

US LEAP

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Fighting for worker justice in the global economy

Trade and Worker Rights: Administration Grapples with Three Standards

Mexican Electrical Workers Regain Recognition, One Victory for Labor



On Labor Day, demonstrators protested outside a hotel in Chicago where negotiators held another round of talks for a new Free Trade Agreement with Pacific Rim countries; Congress is expected to vote soon on a pact with Colombia (see back page). Credit: Citizens Trade Campaign

The Obama Administration is in the midst of grappling with three differing worker rights provisions in U.S. trade agreements with Latin American countries. While labor protections have been strengthened in each new set of agreements negotiated over the past 17 years, they have yet to demonstrate any genuine effectiveness and, so far, remain much less effective than the worker rights conditions that existed in U.S. trade programs which they replaced.

A critical condition for achieving sustainable advances for worker rights in Latin America is the inclusion of enforceable, effective worker rights in international trade and other agreements. Such provisions are also critical for U.S. workers who in a global *continues on next page*

Following a six-month encampment of Mexico City's massive central square, the Mexican Electrical Workers Union, SME (Sindicato Mexicano de Electricistas), announced it had won legal recognition of its elected labor leaders and release of over \$1.5 million in frozen union funds.

Thousands of workers who had occupied the Zocalo decamped on September 13 declaring victory, just in time to clear the square for Mexican Independence Day on September 16 and relieving concerns that the Mexican government might forcibly evict workers from the square.

Over 16,000 members of the electrical workers union have for nearly two years survived without a paycheck and refused to accept severance checks as they have fought against the government's October 2009 closing of the state-owned Luz y Fuerza Centro (LyFC,

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We are still seeking and needing new individual donors: can you recruit one new donor for USLEAP this year? Recruit a new donor yourself, or use the form enclosed with this newsletter to refer us to someone you think might be interested in backing our work to support workers in Latin America organizing for justice. Thanks to those who have already recruited a new USLEAP donor.

Trade and Worker Rights...

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economy will face a never-ending race to the bottom in the absence of workers abroad being able to organize to raise wages and working conditions.

Latin America Key Test

Latin America has become a key testing ground for labor provisions in U.S. trade agreements, with a modest but potentially important progression in the labor provisions of the North American Free Trade Agreement (NAFTA, implemented in 1994), the Central American Free Trade Agreement (CAFTA, which also includes the Dominican Republic, implemented in 2006-07), and a new set of Bush-era agreements with Peru (implemented in 2009), Panama (pending), and Colombia (pending).

NAFTA's labor protections are contained in a "side agreement," require adherence only to domestic law, and effectively limit remedies for violations

to fines against the offending government. Violations subject to sanction are limited to violations of child labor, minimum wage and health and safety violations; sanctions are not an option for violations of core worker rights like freedom of association and right to collective bargaining.

CAFTA's labor protections are incorporated into the text of the agreement, an advance over NAFTA, but CAFTA, like NAFTA, only requires adherence to domestic labor law, no matter how short of international standards it may be. Sanctions are no longer limited to child labor, minimum wage and health and safety violations but, in general, violations of worker rights are treated less rigorously than violations of, say, intellectual property rights.

A third incarnation of labor protections is incorporated into the pending agreements with Colombia, Panama and Korea, as well as an agreement previously passed and implemented with Peru, reflecting a **May 2007 accord** between the Bush Administration and Congressional Democrats. The May 2007 accord on labor protections is a significant advance over CAFTA and NAFTA because it requires compliance with international standards (specifically, the International Labor Organization's Declaration on Fundamental Principles and Rights at Work), adds discrimination to the list of protected worker rights, and provides equivalency in terms of dispute resolution and remedies, i.e. violations of worker rights are treated the same as

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P.O. Box 268-290 , Chicago, IL 60626, Tel: 773.262.6502 , Fax: 773.728.8409
info@usleap.org; www.usleap.org

violations of intellectual property rights in terms of sanctions and procedure.

The basic process is the same for all: a party (normally a union) files a labor complaint, if it is found to have sufficient merit, the complaint is investigated, and then the governments seek a resolution of any identified violations. If concerns are not resolved according to the satisfaction of the government which received the complaint, it can request formal consultations with the offending government. If consultations are not satisfactory, the next step is convening an arbitral panel that can set a fine to be paid by the offending government, to be used, for example, towards improved labor law enforcement.

NAFTA the Lowest Bar

The experience to date with NAFTA's labor provisions has been abysmal from a worker rights perspective. Approximately 30 labor complaints have been filed under NAFTA and few cases have been addressed effectively. None have ever gone to arbitration. Unions in Mexico, the U.S., and Canada have lost confidence in the NAFTA labor complaint process, other than as a vehicle to publicize concerns, and in recent years, few cases have been filed.

