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## Progress in Implementing Capacity-Building Provisions under the Labor Chapter of the Dominican Republic – Central America – United States Free Trade Agreement

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# Progress in Implementing Capacity-Building Provisions under the Labor Chapter of the Dominican Republic – Central America – United States Free Trade Agreement

## Abstract

[Excerpt] Section 403(a) of the CAFTA-DR Implementation Act includes a reporting requirement on labor issues related to the CAFTA-DR. Specifically, that section requires the President to submit a biennial report to Congress on the progress made by the CAFTA-DR countries in implementing (i) Chapter Sixteen (Labor) of the CAFTA-DR, and (ii) the White Paper. The President delegated this reporting function to the Secretary of Labor, to be carried out in consultation with the United States Trade Representative (USTR). This is the first report in fulfillment of Section 403(a) of the CAFTA-DR Implementation Act.

As required, this report includes:

- A. A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by Article 16.5 and Annex 16.5 of the CAFTA-DR, and the Labor Affairs Council established by Article 16.4 of the CAFTA-DR, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA-DR country;
- B. Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper;
- C. A description of the work done by the CAFTA-DR countries with the International Labor Organization (ILO) to implement the White Paper recommendations and to advance common commitments regarding labor matters; and
- D. A summary of public comments received on these matters.

## Keywords

Dominican Republic-Central America-United States Free Trade Agreement, CAFTA-DR, Department of Labor, labor rights, labor law, working conditions

## Comments

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**Progress in Implementing Capacity-Building Provisions under the Labor  
Chapter of the Dominican Republic – Central America – United States  
Free Trade Agreement**

First Biennial Report  
Submitted to Congress  
Pursuant to Section 403(a)(3) of the  
Dominican Republic-Central America-United States  
Free Trade Agreement Implementation Act

Prepared by  
The U.S. Department of Labor  
Bureau of International Labor Affairs

January 14, 2009

## Table of Contents

EXECUTIVE SUMMARY .....	2
INTRODUCTION .....	4
BACKGROUND.....	5
I. Labor Cooperation and Capacity-Building – Description of Progress.....	7
A. Strengthen Labor Ministries’ Capacity to Enforce Labor Laws, Conduct Inspections, and Resolve Labor Disputes.....	8
B. Strengthen and Modernize the Labor Justice System .....	9
C. Reduce Discrimination and Harassment against Women in the Maquilas.....	10
D. Eliminate the Worst Forms of Child Labor .....	11
E. Promoting a Culture of Compliance .....	12
II. Recommendations on How the U.S. Government Can Facilitate Implementation of the White Paper .....	14
III. Efforts Undertaken by CAFTA-DR Countries to Implement White Paper Recommendations and Advance Common Commitments Regarding Labor Matters .....	17
Costa Rica.....	17
Dominican Republic.....	18
El Salvador .....	19
Guatemala.....	20
Honduras .....	21
Nicaragua.....	22
IV. Summary of Public Comments Received in Response to U.S. Department of Labor’s <i>Federal Register Notice</i> .....	24
VI. Annexes.....	31
1. List of Ministerial and Vice-Ministerial Meetings	
2. List of U.S. Funded Labor Capacity-Building Projects	
3. Flow Chart Summarizing the Funding Allocation Process	

## Executive Summary

On August 5, 2004, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (CAFTA-DR countries) and the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). The U.S. Congress approved the CAFTA-DR through the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act). That act requires the President to report biennially to Congress on the progress made by the CAFTA-DR countries in implementing (i) Chapter Sixteen (Labor) of the CAFTA-DR, and (ii) the April 2005 report of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (hereafter the “White Paper”). The President delegated this responsibility to the Secretary of Labor, to be carried out in consultation with the United States Trade Representative.

The report provides relevant background on the CAFTA-DR. It describes the efforts of the CAFTA-DR countries to identify areas for improvement of labor standards, make additional reforms to their labor laws, and develop strategies for continued capacity-building and improvement. The report is then divided into four sections in accordance with the reporting requirements established by Congress:

- A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by Article 16.5 and Annex 16.5 of the CAFTA-DR, and the Labor Affairs Council established by Article 16.4 of the CAFTA-DR, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA-DR country;
- Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper;
- A description of the work done by the CAFTA-DR countries with the International Labor Organization (ILO) to implement the White Paper recommendations and to advance common commitments regarding labor matters; and
- A summary of public comments received on these matters.

The analysis in each section of this report is organized around the six areas of focus identified in the White Paper. The priority areas are as follows: (1) Labor law and implementation; (2) Budget and personnel needs of the Labor Ministries; (3) Strengthening the judicial systems for labor law; (4) Protections against discrimination in the workplace; (5) Eliminating the worst forms of child labor; and (6) Promoting a culture of compliance. This report notes the improvements made in each of these areas and highlights where and how improvements can be made to further enhance progress in labor capacity-building and reform in the CAFTA-DR countries.

Improvements have been made in the CAFTA-DR countries in strengthening the capacity of Labor Ministries, improving labor justice systems and educating workers and employers on their rights and responsibilities—with a particular focus on marginalized communities who have traditionally faced language or gender barriers—with the aim of developing a culture of compliance with and understanding of labor rights and laws. Projects focusing on child labor

have successfully removed or prevented tens of thousands of children from the worst forms of child labor. The U.S. Department of State has taken a lead role in closely coordinating among partner agencies, including the U.S. Department of Labor, the United States Trade Representative, and the U.S. Agency for International Development, to develop projects that further the efforts made under the Labor Cooperation and Capacity Building Mechanism of the Labor Chapter of the CAFTA-DR and the common commitments set forth in the White Paper through a concerted, targeted approach in numerous project activities. The Inter-American Development Bank has played a key role in the cooperative mechanism by assisting and advising the labor ministries of the CAFTA-DR countries in the development of labor programs and coordinating meetings and exchanges between the parties.

## Introduction

Section 403(a) of the CAFTA-DR Implementation Act includes a reporting requirement on labor issues related to the CAFTA-DR.<sup>1</sup> Specifically, that section requires the President to submit a biennial report to Congress on the progress made by the CAFTA-DR countries in implementing (i) Chapter Sixteen (Labor) of the CAFTA-DR,<sup>2</sup> and (ii) the White Paper.<sup>3</sup> The President delegated this reporting function to the Secretary of Labor, to be carried out in consultation with the United States Trade Representative (USTR).<sup>4</sup> This is the first report in fulfillment of Section 403(a) of the CAFTA-DR Implementation Act.

As required, this report includes:

- A. A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by Article 16.5 and Annex 16.5 of the CAFTA-DR, and the Labor Affairs Council established by Article 16.4 of the CAFTA-DR, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA-DR country;
- B. Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper;
- C. A description of the work done by the CAFTA-DR countries with the International Labor Organization (ILO) to implement the White Paper recommendations and to advance common commitments regarding labor matters; and
- D. A summary of public comments received on these matters.

Information for this report was obtained from the U.S. Department of State, the United States Agency for International Development (USAID), USTR, the Department of Labor (DOL), reports and materials from the CAFTA-DR countries and implementing partners, including non-governmental organizations, the Inter-American Development Bank (IDB), and the ILO. Recommendations relating to the White Paper were developed through consultations among the aforementioned U.S. government agencies, and the summary of public comments is drawn from the responses to a DOL “Request for Comments” published in the *Federal Register*.<sup>5</sup>

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<sup>1</sup> CAFTA-DR Implementation Act, Pub. L. No. 109-53, §403, 119 Stat. 462, 496, 19 U.S.C. 4001, 4111(a) (2005).

<sup>2</sup> The final text of the CAFTA-DR is available at [http://www.ustr.gov/Trade\\_Agreements/Regional/CAFTA/CAFTA-DR\\_Final\\_Texts/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Regional/CAFTA/CAFTA-DR_Final_Texts/Section_Index.html).

<sup>3</sup> The Working Group of the Vice Ministers of Labor and Trade from the CAFTA-DR countries, *The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity* (April 2005), available at [http://www.iadb.org/trade/1\\_english/pub/labor-CADR.pdf](http://www.iadb.org/trade/1_english/pub/labor-CADR.pdf).

<sup>4</sup> Proclamation No. 8272, 73 FR 38,297 (June 30, 2008).

<sup>5</sup> 73 FR 50,057 (August 25, 2008), available at <http://edocket.access.gpo.gov/2008/E8-19608.htm>.

## Background

Following more than a year of negotiations, the United States and the CAFTA-DR countries signed the CAFTA-DR on August 5, 2004. The U.S. Congress approved the CAFTA-DR in July 2005, and the President signed the CAFTA-DR Implementation Act into law on August 2, 2005. The CAFTA-DR is now in force for all signatories. The CAFTA-DR entered into force for the United States and El Salvador on March 1, 2006; for Honduras and Nicaragua on April 1, 2006; for Guatemala on July 1, 2006; for the Dominican Republic on March 1, 2007; and for Costa Rica on January 1, 2009.

Article 16.4 of the CAFTA-DR established a Labor Affairs Council (LAC) comprising cabinet-level or equivalent representatives. The purpose of the LAC is to oversee the implementation of and to review progress under the Labor Chapter, including activities under the Labor Cooperation and Capacity Building Mechanism established under Article 16.5, and to pursue the labor objectives of the agreement. The first LAC meeting was held November 21, 2008, in El Salvador.

During the negotiation of the CAFTA-DR in 2003, the ILO was invited by the governments of the CAFTA-DR countries to prepare an updated and objective study of labor laws relating to fundamental principles and rights at work in each of these countries. Based on in-country meetings with representatives of workers' and employers' organizations as well as government representatives, the ILO study analyzed labor legislation in each of the CAFTA-DR countries, focusing on four major categories of rights and principles in the ILO Declaration on Fundamental Principles and Rights at Work.<sup>6</sup>

In 2004, the Ministers responsible for trade and labor in the CAFTA-DR countries issued a joint statement instructing their Vice Ministers to establish a working group and to issue a report and recommendations to them on efforts to enhance the implementation and enforcement of labor standards and strengthen labor institutions in the region. Supported by the IDB, the Vice Ministers gathered in Washington, D.C., in April 2005 and collaborated to draft the White Paper. The purpose of the White Paper was to identify challenges to the effective implementation of labor laws and to create recommendations for how each of the CAFTA-DR countries could improve enforcement of labor laws and create a "culture of compliance;" accordingly, the working group of Vice Ministers identified six priority areas related to effective implementation and capacity-building for labor matters.<sup>7</sup> The priority areas were:

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<sup>6</sup> "Fundamental principles and rights at work: A labour law study Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua," ILO (2003), available at <http://www.ilo.org/public/english/dialogue/download/cafta.pdf>, and "Fundamental principles and rights at work: A labour law study Dominican Republic," ILO (2003), available at <http://www.ilo.org/public/english/dialogue/download/dominican.pdf>.

<sup>7</sup> *The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity* (April 2005). See also ILO, *Baseline Report for the ILO Verification of the Compliance of White Paper Recommendations in Central America and the Dominican Republic*, San Jose, Costa Rica, August, 2007, available at [http://portal.oit.or.cr/dmdocuments/verificacion/ingles/r\\_e\\_eng.pdf](http://portal.oit.or.cr/dmdocuments/verificacion/ingles/r_e_eng.pdf).



- (a) Labor law and implementation (freedom of association, trade unions and labor relations, inspections and compliance);
- (b) Budgetary and personnel needs of the Ministries of Labor;
- (c) Strengthening the judicial systems for labor law;
- (d) Protections against discrimination in the workplace;
- (e) Worst forms of child labor; and
- (f) Promoting a culture of compliance.<sup>8</sup>

During Congressional consideration of the CAFTA-DR Implementation Act, the Administration and Congress reached an understanding on the need to support labor capacity-building efforts linked to the recommendations identified in the White Paper. As a result, a total of \$57.34 million<sup>9</sup> was appropriated to the U.S. Department of State and USAID in support of labor capacity-building from FY 2005 through FY 2007, with an additional \$15 million for FY 2008 and an undetermined amount for FY 2009.<sup>10</sup>

An interagency group comprised of the U.S. Department of State, DOL, USTR, USAID, and other agencies was established to identify projects to support the priority areas set forth in the White Paper and allocate funding among the projects. These agencies identified appropriate projects in consultation with the CAFTA-DR governments and in view of the 2005 White Paper.

Recognizing that the enforcement of labor laws required greater capacity in the CAFTA-DR countries' labor ministries and judicial systems, the first three White Paper goals were condensed into two categories designed to strengthen each of these two institutions and enhance their capacity to enforce labor laws. Nevertheless, the areas identified were consistent with the needs identified in the White Paper, and to date, the allocation of funding across U.S. government agencies has been apportioned as follows:

1. Strengthen Ministry Capacity to Enforce Labor Laws, Conduct Inspections, and Resolve Labor Disputes: \$17.53 million
2. Strengthen and Modernize the Labor Justice System: \$11.74 million;
3. Reduce Discrimination against Women and Harassment in the Maquilas: \$4.45 million;<sup>11</sup>
4. Eliminate the Worst Forms of Child Labor: \$21.39 million; and
5. Promote a Culture of Compliance: \$19.61 million.<sup>12</sup>

At a January 2006 labor Vice Ministers' meeting, and in subsequent meetings, the United States and the CAFTA-DR countries agreed that activities within each priority area would provide a foundation for strengthening labor capacity-building in the region. It was fully recognized that activities would vary in each country depending on specific needs and requirements in each country and that country specific initiatives would be developed in bilateral meetings with the United States and follow-up discussions with project

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<sup>8</sup>*The Labor Dimension in Central America and the Dominican Republic*, April 2005.

<sup>9</sup> A Benchmarking, Verification, and Monitoring Project operates on \$8.98 million of the funds appropriated to the U.S. Department of State and USAID and does not fall under any one priority area.

