

Summary of Report

THE LABOR DIMENSION IN CENTRAL AMERICA AND THE DOMINICAN REPUBLIC

BUILDING ON PROGRESS: STRENGTHENING COMPLIANCE AND ENHANCING CAPACITY

Released in Washington, DC
April 5, 2005

Background:

- The Ministers responsible for trade and labor in Central America and the Dominican Republic met under the sponsorship of the Inter-American Development Bank (IDB) in Washington, D.C., on July 13, 2004 to discuss the labor obligations and commitments to expand the institutional capacity of labor institutions under CAFTA-DR. The Ministers tasked their Vice Ministers to develop a report and recommendations to improve the implementation and enforcement of labor standards and strengthen the labor institutions of the countries of the region. On April 5, 2005 the report and its recommendations were formally endorsed and released by the Ministers in Washington, DC.

Key Components of Report:

1. The Legal Framework and the ILO Studies in 2003/2004:

The report reviews the statutory and constitutional protections provided for the core labor standards in each country. At the request of the countries of Central America and the Dominican Republic, the International Labor Organization (ILO), published studies in 2003 and 2004 on the conformity of the labor laws in each country with respect to the core labor standard obligations: (i) freedom of association and collective bargaining, (ii) elimination of forced labor, (iii) effective abolition of child labor, and (iv) elimination of discrimination.

The studies make clear that the legal frameworks of the countries, including their robust record of ratifying fundamental ILO Conventions, generally provide high levels of protections for the core labor standards. Many of the countries have taken recent steps to address some of the issues of concern still raised in the ILO studies and these are reflected in today's report.

2. *Priority Areas for Action:*

The report identifies six key areas for actions to improve worker's rights, enhance capacity and promote a broader culture of compliance in the region. Recent developments indicating progress in these areas are reviewed, and additional specific challenges and recommendations are included for each country and target areas for regional technical assistance and capacity building are also included. The six key areas are:

- (1) labor law implementation with regard to freedom of association and trade union formation and issues related to inspection and compliance;
- (2) budget and personnel needs of labor ministries;
- (3) strengthening the judicial system for labor law;
- (4) protections against discrimination;
- (5) action against the worst forms of child labor; and
- (6) promoting the culture of compliance.

3. *Selected Examples of Recent Actions Taken:*

- Costa Rica:
 - Ministry of Labor budget increased 25 percent over last three years.
 - Preparation of major labor court reform legislation for submission to National Assembly this year.
 - Ministry of Labor established an alternative dispute resolution center, which has become a model for the region.
- Dominican Republic:
 - Targeted enforcement initiative launched by the Secretariat of Labor in the sugar sector.
 - Joint Protocol signed by Secretary of Labor, trade unions, and employer association on application of labor laws in free trade zones.
 - Five-year training programs for labor prosecutors initiated by Supreme Court and National Judiciary School.
- El Salvador:
 - Ministry of Labor published new compliance circulars on the law with regard to illegal dismissals of trade union leaders and acts of anti-union discrimination (blacklisting) and the fines applicable to such violations, and issued administrative instructions to the labor inspectorate on the effective implementation of the circulars.
 - Ministry of Labor and Ministry of Economy signed a new Memorandum of Understanding (MOU) on the effective use of the free trade zone law to assure compliance with fundamental labor standards.

- Enforcement personnel increased from 73 to 122 in three years, and additional supplemental of \$2million approved by Executive Branch to permit hiring of another 154 compliance personnel – more than doubling current capacity.
- Guatemala
 - Labor inspectorate made part of career civil service and political appointments of inspectors ended.
 - Development of additional labor code reform to impose legal responsibility on judges that fail to effectively enforce reinstatement orders for workers dismissed for legitimate trade union activities.
 - New laws passed to better protect children from worst forms of child labor.
- Honduras
 - Major labor code reform strengthening provisions preventing anti-union discrimination and addressing various observations of the ILO being drafted for presentation to Congress for legislative action.
 - New authorization law for the Ministry of Labor increasing authority of Ministry to sanction employers and increasing fine schedule pending for final action in Congress.
 - Successful labor court reform implemented reducing time for adjudicating labor cases in half.
- Nicaragua
 - Legal reforms made that address all ILO observations contained in 2003 report, including allowing full trade union rights in public sector and allowing federations and confederations the right to strike.
 - Labor inspectorate reclassified into career civil service eliminating political appointment process.
 - An Office of Women’s Affairs established in Labor Ministry.

4. *Priority Areas for Further Work:*

The report sets out a number of recommendations in priority areas needing capacity building and technical assistance support from international donors. Among these are the following:

Labor Ministries:

- Increase resources.
- Improve training, infrastructure, information technology.
- Enhance offices on women’s workplace and child labor issues.
- Improve targeted enforcement procedures on high priority concerns, such as dismissals for trade union activity and pregnancy testing.

Administration of Labor Justice:

- Increase resources for labor courts.
- Establish labor standards training initiative for judges, prosecutors, government officials, and others involved in labor law administration.
- Establish network of labor law training centers in each country.
- Establish a regional labor law center to integrate best practices and harmonize training capacity in labor law.
- Establish additional alternative dispute resolution mechanisms.

Gender and Discrimination:

- Establish a regional center for employment equity to provide training, education materials, a clearinghouse on best practices and support programs on the elimination of workplace discrimination.
- Undertake training and targeted enforcement initiatives for violations that might involve pregnancy discrimination or the exploitation of migrant or indigenous peoples.

Worst Forms of Child Labor:

- Establish a child labor free zone in the region consistent with ILO Convention 182 by the end of the decade.
- Develop viable timelines, needs assessments and allocation of resources for the accomplishment of this objective.

Promoting a Culture of Compliance:

- Implement comprehensive training programs on labor rights for workers and employers.
- Strengthen tripartite labor councils and make more effective use of their output.

5. Next Steps -- Implementation Plan and Benchmarking Progress:

The report requests the IDB to call a meeting with donor agencies within 30 days to support the adoption of a timetable and funding commitments necessary to implement recommendations in the report. The implementation plan will be presented to Ministers in six months.

The ILO has been asked to issue an assessment report every six months on progress on the implementation plan.