In September 2011, however, the Mexican Electrical Workers union (SME, see front page) filed a NAFTA labor complaint, with the support of dozens of trade unions and worker rights organizations, including USLEAP, providing the first NAFTA labor complaint for consideration by the Obama Administration and its more sympathetic Labor Department, which is charged with enforcement of the NAFTA labor provision.

Guatemala the First CAFTA Test; Failing So Far

The CAFTA labor provisions have also yet to show any meaningful effectiveness. On the contrary, the Guatemala labor complaint, the first labor complaint filed under CAFTA, is turning into a case study of the deficiencies of the

CAFTA labor provisions, demonstrating a long, cumbersome process that has provided little effective pressure on the Guatemalan government or business sector since the complaint was filed by the AFL-CIO and six Guatemalan unions in April 2008, three-and-a-half years ago.

The Bush Administration effectively deferred the complaint to the Obama Administration which after more than a year of informal engagement finally ran out of patience with the Guatemalan government and in July, 2010, requested formal consultations. When these consultations also failed to achieve any real progress, the Obama Administration threatened this summer to seek arbitration. First, however, it offered as an alternative a proposed "labor action plan" under which the Guatemalan government would have taken some important steps, including returning to the Labor Ministry the power to sanction employers. Despite the plan being confidential, the Guatemalan government shared it with the business sector (but not with labor), who then fought back against the proposals, pushing the government to reject the proposed deal.

In August, 2011, the U.S. government therefore formally asked for the convening of an arbitral panel. However, the Guatemalan government has thrown up roadblocks, arguing that the U.S. has failed to follow CAFTA's process correctly. Among other tactics, the Guatemalan government is insisting that all CAFTA parties must be convened in an effort to recruit other Central American governments to push back against the big, bad U.S. bully, conveniently ignoring the fact, of course, that the complaint was filed by Guatemalan unions who continue to vigorously support the complaint process.

Other CAFTA Complaints

A complaint filed in July 2010 by two Costa Rican unions and the International Longshore and Warehouse Union (ILWU) was withdrawn in May, reportedly because the dispute at the center of the initial complaint had

been partially resolved in the union's favor. The Costa Rican constitutional court reinstated earlier this year the leadership of the port workers union Sintrajap, which had been removed during the union's struggle against the government's privatization of a major port.

Honduran trade unions and the AFL-CIO are expected to file another CAFTA labor complaint this fall.

Murder OK Under CAFTA

The U.S. Trade Representative's handling of the Guatemala case has exposed one glaring weakness: violence against trade unionists is not being treated as a labor rights violation under CAFTA. Guatemala is the second most dangerous country for trade unionists in Latin America, following only Colombia, with an unmatched rate of impunity that prompted the International Trade Union Confederation to hold this summer a second conference on impunity in Guatemala. Yet USTR has made clear that murder of trade unionists is not a violation of worker rights subject to the CAFTA dispute and remedy process, taking a narrow interpretation of law.

The New Frontier: Peru (and then Colombia?)

In a little-noticed case that could have significant ramifications for the May 2007 model, the U.S. government this summer accepted a complaint filed by a small public sector union in Peru. The complaint charges Peru with failing to uphold international standards, not just domestic law. As the first complaint brought under the May 2007 protections, it will set precedents with implications for future complaints, including any filed on Colombia after the FTA is implemented.

Skepticism/Lessons from the Past

USLEAP, with an extensive history of supporting worker rights in Guatemala by using the trade sanctions provided by the Generalized System of Preferences, is skeptical of the effectiveness of

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Mexican Workers...

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Central Light and Power) company and the abrupt dismissal of 44,000 workers.

Calderón Attacks Unions

The government of Mexican President Felipe Calderón has attacked the democratic union movement in Mexico, focusing on dismantling public sector unions like SME that have gained some independent power while pushing for legislation that would roll back protections for labor rights.

Mexican worker rights supporters point to the government's recent decision to close Mexicana Airlines as one example. While the government's position is that the closing was necessitated by economics, critics argue that business interests behind the expanding private airlines in Mexico wanted to get rid of its chief competitor and persuaded the

government to close the state-owned airline, throwing thousands of workers out of work.

The Mexican independent union movement, represented at the national level by the UNT (the National Union of Workers), has been pushing back, working collectively as reflected in the SME encampment which was supported by other unions under attack, including the militant Mineworkers. The Mineworkers have been locked in a struggle with the government at the Cananea mines since 2006 when the government and company responded inhumanely to an explosion that killed 65 miners. Subsequent strikes and protests have been marked by violence from government troops and police; the union's general secretary remains in exile until it is deemed safe to return.