<sup>10</sup> An additional \$26.36 million in direct appropriations funds current DOL Child Labor projects.

<sup>11</sup> A \$2 million USAID project in this focus area supports a 2004 USAID project that was not funded under the CAFTA-DR.

<sup>12</sup> This focus area includes a \$4.97 million project funded by direct appropriations to Child Labor.

implementers.<sup>13</sup> Other working group meetings of the Vice Ministers to further develop and coordinate labor capacity-building initiatives in the CAFTA-DR countries have occurred between 2006 and 2008 (see Annex 1).

Following the issuance of the White Paper, the CAFTA-DR Labor Ministries drafted National Implementation Plans (2007-2010), in cooperation with worker and employer organizations, which included objectives, indicators, and expected outcomes for proposed technical assistance projects.<sup>14</sup> In addition, with assistance from the ILO (and funded by the DOL), the countries developed a process for verifying progress toward White Paper goals and objectives, that includes a self-monitoring role for labor ministries, monitoring by national follow-up committees comprising representatives of employers' and workers' associations, and the participation of judicial branch officials. Consistent with the White Paper goals of the CAFTA-DR countries, the ILO has led the effort to prepare semi-annual reports verifying the progress achieved with respect to the implementation plans both on a national and regional basis.<sup>15</sup>

The impact and progress of the labor capacity-building projects are monitored at both the country-level and through project-level evaluations. Projects are carefully designed to contribute to the needs outlined in each priority area. The benchmarking and verification activities illustrate overall progress made at the country level, while project-level evaluations measure the effectiveness of individual labor capacity-building projects.

## **I. Labor Cooperation and Capacity-Building – Description of Progress<sup>16</sup>**

This section provides a description of the projects arranged by the five focus areas as developed in the interagency process (see page 6)—supported by U.S. government agencies. Descriptions include the funding level, objectives and activities, and results achieved for each project.

At the November 21, 2008 LAC meeting, Ministers and Vice Ministers representing the CAFTA-DR countries and the United States convened to facilitate closer cooperation in working to improve capacity and compliance. The Ministers and Vice Ministers established and agreed upon Points of Contact and the mechanism for public submissions on matters related to the labor chapter of the CAFTA-DR. They also established the framework for the functioning of the LAC, discussed cooperative activities, reported on initial progress toward meeting the capacity building goals, and addressed procedures to develop a roster of panelists for potential disputes on labor matters under the CAFTA-DR. Further, they reaffirmed their commitment to working together on issues of common concern.

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<sup>13</sup> Project implementers refers to organizations receiving U.S. government funding to develop and execute labor capacity-building projects.

<sup>14</sup> Each CAFTA-DR country's National Action Plan is available at the U.S. Trade Representative's Web site: [http://www.ustr.gov/Trade\\_Agreements/Bilateral/CAFTA/Trade\\_Capacity\\_Building/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/CAFTA/Trade_Capacity_Building/Section_Index.html).

<sup>15</sup> *Baseline Report for White Paper Recommendations*, ILO (August 2007)

<sup>16</sup> For specific project durations and the break-down of funding by fiscal year and matching funds, see Annex 2.

*A. Strengthen Labor Ministries' Capacity to Enforce Labor Laws, Conduct Inspections, and Resolve Labor Disputes*

*Cumple y Gana: Comply and Win Project (\$4.49 million over three years):*<sup>17</sup> The DOL Comply and Win Project, implemented by the Foundation for Peace and Democracy (FUNPADEM) in 2006, was designed to increase awareness of labor rights and laws and to enhance the capacity of Labor Ministries in the CAFTA-DR countries. The project has reached over three million workers in CAFTA-DR countries with information on labor rights by airing 52 radio spots at a rate of 1,800 per month, disseminating over 3.3 million informational materials, and installing an innovative Web site with information on labor laws for workers and employers ([www.leylaboral.com](http://www.leylaboral.com)).<sup>18</sup> As of September 2008, the Web site had been consulted over 2.7 million times. Additionally, over 10,000 ministry officials, employers, and workers were trained on national labor laws and procedures. Labor inspection manuals and electronic case management systems were used by 90 percent of labor inspectors, resulting in a 13 percent increase in programmed inspections in four countries.

*Todos Trabajamos: Establish Worker Rights Centers (\$4.9 million over four years):* The project, implemented by Catholic Relief Services, targets approximately 200,000 workers through Worker Rights Centers, training of local organizations, and outreach activities. Worker Rights Centers were launched in Nicaragua and El Salvador in 2007 and in Costa Rica, the Dominican Republic, Guatemala, and Honduras in 2008. Implemented by local partners in each country, Worker Rights Centers now advise workers about the scope and applicability of labor laws and provide legal services explaining the procedural and documentation requirements to exercise their rights. Lawyers providing services to workers in the new Centers have provided legal assistance regarding 1,500 labor-related issues in Nicaragua and El Salvador alone. Worker Rights Centers have also conducted educational workshops for over 1,500 workers, including domestic workers, security guards, and people with disabilities.

*Labor Law Compliance (\$4.2 million over four years):* This DOL project launched by the FUNPADEM in 2008 is designed to help Labor Ministries make maximum use of resources by strategically targeting their labor inspection activity. The project will build on "Comply and Win," providing additional technical assistance to help labor ministries carry out more effective inspections in areas identified during the planning process.

*Strengthen Civil Service Systems for Labor Inspectorates (\$1 million over three years):* This DOL pilot project launched in 2008 by the ILO is designed to strengthen civil service reform within the Inspectorates of the Ministries of Labor in El Salvador and Honduras to improve the recruitment and retention of qualified, experienced professional staff. Thus far, the project document has been drafted, design missions have been conducted to refine project strategy, and analysis and planning with the Labor Inspectorates continues.

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<sup>17</sup> The regional *Cumple y Gana* project was extended until September 2008, adding a component to target gender discrimination in the maquila sector and expanding current activities within each CAFTA-DR country (see page 10).

<sup>18</sup> Phase I of the Comply and Win project was funded by a direct Congressional appropriation from FY2001, while this second phase of Comply and Win supports the CAFTA-DR and is funded by an indirect appropriation through the U.S. Department of State.

Ensure Benefits in the Formal Sector (\$940,000 over three years): This DOL project launched in 2008 by Alexius International is designed to raise awareness of the El Salvador's social security system and its functioning, and promote a transparent process for employer payment into the social security system, allowing workers to verify the proper transfer of salary deductions to the correct agency and receive health care benefits.

Modernize Labor Ministries (\$2 million over two years): Because Labor Ministries of the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua each lacked the capacity to use information communication technology (ICT) to deliver services to workers, employers, and civil servants, in 2006, the USAID sought to develop integrated management systems that better serve internal and external clients of the Labor Ministries. The USAID worked through SRA International to complete a comprehensive diagnostic of the Labor Ministries' use of ICT, provided technical assistance to develop integrated management systems and e-government services (e.g., Ministry Web sites for submitting labor claims and calculating benefits), developed ICT back office infrastructure and training and media production centers, delivered computer equipment supporting key systems to the Ministries, and facilitated a Virtual Regional Labor Training Center that will network regional Ministry training centers.

#### *B. Strengthen and Modernize the Labor Justice System*

Labor Justice Training (\$2 million over two years): Through the ILO, the DOL implemented a comprehensive training program for judicial personnel in 2006 in all the CAFTA-DR countries (except Costa Rica) in order to strengthen judicial capacity in handling labor-related cases. Judicial personnel have been trained on national labor laws, the application of international labor standards, and proper handling of labor-related cases. This program has trained over 600 legal professionals on international labor standards, carried out five courses on techniques for admission of evidence with 140 judges participating, and created a Web site ([www.justicia-laboral.org](http://www.justicia-laboral.org)) to provide access to all activities and training materials.

Strengthening Labor Justice for CAFTA-DR (\$7.24 million over two years):<sup>19</sup> To address inefficiencies in CAFTA-DR country court systems that delay even simple labor cases, the USAID partnered with Management Sciences for Development in 2007 to build the capacity of the CAFTA-DR countries to expedite labor court cases. Together they have streamlined court administration and procedures at pilot-project courts in El Salvador, Guatemala, and Honduras, developed a case management system in El Salvador (with plans for Guatemala and Honduras), begun training Supreme Court Justices and staff at court documentation centers on making labor case decisions publicly available, constructed a searchable labor case database, and launched a pilot Judicial Masters Degree Program in El Salvador.

Promote Interest-Based Bargaining Techniques (\$0.5 million): This USAID project still to be awarded is designed to teach union and management representatives in all CAFTA-DR countries to manage conflict and conduct collective bargaining negotiations. Techniques used in this training include interactive training, role-playing, and a "train-the-trainers" component to train staff of the Ministries of Labor, business school professors, independent mediators, and other trainers.

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<sup>19</sup> This funding comes from direct appropriations over three fiscal years: \$4.94 million in FY 2005, \$2.0 million in FY 2006, and an additional \$0.3 million for Costa Rica in FY 2007.

Train Public Defenders and Legal Assistance Providers (\$1 million): This USAID project still to be awarded is intended to train government public defenders in all CAFTA-DR countries to provide disadvantaged workers access to the judicial system and examine legal and regulatory barriers to alternative dispute resolution, focusing its efforts outside capital cities.

Promote Civil Society Engagement with the Judiciary (\$1 million): The USAID will award grants to civil society organizations to support sound legal and policy analysis, surveys, and focus groups in all CAFTA-DR countries. NGO staff will be trained to review case statistics and judgments, track institutional reforms in the labor justice system, collect and channel complaints, and publicize their findings.

### *C. Reduce Discrimination and Harassment against Women in the Maquilas*

Cumple y Gana Gender Component (\$1.98 million over three years): This DOL project implemented by the FUNPADEM in 2006 supports the improvement of Labor Ministries' capacity to enforce gender discrimination laws and raise awareness among female workers on how to better exercise their rights. Offices specializing in gender issues have been established or enhanced in the Ministries of labor in all CAFTA-DR countries (except Costa Rica), and training, technical support, and equipment have been provided to the staff. Labor inspectors and mediators have been trained on gender discrimination and techniques for detecting and investigating workplace discrimination, and over 1,500 workers have been trained on gender discrimination and labor rights through "Train the Trainer" programs.

Provide Job Training for People with Disabilities (\$0.47 million over two years): This new DOL project launched by Trust of the Americas (TRUST) in 2008 is intended to reduce the barriers to employment for people with disabilities by training them in information technology (using adaptive technology) and other skills, educating employers, and facilitating job placement. The program is based on a successful DOL project in El Salvador which placed 158 persons with disabilities into full-time employment and provided skills to 26 others who, in turn, began their own small businesses.

Reduce Gender and Other Forms of Discrimination (\$2 million over 1.5 years): Through this 2007 component of a larger project that began in 2004 to improve labor conditions in the textile and apparel sector, the USAID is supporting a multi-stakeholder alliance of international brands, local factories, and unions to conduct large scale worker-manager labor rights training for textile and apparel factories to increase productivity and the competitiveness of the sector. The Continuous Improvement in the Central American Workplace (CIMCAW) alliance has disseminated information on labor rights and the importance of labor rights compliance to 40,000 stakeholders and trained a total of 433 workers and managers and 353 inspectors from the Labor Ministries. Improved working conditions have benefited 8,850 workers through documented changes in their factories.<sup>20</sup>

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<sup>20</sup> This project is part of an ongoing USAID project, Continuous Improvement in the Central American Workplace (CIMCAW), that began in 2004 aiming to improve working conditions in the textile and apparel sector that has brought Wal-Mart into the CIMCAW alliance. The project has trained 720 workers and managers on labor rights and obligations and 500 labor ministry inspectors on private voluntary standards and inspection techniques. Information on labor rights has been disseminated to 40,000 stakeholders. New policies and an improved occupational safety and health commission have also been implemented, benefiting 11,650 workers.

#### *D. Eliminate Worst Forms of Child Labor (WFCL)*

The DOL has funded programs targeting child labor in Central America, both prior to negotiations of the CAFTA-DR and after it entered into force for the respective CAFTA-DR countries. Since 2005, DOL-funded efforts in the CAFTA-DR countries have removed or prevented over 47,000 children from exploitative child labor, providing them with educational and training opportunities. Currently, the DOL funds \$21.42 million in projects to eliminate exploitive child labor in CAFTA-DR countries. The following is a brief summary of current projects.<sup>21</sup>

Supporting the Time-Bound Program on the Elimination of the WFCL in El Salvador, Phase II (\$3.38 million over three years): The DOL, in partnership with the ILO International Program on the Elimination of Child Labor (ILO-IPEC), seeks through this 2006 program to prevent 8,808 children from the WFCL and withdraw an additional 3,510 children. The project is designed to develop and promote a national Child Labor Monitoring System, advocate for the inclusion of child labor concerns into national policies, increase awareness about child labor and benefits of its elimination, support curriculum and informal education development, promote health care, reduce occupational health hazards, and establish and assist local child protection committees. This project has already withdrawn or prevented 3,807 children from exploitive labor.

Supporting the Time-Bound Program for the Elimination of the WFCL in the Dominican Republic – Phase II (\$2.7 million over three years): The DOL, working with the ILO-IPEC, the United Nations Children’s Fund, the International Organization for Migration, and the Dominican government, seeks to ensure through this ongoing program launched in 2006 program to withdraw 2,900 children and prevent 2,200 children from the WFCL in the Dominican Republic. Activities focus on supporting the efforts by the National Steering Committee and Inter-Institutional Committee to implement the National Plan to Eradicate the Worst Forms of Child Labor and an Action Plan for the Eradication of Abuse and Commercial Sexual Exploitation of Boys, Girls, and Adolescents. This includes providing stakeholders with tools to combat WFCL, training relevant institutions’ staffs in data management for Child Labor Monitoring Systems, establishing a system to recommend intervention services for exploited children, providing training to the actors that investigate, prosecute and penalize exploiters, and providing educational services and family income-generation support to children withdrawn from exploitative labor. The program successfully prevented 1,846 children from engaging in the WFCL.

