training, codes of conduct and management systems. At the local level, the effort is supported by a network of government, private sector, NGO experts in labor relations, and trade unions.
- By involving major apparel brands, the project demonstrates to factory owners the incentives for improving labor standards.