



CAFTA Facts

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

www.ustr.gov

The Facts About CAFTA's Labor Provisions ***Answering The Allegations of CAFTA Critics***

Allegation: Labor laws in Central America and the Dominican Republic are inadequate and don't comply with fundamental core labor standards.

Fact: In fact, the International Labor Organization (ILO) conducted a detailed analysis of labor laws in the region and found that the constitutions and laws of these countries give effect to the ILO core labor standards. However, enforcement of those laws needs more attention and resources, and the ILO made recommendations for improvements. The Administration's comprehensive, 3-track labor strategy is specifically designed to address enforcement issues. Many of the critics who raise this allegation also argue that labor laws of advanced, developed countries like Australia are "inadequate" and "unduly restrict the fundamental rights of workers."¹

Allegation: CAFTA's labor provisions are weak because they don't require that national labor laws "fully incorporate" ILO standards.

Fact: This is a test the United States itself could not meet. The U.S. has ratified only two of the eight "core" ILO conventions (most of the other CAFTA signatories have ratified all eight). As noted above, the ILO study demonstrates that labor laws in the region give effect to the ILO core labor standards. Consistent with the labor-related objectives in the Trade Act of 2002, CAFTA requires that countries not fail to effectively enforce those laws.

Impossible standards?

Many critics of CAFTA also argued that labor laws in developed countries like Australia are "inadequate" and "unduly restrict the fundamental rights of workers."

Allegation: CAFTA is a step back from the "Jordan standard" on labor rights because the entire Jordan labor chapter is subject to dispute settlement.

Fact: This is a mischaracterization. The "effective enforcement" clause of the CAFTA labor text is identical to the clause contained in the Jordan FTA and, like the Jordan clause, is fully enforceable by the dispute settlement mechanism. All other clauses in the labor chapter of the Jordan FTA (which are fewer and less specific than in CAFTA) are formulated as "strive to" commitments.²

¹ Labor Advisory Committee Report on U.S.-Australia Free Trade Agreement, March 12, 2004.

² For a comparison of the labor provisions of recent U.S. FTAs, see "A Comparison of the Labor Provisions in the U.S.-Jordan, CAFTA-DR, and Morocco FTAs" USTR CAFTA Policy Brief.

Allegation: *Even if current laws are strong, a CAFTA signatory could later amend its laws to reduce workers' rights.*

Fact: Basic worker rights are guaranteed by the Constitutions of most of the CAFTA signatory countries and could not be easily revoked. In fact, the evidence is clear that all of the countries in the region are making significant progress in labor rights, and have already taken a number of specific steps to improve labor law enforcement and administration.³

Allegation: *CAFTA is not as strong as the U.S. Generalized System of Preferences (GSP), which allows the removal of benefits from a country not taking steps to provide internationally recognized worker rights.*

Fact: The labor laws a country is obligated to effectively enforce under CAFTA cover all of the internationally recognized worker rights that are covered in the eligibility criteria for GSP. But suspension or removal of GSP trade benefits is a very blunt instrument that would harm the very workers whose rights are at issue. The CAFTA's dispute settlement mechanism is more targeted and thus likely to be more effective. Under CAFTA, if a country is failing to effectively enforce its labor laws, the government would pay a stiff, recurring fine until the situation is remedied, and those fines would be directed toward solving the specific problem identified in the dispute.

Allegation: *A country could continue to not enforce its labor laws as long as it pays a small fine to itself.*

Fact: Relative to the economic size and level of income of the CAFTA partners, a fine of up to \$15 million (per year, per violation) is not small. As the complaining party in a dispute involving labor law enforcement, the United States would always have to approve the use of any fines collected, which would be paid into a special fund to remedy labor problems, not simply returned to the violating party. The funds would be targeted to improve and protect the specific worker rights which had been violated by a party's failure to enforce its labor laws. Such programs will be designed on a case-by-case basis.

Allegation: *The State Department's annual human rights report shows that labor rights aren't respected in Central America.*

Fact: A careful comparison of the ILO report on labor laws and the State Department human rights report (HRR) will reveal many parallels. The HRR cites a number of cases where employers have violated existing labor laws. A review of the HRR and the ILO report indicates that for the most part, a structure of adequate laws is in place, but enforcement of those laws needs further attention and resources. CAFTA is specifically targeted to improve enforcement through a comprehensive, 3-track strategy that requires: 1) effective enforcement of existing labor laws backed up by the prospect of stiff penalties; 2) identifying specific steps to improve the enforcement of labor laws; and 3) helping to provide the resources to make those improvements.

³ See "Real Results on Labor Rights", USTR CAFTA Policy Brief.