Stop the Exploitation: Contribution to the Prevention and Elimination of Commercial Sexual Exploitation of Children (CSEC) in Central America, Panama, and the Dominican Republic (\$8.78 million over seven years): This project, started in 2002 and renewed in 2006, aims to withdraw and prevent 1,370 children from trafficking and commercial sexual exploitation by generating and disseminating information on CSEC, developing a project Web site, training media on proper CSEC reporting procedures, training governments in police investigation, prevention of CSEC, care of CSEC and trafficking victims, legislative reform, and industry-

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<sup>21</sup> Nine other USDOL-funded projects (with total funding of \$26,893,398) that ended prior to 2005 included rescuing children from exploitive child labor in garbage dumps in Managua, Nicaragua, melon plantations in Honduras, commercial sexual exploitation in the Dominican Republic, and stone quarries and the fireworks industry in Guatemala. While these projects in support of the elimination of the worst forms of child labor were implemented and completed in the region before the CAFTA-DR came into effect, they ultimately served many of the White Paper goals.

specific responses to CSEC, and promoting regional agreements and networks against CSEC. Working through the ILO-IPEC, this project prevented 1,178 children from engaging in commercial sexual exploitation.

Combating Child Labor through Education in Central America and the Dominican Republic: *Primero Aprendo* (\$6.54 million over five years): This project, conducted in partnership with CARE-USA and Catholic Relief Services beginning in 2004, seeks to increase the recognition of child labor as an education issue, develop education systems that welcome working children, and bridge gaps in inter-governmental cooperation. The project aims to withdraw and prevent 2,984 children from exploitative labor in Costa Rica, Guatemala, Honduras, and Nicaragua by mobilizing communities to participate in the education process, carrying out local and regional media campaigns, developing a Web site and publications to raise awareness, promoting and expanding transitional schooling and alternative programs, and strengthening existing National Child Labor Commissions. The project has prevented or withdrawn 2,376 children from exploitative labor.

#### *E. Promote a Culture of Compliance*

Strengthen Labor Law Compliance in the Agricultural Sector (\$2.7 million over four years): This DOL project, launched in 2007 by Social Accountability International, works with targeted agricultural communities to develop and implement action plans to improve labor law compliance, emphasizing occupational safety and health regulations. The project collaborates with local organizations and Ministries of Labor to strengthen mechanisms for workers to exercise their rights. An additional component, executed by the Environmental Protection Agency, will improve worker safety through better handling of pesticides. The project has trained approximately 400 workers on 18 farms in the Dominican Republic and implemented Stakeholder Coalitions in Nicaragua and the Dominican Republic.

Outreach to the Agriculture Sector in Guatemala (\$940,000 over three years): This new DOL project launched by Catholic Relief Services in 2009 will provide information and training on labor rights and national labor laws to workers and employers in rural communities—particularly indigenous populations—and will work with local organizations and the Ministry of Labor to strengthen mechanisms for workers to exercise their rights.

Education/Youth Employment/Public Private Partnerships (\$4.97 million over four years): This DOL project launched in 2007 in the Dominican Republic targets 8,500 children for withdrawal and prevention from exploitive child labor by promoting corporate social responsibility, developing codes of conduct for entities to certify that no child labor was used, building upon the *Espacios para crecer* (Spaces for Growth) school enrichment program, developing the *Espacios* program for adolescents, and fostering public-private sector relationships. DevTech Systems, Inc., and other local partners have expanded operations to include 110 after school centers, trained 160 facilitators and field coordinators in the Quantum Learning methodology, and enrolled 2,455 children.<sup>22</sup>

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<sup>22</sup> Quantum Learning (QL) is a professional development program for educators based on 20 years of research that covers both educational theory and immediate classroom implementation and provides a proven approach to curriculum design and delivery. QL has been used in more than 30,000 classrooms in 15 countries and across grade levels, generating significant gains in reading, mathematics, and writing. QL integrates research-based best practices in education into a unified whole, making content more meaningful and relevant to students' lives to enhance retention of and interest in information.

Best Practices in Employer and Worker Organizations (\$2 million over two years):

This U.S. Department of State project, launched in 2007 by the Trust for the Americas (TFA), is focused on strengthening regional worker and employer organizations by raising workers' awareness and understanding of their rights under current labor laws and how to assert them; building the capacity of both worker and employer organizations with respect to compliance issues; and building the advocacy and technical capacity of civil society organizations, including labor and human rights NGOs, labor rights attorneys and public policy advocacy organizations. Successful workshops for 46 trade unions, 38 employer associations, and 61 civil society organizations (NGOs and labor lawyer organizations) have been held in the CAFTA-DR countries.

Strengthen Worker Organizations (\$1 million over 15 months): This U.S. Department of State project, launched in 2007 by the American Center for International Labor Solidarity (ACILS), is working with labor organizations to provide training on basic worker rights, and work towards modernizing and strengthening union skills and capacity to exercise rights. Through this program, workers are developing strategies and plans for outreach and education, building their organizations from the bottom up. Since the beginning of the program, ACILS has conducted training for 1,600 workers in the CAFTA-DR countries. Training has included basic labor rights for unorganized workers, educating and mentoring workers with trade union organizations at their workplaces on collective bargaining processes, and supporting workers and worker organizations in negotiating other types of agreements that lock in basic rights.

Support Responsible Competitiveness (\$2 million over three years): Business for Social Responsibility (BSR) began implementing a U.S. Department of State program in 2007 to promote responsible labor standards and practices to enhance the competitiveness of key industries in the CAFTA-DR countries. This initiative promotes regional dialogue about responsible labor, works with local producers to implement practical improvements at the company level through demonstration projects in each country, and disseminates their findings to other companies and international buyers. Five demonstration projects are currently underway—three in El Salvador, one in Costa Rica and one in Honduras. Topics include public policy frameworks for promoting responsible labor nationally, child labor eradication, responsible labor internal alignment within enterprises, and worker-led productivity. Six additional demonstration projects will be forthcoming.

Engage Workers in the Informal Economy (\$1 million): This U.S. Department of State pilot project was awarded in late-2008 and is being implemented by the Global Fairness Initiative (GFI). The project will improve data collection about the informal sector, develop policies, strategies and national capacity to improve tripartite social partner engagement with informal workers to incorporate them into the formal economy, and work to reduce regulatory and administrative barriers to formalization for workers and for smaller enterprises.

Promote Tripartite Social Dialogue (\$3 million): This U.S. Department of State project was awarded in late-2008 and is being implemented by the International Labor Organization (ILO). The project will develop a culture of compliance by bolstering tripartite social dialogue through training, strengthening national tripartite bodies, increasing adherence to labor laws, fostering understanding of and respect for labor institutions, and promoting



consensus building on issues of mutual interest among government, worker, and employer tripartite social partners.

Support Alliances to Improve Labor and Environmental Standards (\$2 million): This yet to be awarded USAID program will seek to strengthen the work of existing alliances and certifying organizations that serve U.S. buyers and promote best practices in labor standards and environmental protection, increase competitiveness of participating local firms, attract multinational and local businesses to private, voluntary process and certification regimes across sectors, and encourage government-private sector partnerships.

## **II. Recommendations on How the U.S. Government Can Facilitate Implementation of the White Paper**

As part of the process of implementing the recommendations in the White Paper, the United States government has worked closely and collaboratively with governments of the region. The efficacy of United States government efforts to facilitate the implementation of the White Paper recommendations relies upon the capacity and willingness of the CAFTA-DR countries and their ministries and judicial systems. It also is contingent upon the cultivation of a culture of compliance with and understanding of labor laws. Such efforts will require time for the results of actions taken in technical assistance programs to bear fruit.

Efforts to improve labor capacity-building and to create a culture of compliance in the CAFTA-DR countries have been supported by the U.S. government through an interagency process that includes the U.S. Department of State, the DOL, the USAID, and the USTR, as well as the ILO and local NGOs that have assisted in project implementation and monitoring. These efforts have advanced the public's (including workers' and employers') knowledge and understanding of labor laws and rights through coordinated projects aimed at fostering a greater culture of compliance with labor laws, including outreach to marginalized communities. The CAFTA-DR governments have also made progress toward drafting and enacting labor legislation and reform to bring labor codes in line with ILO standards and the goals identified in the White Paper. In addition, the continuing projects on the removal and prevention of children from the worst forms of child labor have successfully targeted tens of thousands of children.

The improvements in the priority areas designated in the White Paper attest to the potential for the Labor Chapter of the CAFTA-DR to have a positive impact on continued labor capacity-building, labor law reform, and strengthened labor law compliance in the CAFTA-DR countries. It is imperative however, that cooperation among U.S. government agencies and the CAFTA-DR Labor Ministries continue in order to ensure ongoing progress. While improvements have been achieved as a result of the close work among U.S. government agencies, the CAFTA-DR governments, the ILO, and NGOs, there are areas of reform that should be reinforced with renewed focus on targeted training, enforcement initiatives, and education activities.

To ensure continued progress towards the full implementation of the White Paper priorities, an \$8.98 million verification project (known as benchmarking) was funded by the U.S. Department of Labor and implemented by the ILO to provide support, organization, and assistance to the Ministries of Labor to develop National Implementation Plans for each of the CAFTA-DR countries. The ILO has engaged in extensive consultations with NGOs,

employers, and worker organizations and collaborated with CAFTA-DR governments to create country implementation plans designed to record progress. Verification mechanisms such as follow-up committees were established to provide oversight on implementation of the plans and produce a semiannual verification report. The first baseline verification report was published August 15, 2007, and the most recent report was published June 2008.<sup>23</sup> The next verification report is scheduled to be released in February 2009.

The ILO, through this verification and benchmarking project, has recommended actions that are necessary for each of the priority areas identified in the White Paper.<sup>24</sup> The U.S. government has taken and should continue to take these recommendations into consideration, as well as those made by the public commentators, in working with the governments in the region. Full implementation of the White Paper will be enhanced by continuously improving capacity-building initiatives and priorities, including as outlined below.

#### General recommendations:

- Beyond oversight, another key to full implementation is supporting the capacity and will of the CAFTA-DR countries. As the ILO noted, greater political commitment by CAFTA-DR governments across all priority areas identified in the White Paper and wider dissemination of its recommendations is needed in order to maximize support from both the public and private sectors. Increased government will and public support and understanding in the CAFTA-DR countries will improve the potential for sustainability. It is also essential for these efforts to bolster the active involvement of relevant stakeholders, including representatives of worker and employer organizations.
- U.S. government-funded projects must build on existing efforts and projects and be adjusted appropriately to account for differing national plans and systems.
- Capacity-building efforts should be coordinated with other governmental and multilateral donors in the region.
- Resources for technical assistance are not unlimited. The efforts and progress of each of the governments in the CAFTA-DR countries should be measured and evidence of this, including compliance records, should be taken into account in making determinations about the use of U.S. government resources.

#### Labor ministries:

- The U.S. government should seek increased involvement by the labor ministries in implementing and monitoring projects related to the Implementation Plan for the White Paper Recommendations, and work to strengthen the ministries' internal coordination to carry out technical assistance activities.

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<sup>23</sup> Both reports can be located at [www.oit.or.cr](http://www.oit.or.cr), under "biblioteca digital."

<sup>24</sup> For the full ILO recommendations, see "Suggestions for accelerating the implementation of the White Paper" sections for each individual country in the *Verification Report on the Implementation of the White Paper Recommendations Period: August 2007 – January 2008, Central America and the Dominican Republic*, ILO (May 2008): Costa Rica, p. 71; Dominican Republic, p. 113; El Salvador, p. 168; Guatemala, p. 212; Honduras, p. 252; and Nicaragua, p. 288.

- Efforts should be undertaken by the U.S. government and the other CAFTA-DR countries to increase dissemination of the White Paper recommendations with the goal of building public support for efforts of the labor ministries, labor justice agencies, and other entities as well as to include social partners in the capacity-building efforts.
- Work of the Tripartite Follow-up Committee<sup>25</sup> to promote public sector support for new policies, programs and actions that may help fulfill White Paper commitments should be supported and continued. Tripartite committees should be encouraged to include wide representation from civil society to ensure the interests of indigenous groups, rural workers, and other marginalized groups are included.

#### Administration of labor justice:

- In spite of efforts to equip labor ministries and train labor court officials, significant labor court backlogs continue to hamper efforts to improve the adjudication of labor disputes and enforcement of labor standards. Efforts should be increased to adopt more effective measures to address the continuing backlog in labor trials and to take necessary actions related to the functions and needs of labor courts as indicated in each of the CAFTA-DR countries' national implementation plans.
- Policies and enforcement procedures should be developed to address priority issues, such as inefficiencies in the labor courts, the sufficiency of trained personnel to carry out functions related to the administration of justice, and the responsibilities of labor ministries in this process, such as the effectiveness of their inspection systems.

#### Gender and discrimination issues:

- Use of outreach campaigns to promote and protect women's rights in the workplace and to educate relevant stakeholders about policies and procedures that result in effective enforcement should be accelerated.

#### Worst forms of child labor:

- Programs can be enhanced by building on improvements already achieved in the area of child labor with technical assistance from the ILO and other institutions, seeking to allocate additional resources toward eradicating the WFCL, and empowering labor inspectors to enforce child labor laws effectively and strategically in accordance with countries' national implementation plans.

#### Promoting a culture of compliance:

- Additional assistance should be directed towards improving accessibility of labor ministry services for workers and employers, increasing voluntary compliance by working with public-private partnerships, and promoting compliance assistance programs and public awareness campaigns on national labor laws and fundamental labor rights.

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<sup>25</sup> The ILO favors this mechanism in promoting international labor standards because it feels that tripartite committees bring the government, employers and employees together to discuss key issues.

