

**CAFTA WON'T FIX CENTRAL AMERICA'S
DEEPLY FLAWED LABOR LAWS**

The labor chapter of the U.S. – Central America Free Trade Agreement (CAFTA) is virtually identical to the labor chapters of the Chile and Singapore agreements. The Chile/Singapore model was inadequate even for Chile and Singapore. In the context of Central America – where laws fall far below international standards and governments and employers are actively hostile towards unions – this labor chapter model will encourage rampant workers' rights violations to continue.

Central American Labor Laws Violate International Standards

The labor laws of the CAFTA countries do not come close to meeting international standards, and have been repeatedly criticized by the UN's International Labor Organization (ILO) and the U.S. State Department. There is no political will in Central America to bring labor laws into compliance with international standards, to punish violators, or to proactively enforce those laws that are on the books. A climate of impunity for labor law violators envelops the region, particularly in export processing zones.

Employers in Central America intimidate, fire and blacklist workers for attempting to exercise their right to join an independent union, and they do so with impunity under Central American laws. The ILO has found time and again that these laws fail to meet international standards on the right to organize.

- In El Salvador and Nicaragua, ***workers fired for union organizing have no right to be reinstated***, and the only remedy available is a minor fine – a small price to pay to keep factories union-free.
- In Guatemala and Honduras, the laws' ***finest for anti-union discrimination are so low that they do not effectively deter the practice***, and courts hardly bother to enforce the fines anyway.
- In Costa Rica, ***a proposal to strengthen remedies for anti-union discrimination as recommended by the ILO is still not law***, and the government has repeatedly backtracked on tripartite agreements for labor reforms.

The ILO and U.S. State Department have highlighted a number of other areas in which Central American labor laws fail to meet basic international labor standards:

- Costa Rican law allows "solidarity associations" to represent workers in the place of unions. In practice, ***employers establish solidarity associations to avoid recognizing and bargaining with legitimate independent unions*** that have been organized by their workers. A bill introduced in Costa Rica in 2002 would strengthen the very solidarity associations that the ILO has condemned.
- El Salvador's officials take advantage of the law's overly formal union registration requirements to ***deny legal recognition to legitimate trade unions***.
- In Guatemala, more than half of all the workers in an entire industry must agree to form an industrial union, presenting an ***insurmountable barrier to the formation of industrial unions***, and barring union pluralism. In export processing zones, where workers routinely shift from plant to plant and thus cannot organize effective unions at the plant level, this restriction essentially denies workers the freedom to form unions.

- In Nicaragua, the large number of small unions active in the agricultural sector make effective bargaining impossible without federation involvement. Yet Nicaraguan law bars federations and confederations of unions from playing a role in collective bargaining, *denying workers in sectors like agriculture their right to bargain collectively*.
- Onerous voting requirements and procedural impediments make it *nearly impossible to ever call a legal strike* in Costa Rica, Honduras, and Nicaragua. In Guatemala, workers can be held individually liable for damages resulting from a strike and face criminal penalties for striking, while the executive has broad legal discretion to bar strikes in certain sectors.

These are only some of the most egregious examples – a review of ILO and State Department documents tallied more than 40 separate areas in which Central American labor law falls short of international standards on freedom of association and the right to organize and bargain collectively. Despite numerous promises to bring their labor laws up to international standards, some given to maintain preferential trade benefits, Central American governments still have not fully fixed their laws.

CAFTA Would Not Require Needed Labor Law Reforms

CAFTA's labor provisions do not require Central American countries to revise their labor laws to meet international standards. Instead, the labor chapter would only require governments to enforce the flawed set of laws they already have. *Last year, the administration claimed that Central American countries would be required to improve their labor laws before CAFTA came into effect, but now they are moving forward despite the fact that no reforms have taken place.* While USTR claims that cooperative programs will help improve labor laws, they are actually cutting precisely those programs that could lead to fundamental reforms and replacing them with programs unrelated to labor standards improvement. Finally, no amount of funding and assistance, no matter how well intentioned, will create the political will that Central American governments lack to reform their labor laws.

CAFTA Is Weaker Than Existing Workers' Rights Conditions

The only tool that has helped create the political will to reform labor laws in Central America in the past is our unilateral system of trade preferences – a system that will no longer apply to the region if CAFTA goes into effect. Our unilateral trade preference programs provide for the withdrawal of trade benefits if steps are not taken to meet international labor standards, including steps to reform weak domestic laws. This is a higher standard than that found in CAFTA. Under CAFTA, *employers and governments will actually enjoy more freedom to deny workers their fundamental human rights than they currently have under our trade preference programs.* While the labor rights provisions of these programs are not perfect, they have led to some improvements in labor rights in the region. *In fact, nearly every labor law reform that has taken place in Central America over the past fifteen years has been the direct result of a threat to withdraw trade benefits under our preference programs.* Despite these successes, the administration is preparing to give up the GSP workers' rights clause once the weaker labor provisions of CAFTA go into effect.

A Better Way

The labor provisions of the Chile and Singapore agreements will not work in CAFTA. Central American unions, international human rights and development groups, and other experts on the region have called for a different kind of trade model that will truly protect workers' rights. The administration should work with Congress to develop trade rules that require Central American countries to bring their laws into compliance with international standards and respect workers' fundamental human rights. CAFTA falls short of this standard, and it must be rejected.