



CAFTA Facts

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Real Results on Labor Rights Improvements As A Result of CAFTA

“Track Two” of the Administration’s 3-track labor rights strategy in Central America and the Dominican Republic is to encourage each of the CAFTA partners to improve the application and enforcement of labor laws, even during the course of the trade negotiations. This dialogue has already produced concrete results.

Costa Rica

- The Costa Rican Government passed new regulations that clarify legal protections given to trade unions and specify limitations on the role of solidarity associations. Also, the Government issued administrative guidelines to guarantee the speedy implementation of procedures dealing with allegations of anti-union practices—as a result, proceedings must be concluded within 2 months.
- Through the appointment of 37 new labor court judges, the Government has tried to cut the backlog of labor cases in the judicial system.
- The Government created a center for alternative dispute resolution that focuses on mediation and conciliation. It handled 2,462 cases in 2003, reaching agreement in nearly 80% of cases.

El Salvador

- Significant efforts to strengthen inspections/enforcement. The Government raised the Labor Ministry budget through large supplementals for the past two fiscal years; increased the number of labor inspectors from 40 in 2002 to the current 62; implemented a zero tolerance policy against corruption, and dismissed inspectors for this conduct; and decreased the average time to hear a complaint from 3 or 4 weeks to 1 or 2 weeks. Also, increased civil money penalties on anti-union violations to a fine of 10 to 50 times the monthly minimum wage depending on severity.
- To respond to concerns about “maquiladoras” in free trade zones, opened new permanent Labor Ministry field offices in the three largest FTZs. The Free Zones and Commercialization Law was amended, and now tax benefits and export licenses can be withheld if firms fail to abide by labor law provisions.
- Streamlined the procedures to register and legally recognize new trade unions, and now the Labor Ministry provides free legal assistance to workers on how to file a union registration form. Lawyers from the Office of the Attorney General are now based in the Ministry of Labor to provide free legal assistance to workers filing complaints or initiating judicial proceedings.

- In February 2004, the Legislative Assembly approved an amendment to the labor code to prohibit employers from requiring pregnancy tests for women seeking employment. The new law prohibits this practice as it relates to hiring, dismissals, or any employment condition.
- El Salvador was the first country in Central America to ratify ILO Convention 182 on the worst forms of child labor, and also the first to commit to a “time bound” program to eliminate the worst forms by a fixed date. El Salvador has removed or prevented 15,880 children from exploitative child labor in fireworks production, fishing, sugarcane harvesting, commercial sexual exploitation, and garbage dumps scavenging.

Guatemala

- Incidents of violence against trade unionists or organizers have ceased since 2002. The Government has also acted to arrest and prosecute alleged perpetrators of earlier violence against trade unionists.
- President Berger, inaugurated in January 2003, appointed key officials with strong records in worker and human rights. The Supreme Court has also adopted a new code of ethics for the judicial system.
- The government threatened the revocation of export licenses of firms in EPZs that were non-compliant with labor laws. The first-ever collective bargaining agreements with EPZ trade unions came as a result.
- Created a unit in the Ministry of Labor to verify labor law compliance in the maquila sector. The Ministry now provides free legal advice to trade unions and workers seeking to form new unions.

Honduras

- In response to the ILO labor law study, convened a high-level tripartite (labor, management, government) consultative group to analyze the report and recommend a significant re-write of the labor code. (The other CAFTA signatories all undertook labor law reforms within the last decade, with assistance from the ILO.)
- A “labor panel” of the Supreme Court was convened to expedite the backlog of labor cases, some of which dated to the mid-1990s, and cut the time for processing such cases in half.
- Efforts to improve labor law enforcement include the August 2003 issuance of a legal regulation specifying the obligation of employers to grant access to labor inspectors, and fining employers who do not do so.
- Opened more regional offices to make ministry services more accessible, including a labor inspections office dedicated to the needs of workers in Export Processing Zones.

Nicaragua

- Despite severe resource constraints, the Ministry of Labor began implementing an “Action Plan for the Institutional Strengthening of the Ministry,” in order to improve the protection of labor standards.

- In response to the ILO labor law study of 2003, amended the Regulations on Trade Union Organizations, and removed the requirement for elected union leaders to be Nicaraguan citizens. As part of this reform, issued Decree No. 93-2004 to allow unions to establish in their by-laws the causes for dismissal of union members. This decree also allows federations and confederations to participate in any procedures to resolve labor disputes, including strikes. A labor market of CAFTA's potential short-term impacts is also in progress, and will serve as the basis for further legislative and executive actions.
- Reformed civil service protections in June 2004 for labor inspectors, and now their tenure is not jeopardized by political changes in administrations. Experienced inspectors can now build on expertise as they assist those with less experience.
- Established a new special labor prosecutor that provides legal representation to the Labor Ministry when pursuing labor code violations. This allows the ministry the authority to ensure compliance with fines previously flouted with impunity and improves the overall protection of the rights of workers.
- The courts issued an important ruling that protects union leaders from dismissal. Previously when a court ordered reinstatement, employers could instead pay back wages and severance. The court has ruled this option cannot be applied to union leaders, who must be reinstated with back pay.
- In 2004, the World Bank approved a \$70 million Poverty Reduction Support Credit, "in recognition of the Nicaraguan administration's significant accomplishments in the fight against corruption, the restoration of economic discipline, and commitment to poverty reduction."

Dominican Republic

- The Dominican Department of Labor established a Joint Protocol among the union federations, employer federations, and the Association of Free Trade Zones that commits all of the parties to improve the enforcement of labor rights in free trade zones.
- Passed a series of laws to address trafficking in persons and unfair practices against the most vulnerable workers. These include: The "Law against Trafficking in Persons and Alien Smuggling," which establishes penalties of 15-20 years imprisonment and a fine of 175 times the minimum wage for convictions. The new "Code for the Protection of Children and Adolescents" criminalized child prostitution and child pornography. Also, special prosecutors were appointed throughout the country to eliminate the trafficking of children.
- Issued new regulations updating hazardous work orders for children less than 18 years of age.
- Instituted a work permit program that allows Haitian laborers to work without risk of deportation and protects the payment of fair wages.
- The Dominican Association of Free Zones and the Government of Spain conducted an awareness campaign for workers and employers on the issue of pregnancy testing as a condition for employment. This included six workshops and informational materials.