- The U.S. government should work with the CAFTA-DR countries to intensify efforts to promote greater coordination between public and private sector organizations to sustain overall implementation efforts related to the White Paper recommendations.
- Programs should be undertaken by the CAFTA-DR labor ministries to improve the credibility and legitimacy of alternative dispute resolution (ADR) entities in order to build confidence in their use to resolve labor differences without conflict.

### **III. Efforts undertaken by CAFTA-DR countries to implement White Paper Recommendations and advance common commitments regarding labor matters**

Pursuant to the White Paper, the CAFTA-DR countries have participated in activities that support the recommendations for improving the enforcement of labor laws and help to create a culture of respect for labor rights. The ILO has worked with these countries through the verification and benchmarking project in a tripartite approach to verify the activities undertaken and foster consensus on moving forward with the White Paper recommendations.

The following reports on the ILO's findings on the accomplishments made and efforts undertaken by the CAFTA-DR countries to implement the White Paper recommendations and to address other general commitments under the Labor Chapter for the period starting when the White Paper was issued in 2005 through the present.

#### **Costa Rica**

*Freedom of association:* A series of legislative proposals have been developed to address the collective bargaining rights of public sector employees and to increase protections against anti-union dismissals and interference. Efforts have also been made to remove current restrictions applicable to foreigners in trade union activities.

*Labor Ministry:* Efforts to improve the institutional capacities of the Labor Ministry have led to general budget increases in two consecutive fiscal years, 2006 and 2007. Additional efforts have focused on conducting training for inspectors and development of procedural manuals for inspections and conciliation, as well as developing a registry of social organizations. A database on national labor jurisprudence also has been developed.

*Labor Courts:* Efforts to strengthen the operation of the labor courts have focused on increasing the number of judges and court assistants. In addition, a new labor small claims court has been established to resolve cases within a specific monetary limit, and training has been provided to labor law officials. The administration of justice is a key component of the Judicial Branch Strategic Plan of 2007-2011. It is expected that these interim steps will lead to a meaningful reduction in the existing court case backlog and the relatively high caseload faced by major claims courts.

*Gender and Discrimination:* The Labor Ministry has issued and widely disseminated an administrative directive that explicitly prohibits the use of pregnancy testing prior to and during the period of employment. Training on various aspects of gender-based discrimination and the protection of pregnant women is being pursued and inspections have been stepped up to safeguard the rights of pregnant or breastfeeding workers.

*Child Labor:* The approval of The National Plan for the Prevention of Sexual Exploitation of Children and Adolescents in Costa Rica 2008 – 2010 and the National Plan to Prevent Human Trafficking 2008 has taken a considerable step forward. Additional progress was made with Law No. 8590 on Strengthening the Fight against Sexual Exploitation of Minors taking full effect. Efforts to prevent and eradicate child labor are ongoing at the regional level with training seminars and tripartite dialogue focused on lessons learned.

*Promoting a Culture of Compliance:* The government held thirteen Superior Labor Council sessions regarding various labor-related topics including the National Employment Plan, passed the Labor Law Procedural Reform Bill and the Bill for Integration of Mothers into the Workforce, and ratified ILO Conventions 151 on the right to organize in the public sector, 154 on the promotion of collective bargaining, and 173 on the protection of workers' claims (in the event of employer insolvency).

### **Dominican Republic**

*Freedom of Association:* To address barriers to the initiation of collective bargaining, the Consultative Labor Council, a tripartite body that was created to verify the compliance of the White Paper recommendations, has met five times and formed a sub-committee tasked with drafting proposed modifications to the labor code regarding collective bargaining thresholds. This subcommittee is currently evaluating similar legislative reforms in other Latin American countries to assist it to draft a substantive proposal for the Dominican Republic. In order to extend the right to unionize to public servants, the legislature passed a bill modifying Article 67 of Law 41-08, which establishes a Secretariat of Public Administration. The Secretariat is responsible for ensuring that public servants can exercise their right of assembly according to the rights established in the Labor Code and Constitution. The Secretariat must now establish the specific conditions for “forming and organizing associations of public servants.”<sup>26</sup>

*Labor Ministry:* To enhance the capabilities of the Ministry of Labor in the administration of labor law, a decision was taken to increase the institutional budget of the Ministry in both 2005 and 2006. In the interest of a more productive and efficient inspection process, the Ministry has consolidated its inspection criteria, which is expected to result in a more uniform inspection process in all 38 Local Labor Representations. More broadly and equally important, the Ministry has also conducted training for inspectors, mediators, labor justice personnel, and labor prosecutors. As part of the verification process, the ILO reports that “there has been a sustained increase in labor inspection activity, with the same number of officials. In 2007, there was an overall increase of 36 [percent] over the previous year, and preventive inspections have increased overall by 60 [percent].”<sup>27</sup>

*Labor Courts:* More progress is needed in this area. The ILO Verification Report states that while “significant training efforts have been carried out ... the public institutions did not provide enough information for a large number of indicators that had been developed for

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<sup>26</sup> *Verification Report on the Implementation of the White Paper Recommendations Period: August 2007 – January 2008, Central America and the Dominican Republic*, ILO (May 2008), pp. 78-79.

<sup>27</sup> Ibid, p. 111. Note that information regarding progress with the labor courts is incomplete due to insufficient information provided by the public institutions participating in the training efforts. The ILO Verification Report states that while “significant training efforts have been carried out,” “the public institutions did not provide enough information for a large number of indicators that had been developed for verification purposes.”

verification purposes.”<sup>28</sup> Likewise, the report states that information from public sources (bulletins, reports, and Web sites) was insufficient to identify progress.

*Gender and Discrimination:* An Office of Gender Equality and Development has been established, and the National Plan on Gender Equality has become operational and has engaged in significant efforts in training and raising awareness among the working population, employers, and inspectors on matters dealing with gender and protection against workplace discrimination. As a result of complaints passing through the conciliation process, HIV/AIDS-related discrimination is beginning to attract attention. A combination of mass radio publicity and twenty-two workshops have aimed at promoting gender rights and maternity protections.<sup>29</sup>

*Child Labor:* Public awareness campaigns have been conducted, prevention and care programs have been developed, and a Child Labor Monitoring System has been launched in the agricultural sector, with pilot projects operating in San Francisco de Macoris, Azua, and Costanza. These actions and training activities have been undertaken with employer and worker organization participation that are integral to the National Strategic Plan for the Elimination of Child Labor 2006-2016 and The Plan against Commercial Sexual Exploitation of Children 2003-2013.

*Promoting a Culture of Compliance:* The government is undertaking a significant effort to publicize labor rights among employers and workers, including through the use of mass communication campaigns. The Labor Secretariat broadcast network has undertaken a wide dissemination effort that includes a Web site, toll-free telephone number, Internet chat room, pamphlets, and radio and television programming. In addition to the dissemination of educational materials to employers and workers, the Labor Secretariat has undertaken periodic inspections in key sectors, including the sugar industry.<sup>30</sup>

### **El Salvador:**

*Freedom of Association:* Milestones achieved by the government include the ratification of ILO Conventions 87 on freedom of association, 98 on the right to organize and engage in collective bargaining, 135 on protecting union representatives, and 151 on the right to organize in the public sector, all of which became effective on September 6, 2007. The Ministry of Labor has improved response times for complaints received on labor standards violations and requests of conciliation services to resolve labor disputes.

*Labor Ministry:* A key development in support of the Ministry of Labor is the 68 percent increase in its institutional budget from 2005 to 2007. This has enabled the Ministry to improve and strengthen operations and services, particularly at the district office level. Among other things, this process has led to the procurement of needed equipment, an increase in the number of inspectors, and an increase in the number of inspections and repeat inspections conducted. Inspections of working conditions of approximately four percent of the employed population have been completed.

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid, p. 112.

<sup>30</sup> Ibid.

*Labor Courts:* Progress has been verified in terms of training provided to judges and magistrates as part of the ILO's Labor Justice project. Other progress includes the reduction in the judicial backlog of labor cases by 18 percent during 2005-2006, and by 34 percent for 2006-2007. This is attributed in large part to a 41 percent increase in the budget for civil courts during 2005-2007.

*Gender and Discrimination:* Actions taken include the creation in July 2005 of the Special Unit on Gender and the Prevention of Other Discriminatory Labor Acts, which is a component of the Labor Ministry and is assigned to the General Directorate of Labor Inspection. This has led to programmed inspections regarding these issues and efforts to develop a special training module for inspectors on gender and discrimination. Additionally, the Ministry has disseminated information to the public on regulations governing job discrimination, as well as materials on labor rights and obligations.<sup>31</sup>

*Child Labor:* Several state institutions have incorporated actions for the prevention and elimination of child labor into their operating plans. Additionally, an operating plan for 2008 was drawn up by the discussion group against commercial exploitation of children and adolescents and the technical committee for the elimination of child labor.<sup>32</sup>

*Promoting a Culture of Compliance:* The Superior Labor Council (CST), in response to recommendations that it evaluate means to enhance its impact on consensus-building, has participated in 11 meetings of the National Commission for Occupational Health and Safety, studied a proposal for a National Plan for Decent Work, evaluated methods to increase minimum wage, and is in the process of negotiating enhanced budgetary reinforcement to increase capacity. The CST has garnered 100 percent participation in tripartite activities, though efforts to increase participation beyond the tripartite format has had limited success. Efforts to promote corporate social responsibility are also beginning under a DOL-funded project in the region.<sup>33</sup>

## **Guatemala:**

*Labor Ministry:* The Labor Ministry has sustained its increase in operational budget since 2006 and has trained inspectors through the various forms of support offered by institutional, academic, and international cooperation bodies.<sup>34</sup>

*Labor Courts:* Progress has been made with the establishment of two lower civil courts with competency in labor affairs as well as continued efforts aimed at training of labor law officials. In this regard, the Verification Report states that while the trend in the increase of courts specialized in labor law and the increased number of judges have generally improved access to justice, these measures have been insufficient in addressing the majority of cases coming before the labor law courts and this has contributed to an ongoing backlog of cases requiring legal resolution.<sup>35</sup>

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<sup>31</sup> Ibid, pp. 165-166.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid, pp. 156-160.

<sup>34</sup> Ibid, p. 210.

<sup>35</sup> Ibid.

*Gender and Discrimination:* There has been some progress through awareness raising efforts on workplace discrimination and two legislative proposals submitted to the Congress on workplace sexual harassment and abuse.

*Child Labor:* One of the key actions taken in this area was the promulgation of Government Resolution 250-2006 on “Regulations on the Application of ILO Convention 182 on the WFCL and Immediate Actions to Prevent Child Domestic Work in Indigenous Populations in the Municipality of Comitancillo, San Marcos.” The government has also taken steps to protect and remove children from the WFCL through visits to fireworks factories, education grants, remedial education, awareness-raising, vocational training, and food subsidies. At the regional level, efforts to prevent and eliminate child labor include continued training and exchange of experiences, both at the level of government institutions and that of employers and workers.<sup>36</sup>

*Promoting a Culture of Compliance:* Activities have largely focused on information dissemination efforts with respect to labor rights laws. This has been accomplished through telephone responses and the Internet, a self-evaluation form disseminated to employers regarding compliance with labor rights, and the provision of training to workers on the illegality of workplace pregnancy tests and related issues.

### **Honduras:**

*Freedom of Association:* The new government has proposed to harmonize the Labor Code with ILO Conventions that Honduras has ratified. However, the situation has remained unchanged since 2007 and the draft proposal has not been discussed or distributed among employers and workers as of May 2008.<sup>37</sup>

*Labor Ministry:* Progress has been made in terms of an increase in the Ministry of Labor’s annual budget by 11 percent from 2005 to 2007, the number of workers covered by inspections and the percentage of effective individual conciliations carried out by Ministry personnel, which have been facilitated by a strengthened labor inspection system and an increased amount of personnel dedicated to conciliation and mediation services. The Ministry’s arbitration service has yet to become operational. A pilot project on alternative conflict resolution in the textile garment sector in San Pedro Sula has also been implemented.<sup>38</sup>

*Labor Courts:* In 2006, judges with jurisdiction on labor matters received training on the application of ILO conventions and other treaties Honduras has ratified. The training focused on consistent interpretation of the law relating to judicial decisions and compliance with international commitments. Training was also provided by the ILO through its Labor Law Project to 64 civil servants on international conventions on non-discrimination at work, and a seminar was conducted with 16 civil servants of the court of appeals, employment tribunals, and trial courts on “Techniques for Admission of Evidence.”

*Gender and Discrimination:* There have been advances in raising awareness and training of law enforcement officers and working women in the areas of labor rights and non-

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<sup>36</sup> Ibid, p. 201.

<sup>37</sup> Ibid, p. 217.

<sup>38</sup> Ibid, p. 218-226.



discrimination in employment. Campaigns have also been carried out in support of the rights of the disabled population focusing on the dissemination of information on the rights of the handicapped. Other actions taken by the authorities include the launching of The National Policy for Women, the First National Plan for Equal Opportunity, a program on HIV/AIDS aimed at maquila workers, and a rotating loan program to promote labor integration for disabled workers.

*Child Labor:* Honduras has increased funding for the Women and Working Children Program over the past two years. Nineteen public institutions from the Technical Council for the Prevention and Elimination of Child Labor have incorporated their activities into the National Child Labor Plan. In 2007, the Second National Action Plan against Child Labor, in force from 2008 through 2015, was approved with the Department of Social Planning contributing 14 percent of the Plan's annual budget. Honduras has also made progress by approving the list of Hazardous Work for Children and ratifying the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in August 2007 to conform with ILO Convention 182.<sup>39</sup>

*Promoting a Culture of Compliance:* The development and dissemination of educational materials on labor rights has been a key effort in promoting a culture of compliance. The objective is to ensure that workers and employers are aware, informed, educated, and trained on all aspects of labor rights. Information about labor legislation and responses to frequently asked questions have been posted on the regional Web site ([www.leylaboral.com](http://www.leylaboral.com)), and radio spots have also been used to disseminate information about labor rights under Honduran law (e.g. relating to vacations, minimum wage, work days, dismissals, and work contracts). Radio spots broadcast by the Comply and Win program reached 27 percent of the population or approximately 1.6 million people, along with the campaign to distribute labor rights flyers to approximately 250 thousand households.

### **Nicaragua:**

*Freedom of Association:* A key White Paper recommendation in this area is to raise awareness regarding the Law of Acquired Labor Rights, Law 516 of December 3, 2004. Currently, there are eight appeals pending regarding the constitutionality of all five articles of the law and until the constitutionality issue is resolved, there will likely be no significant progress in disseminating the law to the public. At the moment, the law remains in force, and the Supreme Court has not expressed an opinion on the matter of constitutionality.<sup>40</sup>

*Labor Ministry:* The stated priorities of the Ministry of Labor include the need for greater budgetary resources to program and carry out inspections, to separate inspection-related responsibilities from those regarding arbitration and conciliation, and to enact legislation that would provide for greater authority to the Labor Inspectorate through stronger enforcement powers and higher penalties. The General Labor Inspection Law, Initiative No. 20064424, was presented to the National Assembly on April 27, 2006, and continues to await approval. In 2007, a series of training activities were undertaken, including a Workshop on the Protocols of Inspection and Inquiry, with the participation of 35 national-level labor inspectors, and a training workshop for 23 national-level inspectors on occupational safety and health techniques. Courses on the Legal and Technical aspects of Collective Bargaining,

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<sup>39</sup> Ibid, pp. 237-240.

<sup>40</sup> Ibid, pp. 256-257.

inspection and conciliation services, and Alternative Dispute Resolution principles and tools were carried out. Training workshops on International Labor Standards and the Fundamentals of Information Technology and Communication were conducted by Labor Ministry officials. Training, office space, equipment, and vehicles have been provided to facilitate the work of inspectors and conciliators. Computers distributed to the Departmental Inspectorates throughout the country led to a total of 1,097 inspections being entered into the system for implementation between March 2006 and July 2007 and 592 cases being registered in the system between August 2007 and January 2008.<sup>41</sup>

*Labor Courts:* In 2006, two new labor tribunals were added to three existing tribunals: two in Managua and the others in departmental capitals. In addition, various training activities were undertaken to improve the administration of labor justice in Nicaragua in 2006 and 2007 on wage law, international labor standards, and evaluation of evidence in labor cases, in which civil and labor court magistrates, district judges, local civil judges, and other judiciary officials participated. The ILO reports that in 2006, 2,586 labor-related proceedings were filed, 722 (28 percent) of which were settled, leaving 1,864 (72 percent) cases from that year pending. An additional eight hundred cases that had been previously pending were also resolved according to the Supreme Court of Justice Planning Department. In the latter part of 2007, the lower courts received 760 cases, of which 54 percent entered specialized courts, 20 percent district courts, 16 percent local courts, and 11 percent unified local courts.<sup>42</sup> These courts together resolved 445 cases, 24 percent corresponding to cases received during the second half of 2007, 12 percent accumulated from the first half of 2007, and 66 percent from prior years. At the end of June 2007, there were 1,081 labor cases pending resolution in the labor courts.<sup>43</sup>

*Gender and Discrimination:* Compliance with prohibitions on pregnancy testing has been improved by the issuance by the Ministry of Labor of a ministerial agreement prohibiting medical examinations for women applying for jobs or subjecting them to testing without their consent during employment. There has been wide scale distribution and educational outreach of the new agreement to NGOs, companies, trade unions and state institutions. Additionally, *Radio Mujer* (Women's Radio) and *Mujer Voz y Voto* (Women, Voices and Votes) have run spots to promote other agreements pertaining to equality and the rights upheld by the Ministry for vulnerable groups.<sup>44</sup>

*Child Labor:* The Government of Nicaragua announced an initiative entitled "Coffee Harvest Plan to Eradicate Child Labor 2007-2008" that was supported by the Ministry of Labor and four Jiontega coffee growers. The objective is for the Ministry of Labor to work with the Ministries of Education and Health to prevent children from being hired and provide them with other alternatives. Further examples of initiatives for children include five projects for the elimination of child labor implemented by the Human Development Institute that promote school attendance in Managua, Esteli, Nueva Segovia, and Somoto.<sup>45</sup>

*Promoting a Culture of Compliance:* Various participants are contributing to the environment in which education of labor rights can exist and grow. With the support of the

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<sup>41</sup> Ibid, pp. 258-264.

<sup>42</sup> Total percentage of total court cases that entered lower courts is 101 percent because of rounding.

<sup>43</sup> Ibid, pp. 265-269.

<sup>44</sup> Ibid, pp. 270-273.

<sup>45</sup> Ibid, pp. 274-278.

project “*Cumple Y Gana*,” 10,000 copies of the Labor Obligations and Rights Manual have been published and widely distributed. Another example of spreading a culture of compliance occurred in January 2008, with the production and distribution of 1,000 copies of the book “One Small Step Forward and A Long Way To Go” (a report on gender based discrimination at work against women in Export Processing Zones).<sup>46</sup>

#### **IV. Summary of Public Comments Received in Response to the DOL’s *Federal Register* Notice**

This section summarizes comments submitted in response to the DOL’s Bureau of International Labor Affairs’ (ILAB) August 25, 2008, notice in the *Federal Register*,<sup>47</sup> requesting comments on the labor capacity-building efforts made under the Labor Chapter and Annex 16.5 of the CAFTA-DR and on the White Paper. As previously noted, these comments were requested to fulfill the requirement that the President establish a mechanism to solicit public comments on the matters described in Section 403 (a)(3)(D) of the CAFTA-DR Implementation Act.<sup>48</sup> The notice provided a 30-day period for submitting written comments and suggestions, and closed on September 22, 2008. During this period, comments were received from two interested parties: The Washington Office on Latin America (WOLA) and the AFL-CIO. The comments and recommendations received are summarized below:

##### **Comments from the Washington Office on Latin America (WOLA)**<sup>49</sup>

Since 2006, the WOLA has monitored the labor rights situation in Central America and the Dominican Republic and the implementation of the White Paper recommendations. Monitoring has included extensive travel to the region, regular communication with contacts in the region, and meetings with various stakeholders in Washington, D.C., over the past few years. At the end of 2009, the WOLA will produce a final report based on the three-year study to present to Congress, Administration officials, and Labor Ministries in the CAFTA-DR countries. The WOLA provided the following comments based on observed efforts to comply with labor laws and to fully implement White Paper recommendations:

##### *U.S. Efforts to Implement White Paper*

According to the WOLA, the different U.S. government agencies involved in these efforts have made a good-faith effort within the established framework given serious limitations, including a limited budget shared among several institutions, six countries and numerous non-governmental agencies, a very precarious labor market in a context of increased public insecurity, and weak and/or corrupt institutions. According to the WOLA, U.S. funding has been inadequate to resolve the labor problems in the CAFTA-DR countries. The projects funded have largely focused on education and infrastructure and are consistent with the White Paper, although the premises underlying these projects—the lack of knowledge of labor laws and poor infrastructure prevent workers from enjoying their labor rights—are flawed. The WOLA contends that instead it is willful disregard of labor rights and fear of unemployment that prevents enjoyment of labor rights.

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<sup>46</sup> Ibid, pp. 279-281.

<sup>47</sup> 73 FR 50,057.

<sup>48</sup> 19 U.S.C. 4111(a)(3)(D).

<sup>49</sup> Full text of the submissions available on the ILAB Web site at [www.dol.gov/ilab](http://www.dol.gov/ilab).

### *Efforts of CAFTA-DR Governments to Implement Labor Legislation*

ILO verification reports and statements on the ground demonstrate that CAFTA-DR governments have made little progress in implementing labor reforms. After requesting studies, forming commissions and debating proposed legislation, very few proposals have made it to the floor of country legislatures for a vote. Debating or introducing a bill gives the appearance of movement forward, but it has proven difficult to get controversial bills passed with a few exceptions, including El Salvador's ratification of ILO Conventions 87, 98, 135, and 151 in September 2007, though El Salvador's Supreme Court of Justice declared unconstitutional Article 2 of Convention 87, recognizing public sector employees' right to organize, just six weeks later. Lack of political will to protect human rights and a willingness to protect the business sector also impedes progress.

### *Improvements in CAFTA-DR Labor Ministries*

Labor ministry facilities have improved, notably in El Salvador and Nicaragua, and some of the governments increased their budgets and labor inspectors' salaries. In the Dominican Republic, salary increases have made labor inspectors among the best paid in the country. In addition, inspectors are required to have a labor law education. Dominicans view the improvements positively but argue that changes are superficial and do not translate into improved labor rights practices. Some countries have increased the number of inspectors, though it is not clear that an increase in personnel has resulted in increased penalties for labor rights violations. In Nicaragua, for instance, of 4,383 labor inspections conducted in 2007, only 65 (1.5 percent) resulted in penalties.

### *Participation in and Knowledge of the White Paper*

In 2006, very few people outside of the labor ministries knew about the White Paper and the commitments made by the governments when they signed the trade agreement. Governments appeared willing to participate in self-analyses to appease Washington but unwilling to disseminate the document to their own constituencies or move forward on its implementation. When the White Paper was completed, all of the governments protested its contents and the Guatemalan government refused to distribute the mere 500 copies in its possession. Civil society organizations that were aware of the document criticized the lack of broader civil society participation in its development and of superficial analyses for each country. Three years later, these criticisms still exist although there is greater awareness of the White Paper and DOL programs such as *Ley Laboral* and *Cumple y Gana*, and more unions and NGOs see the White Paper as a tool to advocate for governmental reform. It nevertheless remains largely unknown beyond civil society and organized workers.

### *Tripartite Commissions*

The WOLA criticizes tripartite commissions as a non-functioning, traditional model that no longer represents the diversity of work places. Typically, commissions are made up of government, business, and labor representatives (largely unions and male). People argue that "multi-sectoral" commissions are needed with greater representation of women, indigenous peoples, and the rural and informal sector.

### *Ongoing Labor Violations and Weak Labor Markets*

The WOLA reports that U.S. government officials, union representatives, and human rights groups acknowledge that the rights of association and to organize are routinely violated in the CAFTA-DR countries for the following reasons:

Labor ministry personnel lack enforcement and sanction mechanisms: WOLA asserts that one of the most contentious issues in the Guatemalan government that almost derailed the signing of the CAFTA-DR with the United States was the constitutional ruling that prohibited the Labor Ministry from imposing sanctions against employers who violate labor rights. The Guatemalan government has yet to pass a bill to give the Ministry of Labor the authority to impose sanctions on employers who violate labor rights. Sanctioning and enforcement in the other countries is also limited. Businesses, aware of government limitations, routinely violate workers rights.

Low levels of unionization and low levels of formal sector jobs: The rate of unionization in public and private sector employment has decreased as a result of structural adjustment policies and anti-union activity. Lack of formal sector employment opportunities has forced people to work in the informal sector, which exceeds half the population in most CAFTA-DR countries and is as extreme as 75.4 percent in Guatemala. Workers have no leverage to demand respect for labor rights in such precarious employment situations. Fear of unemployment, not the lack of knowledge of labor rights, inhibits people's exercise of labor rights.

### *WOLA Suggestions for Improving Implementation of White Paper Recommendations*

1. The United States should lead by example by directly funding labor union organizing efforts. Funds also could support Nicaragua's National Institute of Labor Training and Development (passed by law in December 2007), which could help educate people about their rights and how to organize unions.
2. CAFTA-DR government plans of action laid out in the White Paper and U.S.-funded projects do little to penalize employers violating workers' rights. The United States should work with countries to develop sanctioning and enforcement mechanisms against employers who violate labor laws (e.g., denying import or export licenses to companies that have a history of labor violations or developing a code of conduct for businesses on labor rights and creation of decent employment opportunities in order for companies to receive tax benefits).
3. In agreement with recommendations in the latest verification report, the White Paper should be disseminated to all branches of government and to the working population, and eventually submitted to a broader process of public analysis and verification.
4. Encourage governments to make the tripartite commissions more inclusive by including representatives of the rural and informal sectors, women, and indigenous peoples.

### **Comments from the AFL-CIO**<sup>50</sup>

While many new projects are underway with CAFTA-DR funding, the AFL-CIO alleges that little has changed for the average Central American or Dominican worker, noting that employers in the public and private sectors still routinely violate core labor rights and the

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<sup>50</sup> Full text of the submissions available on the ILAB Web site at [www.dol.gov/ilab](http://www.dol.gov/ilab).

governments remain largely unable or unwilling to respond. The AFL-CIO asserts that projects have not significantly and systematically improved conditions for workers because few directly address the obstacles that workers face in exercising their core labor rights and only a fraction of funding is used to empower workers to organize, bargain collectively and otherwise develop tools to verify compliance with labor rights and acceptable working conditions on the job. The AFL-CIO alleges that some of the implementing organizations that have received labor capacity-building funds have little expertise in labor relations, are unfamiliar with the region, or lack the trust of labor organizations; thus, these project implementing partners may not do the outreach necessary to build trust with these worker organizations through sustained evidence of a long-term commitment to workers. The AFL-CIO suggests that U.S. government agencies funding these programs do not appear to be coordinating with each other, duplicating efforts over time and wasting resources. Finally, in their view, there appears to be little accountability, particularly with regard to government institutions that continue to receive funds for workshops, training, and equipment despite showing little will to improve the quality of their work.

### *Assessment of the Current Labor Situation in Central America*

Non-Compliance with Labor Laws: In El Salvador, the AFL-CIO alleges that the government and judges use excessive formalities to deny applications for legal standing to unions. The government rarely enforces antiunion discrimination laws. As the government appears unwilling to protect the right to organize, employers often refuse to engage in collective bargaining, even when unions have been established. In Guatemala, there are reports of increased threats, attacks, and killings of trade union activists and of government use of antiterrorism regulations against unions.

Instances of employers using illegal means to undermine union organizing, including dismissal of labor activists and blacklisting union members, have been reported. Companies have also engaged in retaliation against unionizing workers and failed to reinstate wrongfully dismissed union organizers, even after labor tribunals decided in favor of those workers. In Honduras, illegal retribution is common, and employers have threatened to close unionized companies and harassed or dismissed unionizing workers.

Failure to Enact Promised Labor Law Reform: The White Paper self-evaluation process included a commitment by CAFTA-DR governments to address deficiencies in national labor laws. However, little progress has been made in reforming labor laws in regards to freedom of association and collective bargaining: El Salvador has failed to address problems related to union registration procedures with no proposed legislation to reform related laws; Honduras has yet to bring its labor code into compliance with ILO standards, and workers and employers are unaware of the government's recent proposal to restructure the Ministry of Labor; and the Dominican Republic has yet to propose legislation responding to ILO criticisms regarding freedom of association and collective bargaining. Only Nicaragua appears to have made any progress on labor law and inspection reforms.

Inspections Are Fraught with Problems: The budgets of most Central American labor ministries have been increased, more inspectors have been hired, and labor ministries have provided new services. Labor inspectors have attended training and seminars on a range of labor issues. While the quantity of inspections and issuance of fines has increased in most countries, the number of inspectors and inspections in Guatemala remains flat, and the Ministry of Labor still has no authority to issue fines for labor law violations. In El Salvador,

the government has not allocated sufficient resources for adequate inspection and oversight of associational and collective bargaining rights in Free Trade Zones and thwarting corruption among labor inspectors in the maquilas. In Honduras, the Ministry of Labor often provided inadequate protection to labor organizers, and inspectors sometimes sold union organizers' names to company management before government recognition of the union.

Backlogged and Impotent Central American Judiciaries: Most complaints filed in Guatemala in 2007 regarding illegal dismissals remain unresolved; a third of the 5,689 cases were addressed through conciliation, and courts ordered only 285 reinstatements. Guatemala's ineffective legal system and inadequate penalties for violations undermine rights to form and participate in unions. In El Salvador, the government and employers do not respect the judiciary.

Lack of Credible Labor Law Enforcement: The capacity to conduct credible labor inspections and enforcement actions is limited by a lack of professionalism and resources. Absent any serious engagement and dialogue with civil society and internal reforms, workers can expect little respect for core worker rights and compliance by employers with labor laws. As most businesses have access to lawyers, advisors, and government officials, most employers do not need capacity-building to increase their knowledge of basic labor rights. Programs facilitating training, labor rights knowledge and voluntary dialogue between labor and management through joint committees will not work, as employers have the option to ignore worker concerns in the absence of a strong union. Government officials may affect change in labor capacity-building by credibly impressing upon employers that national labor laws and international standards must be respected.

### *Review and Assessment of Labor Capacity-Building*

1. Labor-to-Labor Training: Civil society organizations and unions need more direct support to consolidate their institutions, develop technical capacity in organizing and educating new members, bargain with employers, and promote public policy that protects labor rights. Some grantees designated organizations with little experience in labor relations and no relationship with trade unions. Other programs do not provide the sort of institution building to allow workers to advocate on their own behalf beyond the United States government grant period. The Solidarity Center, the only organization to provide worker-to-worker, union-to-union capacity-building programs, has received only \$1 million of the \$60 million in CAFTA funds, which it has used to train workers about basic labor law, international labor instruments, union representation, the responsibilities of shop stewards, collective bargaining, and mediation.

2. Public Education on Labor Rights: FUNPADEM, the Costa Rican NGO entrusted with much of public education funding, has produced a series of pamphlets, calendars, billboards, bus-shelter signs, and radio spots to educate the general public about their labor rights. While some information on labor rights has reached some of the working population, few surveys have been conducted to determine if this information has increased people's awareness and understanding of labor rights or if workers have used the information on the job. Surveys on the effectiveness of these campaigns would be valuable to determine their efficacy. Distributing worker rights literature via existing worker networks would have a greater impact, as qualified persons distributing information to relevant communities could respond to immediate questions. Program literature now provides government, but not union or NGO, contact information, disadvantaging workers who distrust the government or fear dismissal.

3. Labor Law Reform: There has been little substantive or procedural labor law reform. Rather than conducting studies that yield no new information, the U.S. government must condition capacity-building funds and foreign aid in part on recipient government approval of new labor laws.

4. Corporate Social Responsibility (CSR): Because CSR efforts are voluntary and do not build institutional capacity to enforce national laws, poor working conditions persist in many factories producing for international brands involved in some form of CSR. The drive for lower prices creates tight margins throughout the supply chain, pressuring factories at the end of the chain to violate labor standards. In one active CSR program, the grantee contracted a regional network of CSR organizations from national or international corporations, but no civil society representation. International campaigns targeted some of these companies for their irresponsible behavior and are not perceived by unions and workers as credible partners.

5. Improving Joint Labor-Management Dialogue: While some conflicts could be resolved through better communication skills on both sides, the reason why worker rights are not enforced has little to do with a lapse in dialogue. Workers often attempt to engage employers on such issues and are often fired. In one such initiative in Guatemala, the Avandia Company fired every worker that participated in a joint worker-management program and co-workers protesting those firings. The AFL-CIO asserts that collective bargaining is the best form of social dialogue with a basis in both national and international law, and should be encouraged.

6. Alternative Dispute Resolution (ADR): Under *Cumple y Gana*, ADR has been heavily promoted to address case backlogs at the administrative and judicial levels. Union partners have reported that ADR has not been useful, as unions and individual workers have availed themselves to ADR largely because litigation appears to be a dead end and because workers would rather receive some settlement for a labor violation than perhaps nothing in the future, fearing that a judicial order in their favor may never be enforced. In some cases, arbitrators do not determine legal responsibility and merely split the difference in the parties' demands to clear the docket. In others, arbitrators have demonstrated bias against workers.

7. Ministry and Justice System: Millions of dollars have gone into programs to provide equipment and modern IT systems in labor ministries and judiciaries and train hundreds of judges, inspectors and officials on labor laws, international standards, and inspection methodologies. Nevertheless, there is a serious lack of political will and no program accountability with the U.S. government spending millions on programs without demanding results.

8. ILO Benchmarking Process: The White Paper was developed to assuage concerns of Congress on labor rights and secure the passage of CAFTA-DR in the United States, but it did not present a complete analysis of the shortcomings in law and practice in each country. Produced largely by an outside consultant, there was little relevant stakeholder participation, few within the labor movement or government were at all familiar with its contents and, years later, few in government had developed plans to implement those recommendations. While the benchmarking reports provide valuable information, limitations include: the White Paper was not based on the full range of ILO observations on each of the core conventions; the ILO lacks the authority to conduct independent, unannounced inspections to monitor workers' rights, recommend improvements, and publish findings of non-compliance; the report lacks an assessment of whether programs have improved conditions for workers, resulted in better and more frequent inspections that have resulted in fines or remediation, a



more efficient and effective labor justice system, or an improved culture of compliance; and some indicators seem ill suited to measure advances toward overcoming challenges.

#### *AFL-CIO Recommendations*

The AFL-CIO proposed six recommendations for labor capacity-building projects in the CAFTA-DR countries:

1. Condition government-to-government funding on measured indicators of compliance, including: (a) sustained reduction of backlog in inspections, administrative hearings, and court cases; (b) evidence that cases are resolved in compliance with applicable law and that all orders are enforced; (c) expeditious registry of unions; (d) registry and negotiation of collective bargaining agreements; and (e) amendment of labor laws to comply with ILO recommendations. Governments that have received funds but have repeatedly failed to show progress should have capacity-building funds reduced until the will to address these issues is demonstrated, and countries that can point to demonstrated progress should be rewarded.
2. Labor-focused capacity-building programming must be conducted by labor organizations that have the trust of unions in these countries with demonstrated expertise in engaging workers. More direct funding should support these trusted, experienced actors.
3. Direct fewer labor capacity-building funds to voluntary compliance initiatives like CSR.
4. Benchmarking efforts should go beyond monitoring progress on the implementation of White Paper recommendations, measuring progress towards adoption of and compliance with core labor rights, reporting on the resolution of emblematic cases, and monitoring the removal of practical obstacles to compliance with existing domestic laws and international standards.
5. ADR requires neutral mediators and arbitrators, regular and expeditious enforcement of awards, and overall confidence in the process to bring about just results based on law and/or contract. Where legitimate, representative national labor centers are co-architects and monitors of the system, confidence in ADR is enhanced. The DOL should seek union and worker input on ADR so that mediation and arbitration produce fair and just results.
6. The GAO should evaluate the structural impediments to compliance with the core labor rights and the kinds of labor capacity-building programs that have been funded to determine which have increased compliance with the core labor rights in Central America and the Dominican Republic.

## **VI. Annexes**

### **Annex 1: List of Ministerial and Vice-Ministerial Meetings**

January 19-20, 2006

Washington, DC, CAFTA-DR Ministers' Labor Capacity-Building Meeting

April 21, 2006

Guatemala City, Guatemala, Regular Meeting of the Ministers of Labor of the CAFTA-DR Countries

September 27 -28, 2006

Managua, Nicaragua, Special Meeting of the Ministers of Labor of the CAFTA-DR Countries

April 13, 2007

Washington, DC, CAFTA-DR Vice Ministers' Labor-Capacity Building Meeting

July 27, 2007

Washington, DC, CAFTA-DR Vice Ministers' Labor Cooperation Coordination Meeting

March 28, 2008

Washington, DC, CAFTA-DR Vice Ministers' Labor Cooperation Coordination Meeting

July 30, 2008

Santo Domingo, Dominican Republic, CAFTA-DR Vice Ministers' Labor Cooperation Coordination Meeting

November 21, 2008

San Salvador, El Salvador, CAFTA-DR Ministers' Labor Affairs Council Meeting

**Annex 2: List of U.S.-Funded Labor Capacity Building Projects Listed by Interagency Priority Area**

Strengthen Labor Ministries									
Year	Agency	Title	Amount (millions of USD)	Project duration	Location	Implementer	Description of Project/Goals	Activities and Accomplishments to Date	
1	FY2005	USDOL	Cumple y Gana (Comply and Win)	4.49 ( 1.98 of additional funding was allocated for a Gender Discrimination Component, project 13 listed below)	July 2006- February 2009	all CAFTA-DR countries, except Costa Rica	Foundation for Peace and Democracy (Funpadem)	<ul style="list-style-type: none"><li>• Inspection and mediation case management systems extended to select regional offices (2-3 per country);</li><li>• The provision of additional equipment such as computers and vehicles;</li><li>• Installation of call centers within Ministries of Labor;</li><li>• Additional training for national and regional mediators on individual and collective bargaining;</li><li>• Public awareness campaigns for workers and employers about labor laws and standards expanded to regional offices;</li><li>• Training labor inspectors on investigating gender discrimination cases;</li><li>• Establish or strengthen MOL gender offices;</li><li>• Train workers and employers on labor laws regarding gender discrimination.</li></ul>	<ul style="list-style-type: none"><li>• A website with information on labor laws for workers and employers on-line in all CAFTA-DR countries that received over 2.7 million consultations. (www.leylaboral.com);</li><li>• Over 3.8 million copies of educational materials on labor rights disseminated to workers and employers;</li><li>• 52 radio spots on labor rights developed and currently being aired at a rate of 1,500-2,700 per month;</li><li>• Over 13,000 trained on national labor laws and procedures;</li><li>• Electronic case management systems for inspectors implemented in four countries and over 90% of labor inspectors in central offices are using them;</li><li>• Inspection protocols developed in all countries to unify inspection criteria and inspection techniques;</li><li>• Ministry of Labor gender offices strengthened in five countries, over 1,000 workers trained through train the trainer replications;</li><li>• Ministry of Labor call centers established in 4 countries;</li><li>• 17 vehicles donated to MOLs; more than 320 computers provided to national and regional MOL offices.</li></ul>
				\$8.75 million of previous funding in FY03/FY04 FY03: \$6.75 million FY04: \$2.00 million					
2	FY2006	USDOL	Todos Trabajamos: Establish Worker Rights Centers	4.90	May 2007- May 2011	all CAFTA-DR countries	Catholic Relief Services <sup>1</sup>	<ul style="list-style-type: none"><li>• Establish/strengthen worker rights centers and provide quality legal services;</li><li>• Train trainers on labor rights and outreach, provide follow-up to trained trainers to ensure training is replicated;</li><li>• Conduct targeted media campaigns informing workers how to exercise their rights on specific labor issues;</li><li>• Collect data on cases/requests at worker rights centers, use this information to shape media campaign, and collect data on all project activities;</li><li>• Share Best Practices.</li></ul>	<ul style="list-style-type: none"><li>• Workplan, strategic framework and monitoring plan with indicators finalized;</li><li>• Local partners identified for train-the-trainer workshops in Nicaragua and El Salvador;</li><li>• Worker Rights Centers launched in Nicaragua, El Salvador, Dominican Republic, Costa Rica, and Honduras;</li><li>• Lawyers providing services to dozens of workers in the new Centers;</li><li>• Software for collecting data on project indicators installed and staff trained on its use;</li><li>• Internship programs for law students established in Nicaragua;</li><li>• Radio programs in Nicaragua and El Salvador answering questions about worker rights and promoting the Center;</li><li>• Blog for worker rights center functioning in El Salvador.</li></ul>
3	FY2007	USDOL	Labor Law Compliance	4.20	October 2008- October 2012	all CAFTA-DR countries	Foundation for Peace and Democracy (FUNPADEM)	<ul style="list-style-type: none"><li>• Conduct a diagnostic study of needs in selected countries to produce more reliable and timely labor market information;</li><li>• Help Ministries of Labor target their inspections more strategically.</li></ul>	
4	FY2006	USDOL	Strengthening the Civil Service within the Labor Inspectorates	1.00	September 2007- March 2010	El Salvador, Honduras	ILO	<ul style="list-style-type: none"><li>• Analyze existing civil service legislation and re-organization of Labor Ministries;</li><li>• Develop proposal to enact (or implement) civil service and career tracks for MOL staff;</li><li>• Validate proposals with tripartite partners;</li><li>• Train Ministry staff on implementation of new policies.</li></ul>	<ul style="list-style-type: none"><li>• Project document drafted;</li><li>• Design missions conducted by staff personnel to select pilot countries and refine project strategy;</li><li>• Discussions /Analysis and planning with Labor Inspectorates on going;</li><li>• Training of inspectores has begun;</li><li>• Initial actions taken to annex Guatemala to the project.</li></ul>
5	FY2007	USDOL	Ensuring Benefits in the Formal Sector	0.94	October 2008- October 2011	El Salvador	Alexius International	<ul style="list-style-type: none"><li>• Promote a transparent process for employer payment into the social security system;</li><li>• Allows workers to verify that deductions from their salaries have been transferred to the correct agency;</li><li>• Ensures that workers receive appropriate health care benefits.</li></ul>	
6	FY2005	USAID	Modernize Labor Ministries	2.00	September 2006 - September 2008	Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua	SRA International	<ul style="list-style-type: none"><li>• Conduct a comprehensive diagnostic of the Labor Ministries' use of information communication technology;</li><li>• Identify problems such as antiquated systems, lack of professional personnel, and underutilization of management information;</li><li>• Develop an integrated management systems that will better serve internal and external clients.</li></ul>	<ul style="list-style-type: none"><li>• Completed comprehensive diagnostic of Labor Ministries' use of information communication technology in Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua;</li><li>• Completed comprehensive Information Communication Strategies adopted by the Ministries in El Salvador, Guatemala, and Honduras, with Dominican Republic and Nicaragua drafted and awaiting formal approval;</li><li>• Currently developing integrated management systems, including ICT back office infrastructure, training centers, media production centers, groupware tools, e-government services (labor claims, benefit calculations, etc.).</li></ul>
Project Funding for this Goal:			17.53	Number of Projects Supporting Goal:			6		

Modernize Labor Justice									
Year		Agency	Title	Amount (millions of USD)	Project duration	Location	Implementer	Description of Project/Goals	Activities and Accomplishments to Date
7	FY2005	USDOL	Labor Justice Training	2.00	August 2006-October 2008	all CAFTA-DR countries, except Costa Rica	ILO	<ul style="list-style-type: none"><li>• Implement a training program for judicial personnel on national labor laws, the application of international labor standards, and case preparation.</li></ul>	<ul style="list-style-type: none"><li>• Negotiated cooperative agreements with judicial academies to provide training on internationally recognized labor standards, their relation to national legislation, and the consistent interpretation of jurisprudence;</li><li>• Trained 501 legal representatives (including judges, labor officers, legal advisors to workers and employers, university professors, free legal assistance officers, and bar association members) on International Labor Standards;</li><li>• 5 courses on techniques for admission of evidence taught to 140 judges;</li><li>• Support for one office in each participating country for free legal assistance services;</li><li>• Production of labor codes that correspond to International labor Standards for each participating country;</li><li>• Compilation of Organization of Jurisprudence; 15 Training workshops for report preparation;</li><li>• Website produced to provide access to all activities and training materials (<a href="http://www.justicia-laboral.org">www.justicia-laboral.org</a>);</li><li>• Final evaluation conducted with Excellent results/ Project close October 2008.</li></ul>
8	FY2005	USAID	Administration of Labor Justice	4.94	March 2007- June 2009	all CAFTA-DR countries (except improvements in court infrastructure for Dominican Republic and Costa Rica)	Management Sciences for Development	<ul style="list-style-type: none"><li>• Develop a comprehensive strategy for procedural streamlining for labor cases in close consultation with Supreme Courts and other stakeholders in the region, including improvements in conciliation/mediation, oral procedures, small claims, and other procedural reforms;</li><li>• Train court personnel on oral procedures, conciliation, and other topics, and strengthen judicial schools and other training institutions;</li><li>• Support limited court infrastructure improvements in all countries except Costa Rica and the Dominican Republic;</li><li>• Streamline court administration throughout the region and introduce case management and jurisprudence information systems in selected countries.</li></ul>	<ul style="list-style-type: none"><li>• Comprehensive diagnostic of all areas completed for all CAFTA-DR countries;</li><li>• Appeals (amparo) process in Guatemala streamlined, a White Paper commitment;</li><li>• Open source case management system concept developed in El Salvador, and server and network equipment procured; system options and procurement plan developed for case management systems in Guatemala and Honduras;</li><li>• Pilot courts identified for implementing streamlined court administration, oral procedures, and alternative dispute resolution, including advising on related court infrastructure improvements; technical assistance initiated in El Salvador, Guatemala, and Costa Rica;</li><li>• Design of a pilot Judicial Master's program focusing on labor issues in El Salvador;</li><li>• ADR seminars for court personnel and other judicial operators completed in El Salvador and Guatemala.</li></ul>
	FY2006			2.00					
9	FY2007	USAID	Administration of Labor Justice in Costa Rica	0.30	Not yet awarded	Costa Rica	Not yet awarded	<ul style="list-style-type: none"><li>• Train judges, lawyers and clerks on international conventions and national laws;</li><li>• Develop web-based database on labor case precedents;</li><li>• Develop electronic case management systems;</li><li>• Train judges in implementing new laws establishing oral proceedings;</li><li>• Provide labor courts with computers, software and other equipment.</li></ul>	
10	FY2007	USAID	Promote Interest-based Bargaining Techniques	0.50	Not yet awarded	all CAFTA-DR countries	Not yet awarded	<ul style="list-style-type: none"><li>• Improve unions' and management reps' collective bargaining ability through conflict management training;</li><li>• "Train the Trainers": ministry staff, professors, mediators, etc., to manage conflict.</li></ul>	
11	FY2007	USAID	Train Public Defenders and Legal Assistance Providers	1.00	Not yet awarded	all CAFTA-DR countries	Not yet awarded	<ul style="list-style-type: none"><li>• Train government public defenders to provide disadvantaged workers access to the judicial system;</li><li>• Examine legal/regulatory barriers to alternative dispute resolution;</li><li>• Train government staff, especially those outside capital cities, in developing procedure manuals, case management, personnel issues oversight mechanisms, record-keeping, statistics and indicators for planning, follow-up and evaluation.</li></ul>	

12	FY2007	USAID	Promote Civil Society Engagement with Judiciary	1.00	Not yet awarded	all CAFTA-DR countries	Not yet awarded	<ul style="list-style-type: none"> <li>• Fund civil society organizations to strengthen their ability to articulate proposals based on sound legal and policy analysis, surveys, and focus groups;</li> <li>• Train NGOs to review case statistics and judgments, track institutional reforms in the labor justice system, collect and channel complaints, and publicize results.</li> </ul>	
Project Funding for this Goal:				11.74	Number of Projects Supporting Goal:			6	

Eliminate Gender and Other Types of Discrimination									
Year		Agency	Title	Amount (millions of USD)	Project duration	Location	Implementer	Description of Project/Goals	Activities and Accomplishments to Date
13	FY2005	USDOL	Cumple y Gana, gender component (Gender component is funded with \$1.98 million of total amount; see Cumple y Gana Project information, listed as project 1 above)		July 2006-February 2009	all CAFTA-DR countries, except Costa Rica	See Cumple y Gana (Comply and Win) Project Information, project 7 above	<ul style="list-style-type: none"><li>• Support efforts to improve Labor Ministries' capacity to enforce gender discrimination laws;</li><li>• Raise awareness among female workers.</li></ul>	<ul style="list-style-type: none"><li>• Produced draft baseline studies on gender discrimination in the workplace, which have been validated in tripartite seminars;</li><li>• Trained 394 government employees, union leaders and employers on labor rights for women;</li><li>• Established and/or enhanced gender offices within the Labor Ministries, including the provision of technical support and equipment.</li></ul>
14	FY2007	USDOL	Provide Job Training for People with Disabilities	0.47	October 2008-October 2010	Costa Rica	Trust of the Americas (TRUST)	<ul style="list-style-type: none"><li>• Train people with disabilities in IT (using adaptive technology) and other skills to enhance job readiness;</li><li>• Facilitate placement;</li><li>• Educate employers.</li></ul>	
15	FY2006	USAID	Reduce Gender and Other Forms of Discrimination	2.00	April 2007-September 2008 (additional USAID funds outside of the CAFTA funding from FY2004. The alliance was launched in September 2004)	all CAFTA-DR countries	Continuous Improvement in the Central American Workplace (CIMCAW);  Development Alternatives, Inc (DAI)	<ul style="list-style-type: none"><li>• Work with a multi-stakeholder alliance of international brands, local factories, unions, and others;</li><li>• Conduct large-scale worker – manager training for textile and apparel factories;</li><li>• Train stakeholders on how to exercise rights and responsibilities under international conventions, national laws, codes of conduct;</li><li>• Focus on gender discrimination, freedom of association, occupational health and safety, and other topics.</li></ul>	<ul style="list-style-type: none"><li>• As of December 2007: 8,850 workers have benefited from improved labor conditions through documented changes in their factories;</li><li>• A total of 433 workers and managers have been trained;</li><li>• 353 inspectors from the Labor Ministries have participated in trainings;</li><li>• Training materials, tools for implementing factory improvement plans, and a global best practices manual for addressing common factory compliance gaps were developed;</li><li>• Multi-stakeholder Consultative Committees established to continue strengthening social dialogue and building sustainability into the alliance's efforts beyond USG support.</li><li>• Wal-Mart joined the Alliance, providing \$500,000 in funds and committed to implement changes in a large range of suppliers throughout the region.</li></ul>
Project Funding for this Goal:				4.45	Number of Projects Supporting Goal:			3	

Address Worst Forms of Child Labor									
Year		Agency	Title	Amount (millions of USD)	Project duration	Location	Implementer	Description of Project/Goals	Activities and Accomplishments to Date
16	FY2006	USDOL	Supporting the Time-Bound Program on the Elimination of the Worst Forms of Child Labor in El Salvador (Phase II)	3.38	September 2006 - September 2009	El Salvador	ILO-IPEC	<ul style="list-style-type: none"><li>• Target 3,510 children for withdrawal and 8,808 children for prevention from WFCL;</li><li>• Develop local action programs to address urban work, fishing, and commercial sexual exploitation;</li><li>• Enhance capacity of key actors to implement the National Plan of Action against Child Labor in the framework of relevant programs;</li><li>• Develop and document effective, replicable child labor reduction models at the local level.</li></ul>	<ul style="list-style-type: none"><li>• Develop and promote use of a national Child Labor Monitoring System;</li><li>• Advocate for inclusion of child labor concerns in national policies and programs.</li><li>• Support curriculum and non formal education development by the Ministry of Education.</li><li>• Promote health care and reduce occupational health hazards.</li><li>• As of May 31, 2008, 3,807 children have been withdrawn or prevented from exploitive child labor as a result of this project.</li></ul>
17	FY2006	USDOL	Supporting the Time-Bound Program for the Elimination of the Worst Forms of Child Labor in the Dominican Republic – Phase II	2.70	September 2006 - December 2009	Dominican Republic	ILO-IPEC	<ul style="list-style-type: none"><li>• Raise awareness on the negative effect of child labor among key sectors and actors.</li><li>• Pertinent institutions produce, update, analyze and disseminate the relevant information for developing policies and programs to eradicate the WFCL.</li><li>• Improve law enforcement and coordinate the implementation of policies and programs against the WFCL.</li><li>• Prevent 5,100 girls, boys and adolescents from entering or withdrawn from the WFCL.</li></ul>	<ul style="list-style-type: none"><li>• Improve national child labor legislation;</li><li>• Provide training to the actors that investigate, prosecute and penalize exploiters;</li><li>• Collaborate with the Ministry of Labor so that National Steering Committee members undertake their responsibilities to follow up the implementation of the NPA against WFCL.</li><li>• Provide educational services to children withdrawn and prevented from exploitive labor.</li><li>• Support income generation for families of children withdrawn or prevented from exploitive labor.</li><li>• As of March 31, 2008, 1,846 children had been withdrawn or prevented from exploitive child labor as a result of this project.</li></ul>
18	FY2002	USDOL	Stop the Exploitation: Contribution to the Prevention and Elimination of Commercial Sexual Exploitation of Children in Central America, Panama, and the Dominican Republic	3.80	September 2002 - April 2006	Central America, Panama and Dominican Republic	ILO-IPEC	<ul style="list-style-type: none"><li>• Generate regional cooperation and shared knowledge to prevent and eradicate CSEC;</li><li>• Increase community and individual action to prevent CSEC and assist CSEC victims;</li><li>• Assist in formulation of national legislation, policies and programs to combat CSEC;</li><li>• Target 1,370 children for withdrawal and prevention from trafficking and commercial sexual exploitation.</li></ul>	<ul style="list-style-type: none"><li>• Establish pilot models in six new communities to prevent CSEC and assist victims;</li><li>• Carry out awareness raising campaigns through radio and media spots;</li><li>• Generate and disseminate written information on CSEC and develop a project website;</li><li>• Train media on how to investigate and report CSEC;</li><li>• Train officials from public institutions, NGOs, and businesses in: police investigation; prevention of CSEC; care of victims of trafficking and CSEC; legislative reform; and industry-specific responses to CSEC;</li><li>• Conduct exchanges among participating countries to build regional institutional capacity and cooperation;</li><li>• As of February 29, 2008, 1,178 children have been withdrawn or prevented from commercial sexual exploitation as a result of this project.</li></ul>
	FY2005			4.97	May 2006 - April 2009				
19	FY2004	USDOL	Combating Child Labor Through Education in Central America and the Dominican Republic, "Primero Aprendo"	6.54 (FY2004: 5.73 Matching Funds: \$809,030)	September 2004 - March 2009	Central America & DR	CARE	<ul style="list-style-type: none"><li>• Target 2,984 children for withdrawal and prevention from exploitive child labor</li><li>• Raise awareness of the importance of education and dangers of child labor.</li><li>• Strengthen institutions and policies that address education and child labor.</li><li>• Strengthen formal and transitional education systems to reintegrate working children and to reduce dropout rates.</li></ul>	<ul style="list-style-type: none"><li>• Establish demonstration projects to withdraw and prevent children from exploitative work;</li><li>• Carry out awareness raising through radio and video spots, seminars and media campaigns at the regional, national and local levels;</li><li>• Develop project website, database, and publications for dissemination of lessons learned and good practices;</li><li>• Strengthen existing National Child Labor Commissions, public ministries, the private sector, NGOs, and parents associations;</li><li>• Promote use and accreditation of transitional schooling and expand alternative programs;</li><li>• As of March 31, 2008, 2,376 children had been withdrawn or prevented from exploitive child labor as a result of this project.</li></ul>
Project Funding for this Goal:				21.39	Number of Projects Supporting Goal:			4	

Promote a Culture of Compliance									
Year		Agency	Title	Amount (millions of USD)	Project duration	Location	Implementer	Description of Project/Goals	Activities and Accomplishments to Date
20	FY2006	USDOL	Strengthen Labor Law Compliance in the Agricultural Sector	2.70	May 2007-May 2011	Honduras, Nicaragua, Dominican Republic	Development Alternatives, Inc. (DAI); Social Accountability International (SAI); Environmental Protection Agency (EPA)	<ul style="list-style-type: none"><li>• Work with targeted agricultural communities to develop and implement action plans to improve labor compliance, emphasizing occupational safety and health regulations;</li><li>• Identify workers' major concerns regarding compliance;</li><li>• Train local community organization leaders to provide basic legal information to agricultural workers;</li><li>• Work with local organizations and Ministries of Labor to strengthen mechanisms for workers to exercise their rights;</li><li>• Conduct national workshop to share best practices;</li><li>• Have Dept. of Agriculture/EPA examine pesticide application and perform training;</li><li>• Survey workers regarding their rights to measure their impact.</li></ul>	<ul style="list-style-type: none"><li>• National stakeholder meetings held to validate diagnostic studies and finalize target agricultural sectors and interventions;</li><li>• Cooperation framework agreement developed among three banana unions in Nicaragua, setting aside long standing conflicts between the groups;</li><li>• Master train the trainer course on pesticide handling held in the DR;</li><li>• Stakeholder coalitions developed in Nicaragua and the Dominican Republic for pesticide training project;</li><li>• 17 companies are participating in the project and are receiving training;</li><li>• A working group has been formed in Honduras between the Ministry of Labor, the Secretariat of Agriculture, and the Ministry of Health.</li></ul>
21	FY2007	USDOL	Outreach to the Agriculture Sector in Guatemala	0.94	September 2008-Setpebmer 2011	Guatemala	Catholic Relief Services	<ul style="list-style-type: none"><li>• Train workers and employers in rural agricultural communities on labor rights and laws;</li><li>• Focus on indigenous populations;</li><li>• Increase ability of workers to enforce labor laws with linkages to MOL's enforcement procedures.</li></ul>	
22	FY2007	USDOL	Dominican Republic Education/Youth Employment Public Private Partnerships	\$4.97 (FY2007: \$4,000,000 + Matching Funds: \$979,106)	September 2007 – February 2011	Dominican Republic	DevTech Systems, Inc.	<ul style="list-style-type: none"><li>• Target 4,250 children for withdrawal and 4,250 children for prevention from exploitive child labor through the provision of direct education and training services;</li><li>• Strengthen child labor policies, national institutions, and education systems to reduce hazardous child labor and increase school attendance for children working in exploitive conditions;</li><li>• Raise awareness of the importance of education for children and mobilize actors to improve and expand education infrastructures;</li><li>• Support reliable research and data collection on child labor;</li><li>• Encourage public-private sector relationships;</li><li>• Promote corporate social responsibility and codes of conduct certifying child-free labor.</li></ul>	<ul style="list-style-type: none"><li>• At the beginning of 2008, the project enrolled 2,455 children into their educational programs;</li><li>• There are 110 after school centers (called "Espacios para Crecer (EpCs)", or "Spaces for Growth") functioning;</li><li>• 160 facilitators and field coordinators have been trained in the Quantum Learning methodology for these EpCs;</li><li>• Develop a comprehensive adolescent EpC model and implement additional Espacios (EpCs);</li><li>• Improve data collection on education and child labor at the national level;</li><li>• Encourage corporate social responsibility;</li><li>• Work with business associations to enact codes of conduct on exploitive child labor;</li><li>• Collaborate with university business departments;</li><li>• Develop public-private sector relationships.</li></ul>
23	FY2006	State/DRL ILCSR	Best Practices in Employer and Worker Organizations	2.00	February 2007- September 2009	all CAFTA-DR countries, except Costa Rica	TRUST	<ul style="list-style-type: none"><li>• Work with both worker and employer organizations;</li><li>• Focus on organizational capacity building;</li><li>• Build public policy advocacy capacity, compliance monitoring;</li><li>• Increase reporting capability and individual case representation capacity.</li></ul>	<ul style="list-style-type: none"><li>• Conducted 2 fact finding missions as part of the Initial Needs Assessment;</li><li>• Carried out follow-up visits to El Salvador, Nicaragua and Guatemala and met with local implementers;</li><li>• Participated in local coordination meetings with other implementers in Guatemala and Nicaragua and Washington, D.C.;</li><li>• Successful workshops for 46 trade unions, 38 employer associations, and 61 civil society organizations have been held in the CAFTA-DR countries.</li></ul>
24	2006	State/DRL ILCSR	Strengthening Worker Organizations	1.00	September 2007- December 2008	all CAFTA-DR countries, except Costa Rica	ACILS	<ul style="list-style-type: none"><li>• Work with unions;</li><li>• Train workers about basic labor law and international labor instruments that protect the rights of workers in a variety of sectors;</li><li>• Use links with the unions to enhance unions' administrative capacities and improve internal effectiveness and accountability.</li></ul>	<ul style="list-style-type: none"><li>• Conducted over 35 training activities, reaching over 500 workers directly;</li><li>• More than 130 worker leaders and representatives participated in training on the protection of rights and the effective representation of their colleagues;</li><li>• Trained 5 regional organizations in strategic planning and skills development;</li><li>• Trained 5 organizations in collective bargaining rights;</li><li>• Helped 7 unions craft strategic plans related to building and strengthening their organizations.</li><li>• Conducted training for 1,600 workers in the 6 CAFTA-DR countries</li></ul>
25	FY2006	State/DRL ILCSR	Supporting Responsible Competitiveness	2.00	September 2007- September 2010	all CAFTA-DR countries	Business for Social Responsibility (BSR)	<ul style="list-style-type: none"><li>• Promote responsible labor standards and practices to:</li><li>• Enhance the competitiveness of key industries (coffee, sugar, apparel, electronics, bananas, and tourism) in the CAFTA countries;</li><li>• Promote regional dialogue around responsible labor;</li><li>• Work with local producers to implement practical improvements at the company level; and then</li><li>• Disseminate learnings to other companies and international buyers.</li></ul>	<ul style="list-style-type: none"><li>• Five demonstration projects are currently underway—three in El Salvador, one in Costa Rica and one in Honduras.</li><li>• INCAE has begun the first of a series of industry studies on the relationship between responsible labor and firm competitiveness;</li><li>• Established a formal working relationship for the project with local CSR partners that will include participation in three practical seminars tailored to their responsible labor needs;</li><li>• Published a project interview in Ethical Corp magazine;</li><li>• At the invitation of the Council, presented the project at the Council of Vice Ministers meeting in Washington, DC in March;</li><li>• Council invited to join the project's Regional Advisory Committee.</li></ul>



26	FY2007	State/DRL ILCSR	Engage Workers in the Informal Economy	1.00	Not yet determined	two pilot countries TBD	Global Fairness Initiative (GFI)	<ul style="list-style-type: none"> <li>• Improve data collection of the scale and scope of the informal sector.</li> <li>• Develop policies and national capacity to improve tripartite social partner engagement with informal workers to incorporate them into the formal economy.</li> <li>• Reduce regulatory and administrative barriers to formalization for workers and SMEs.</li> <li>• Reduce the size of the informal economy and increase worker rights coverage.</li> </ul>	
27	FY2007	State/DRL ILCSR	Promote Tripartite Social Dialogue	3.00	Not yet determined	all CAFTA-DR countries	International Labor Organization (ILO)	<ul style="list-style-type: none"> <li>• Bolster tripartite social dialogue through training on dispute resolution and reconciling pressures for productivity and competitiveness with sustainable development and improved working conditions.</li> <li>• Increase adherence to and respect for labor law and institutions.</li> </ul>	
28	FY2007	USAID	Support Alliances to Improve Labor and Environmental Standards	2.00	Not yet awarded	all CAFTA-DR countries	Not yet awarded	<ul style="list-style-type: none"> <li>• Streamline the work of existing alliances / certifying organizations that serve US buyers (e.g. supermarkets)</li> <li>• Promote expansion of best practices in labor standards and environmental protection;</li> <li>• Increase competitiveness of participating local firms.</li> <li>• Attract multinational and local businesses to private/voluntary process and certification regimes;</li> <li>• Encourage government-private sector partnerships.</li> </ul>	
<b>Project Funding for this Goal:</b>				<b>19.61</b>	<b>Number of Projects Supporting Goal:</b>				<b>9</b>

Establish Benchmarks and Verification								
Year	Agency	Title	Amount (millions of USD)	Project duration	Location	Implementer	Description of Project/Goals	Activities and Accomplishments to Date
29	FY2005	ILO (administered by USDOL)	2.98	September 2006- September 2012	all CAFTA-DR countries	ILO	<ul style="list-style-type: none"><li>• Work with ministries of labor, employers' organizations and trade unions (workers), to Verify progress on the Recommendations contained in the White Paper.</li><li>• Establish benchmarks (implementation plans) and assess each of the beneficiary countries on progress toward these goals;</li><li>• Prepare a baseline Verification report and a Verification assessment to follow each six months for the life of the project.</li></ul>	<ul style="list-style-type: none"><li>• Formal Adoption of Verification Project/Implementation Plan in each CAFTA-DR country</li><li>• Dissemination /Education of the White paper recommendations and commitments: 39 informational/educational Training workshops conducted (1,488 participants; representative of the Ministry officials, workers, and employers)</li></ul>
	FY2006		3.00					<ul style="list-style-type: none"><li>• Data collection by ILO National coordinators</li><li>• Six Implementation plans (one per CAFTA-DR country) produced, each includes objectives, results, activities, timetables, and parties responsible for execution of specific White Paper Recommendations.</li><li>• Data collection by Verification team using review of institutional databases and institutional documents, bibliographic review, and interview of key persons.</li></ul>
	FY2007		3.00					<ul style="list-style-type: none"><li>• 18 workshops conducted to provide feedback of verification data collected;</li><li>• Production and distribution of the following materials: 3000 copies of the Implementation Plans (500 copies/ 6 countries), 4,500 copies of the White Paper (4,000 in Spanish and 500 in English), 3000 copies of the "Baseline Verification of the White Paper Recommendations Report";</li><li>• 18 workshops (3 per country, second round) conducted to provide feedback of verification data collected. (Total 350 attendees)</li><li>• 81 Institution media focal points trained, 1 workshop per country;</li><li>• Verification report was published in June of 2008 and will followed by the third report in early 2009- located at (<a href="http://portal.oit.or.cr">http://portal.oit.or.cr</a>) under Diologo Social-Verificaion of the White Paper - Paper- Central America and the Dominican Republic.</li></ul>
Project Funding for this Goal:			8.98	Number of Projects Supporting Goal:			1	

Funding by Implementing Agency:	US\$ (millions)
State/DRL-ILCSR:	9.00
USDOL/ILAB:	60.96
USAID:	13.74
<b>Total Program Funding FY05-FY07:</b>	<b>83.70</b> <sup>2</sup>

<sup>1</sup> Local implementors of this project include: El Salvador - IDHUCA; Nicaragua - Justice and Peace Mission of Leon/Chinandega; Costa Rica - National Caritas; Guatemala - Coverco, Dominican Republic - Jesuit Refugee Service; Honduras - TBD

<sup>2</sup> The \$83.70 million total and the \$60.96 million implemented by the USDOL/ILAB include the \$26.36 million directly appropriated to the USDOL to fund child labor projects.

## The Process and Timeline Through Which DOL Receives CAFTA-DR Funding

### Annex 3: FlowChart Summarizing the Funding Allocation Process

Since Fiscal Year 2005, the Department of State (State) has received appropriations amounting to \$57,340,000 to provide assistance programs that support the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). Of this amount, State has allocated \$34,600,000 to the Department of Labor (DOL) to implement technical assistance projects that strengthen ministries of labor and promote labor law enforcement, gender equity and compliance with ILO Conventions. Because of the protracted allocation process required to transfer funds from State to DOL, it takes approximately two-years to procure technical assistance services after an appropriation has been made for this purpose. The diagram below identifies the steps required in the post-appropriation inter-agency process employed each year to identify technical assistance needs in CAFTA countries and then allocate resources from State to fund them. The example below is the process being used in FY 2008 and 2009 to expend a State-to-DOL allocation funded by a FY 2007 appropriation.