Despite its own conflicts, the Mineworkers have also stepped in to back autoworkers at Johnson Controls, signing a contract earlier this year to

represent the workers at the Resurrection plant who have been supported by the CAT (Centro de Apoyo al Trabajador) and USLEAP. Workers won a contract at the Resurrection plant in April 2011, ousting a protection union. A protection union remains at a second Johnson Controls plant, FINSA, which CAT, USLEAP and others have supported for several years.

New Threats Against the CAT

CAT leadership is still under attack in Mexico, with new threats issued this summer against the staff and its Executive Director Blanca Velasquez, this time by a key business

leader in Puebla who accused the CAT of seeking to "destabilize businesses" and of being a threat. USLEAP joined others in protesting to the Mexican government the dangerous accusations. The CAT has been the target of violent intimidation on several occasions in the past year, prompting staff to go into hiding.

The Calderón government has been pushing for changes in Mexican labor law that would make it even more difficult for workers to form independent, democratic unions and break free from the protection contract system that dominates Mexican labor relations. Workers who try to organize an independent union frequently face a triumvirate with collusion between a yellow protection union, the local labor board, and management who pulls out a collective bargaining agreement previously unknown to the workers, declaring that a union and contract already exist at the factory.

Workers Briefing in DC

In an effort to raise the profile of Mexican labor issues in Washington, DC, the AFL-CIO and Steelworkers hosted a Congressional briefing on September 13, 2011 with representatives from several key Mexican unions who spoke about the legal and other obstacles faced by Mexican unions who fight for decent wages and working conditions. Earlier, in August, in a step towards building sustainable solidarity across national borders, the Mineworkers and the United Steelworkers signed a new agreement strengthening their alliance.

For more background on labor struggles in Mexico, and what U.S. unions and others are doing to support the democratic Mexican labor movement, see *Mexican Labor News & Analysis*, published jointly by the Authentic Labor Front, Frente Auténtico del Trabajo (FAT) of Mexico, and the United Electrical Workers (UE), available online at <http://www.ueinternational.org> or call (513) 861-8722. ©



Members of the Mexican Electrical Workers Union (SME) voted the night of September 12 to approve an agreement to end their encampment of Mexico City's main square after the government agreed to recognize the union leadership elected this summer. Credit: Solidarity Center

Banana Bits: Focus on Ecuador and Guatemala **Breakthrough with Dole in Ecuador**

In a significant breakthrough, Dole has signed a collective bargaining agreement with a banana union in Ecuador, the largest banana exporter in the world. The contract, signed on July 26, covers nearly 500 workers at the Megabanana plantation, a unit of Dole's Ecuadorian subsidiary, Ubesa.

Along with the south coast of Guatemala, Ecuador is considered the Achilles heel of unionized banana workers in Latin America. Its largely non-union plantations with low wages and poor working conditions have been eroding unionized operations in Central America for years. Unionized banana workers typically earn \$10 a day plus \$10 worth of benefits (housing, health care, child-

hood education) while most non-union banana workers in Latin America earn less than \$5 a day with no benefits, and no voice at work.

The Megabanana union is an affiliate of FENACLE, the national agroindustrial workers and small farmers federation of Ecuador. With the signing of the contract, FENACLE General Secretary Propsero Mendoza said, "FENACLE congratulates the workers and the company in the efforts they have made to secure real social dialogue and develop stable and cooperative relations."

But Not with Bonita

Meanwhile, Ecuador's largest banana company, and the world's 4th

largest, continues to repress union organizing. While Bonita company officials claim in international meetings like the World Banana Forum that the Noboa company, which owns the Bonita brand, is taking steps to improve respect for worker rights, the reality on the ground is quite different. At presstime, USLEAP received an urgent appeal from FENACLE asking for (and getting) prompt intervention with Bonita because union leaders at the Alamos plantations were being threatened with dismissal if they failed to resign from the union immediately. Virtually none of the Bonita plantations are unionized and past efforts to organize have been met with mass illegal firings, threats, and violence. ©

Guatemala Meeting Addresses South Coast

With the support of the AFL-CIO and the Danish trade union 3F, banana unions in Guatemala organized an August meeting that brought together producers, governments, unions, and worker rights supporters to shine a spotlight on wide-spread worker rights violations on plantations on the south coast of Guatemala. The conference sought to challenge companies with an avowed commitment to "corporate so-

cial responsibility" to take concrete steps to improve respect for worker rights.

While the Atlantic coast is largely unionized, efforts to organize the south coast and improve wages and working conditions have been stymied for years as union activists and their families have faced violence, including murder and rape. Guatemala banana exports have increased significantly in the past decade, mostly all from the south coast.

Virtually all of Guatemala's banana exports go to the North American market.

Despite the fact that the Del Monte union SITRABI took the lead in organizing the conference, Del Monte did not attend; the only major transnational who attended was Chiquita (USLEAP endorsed the conference at SITRABI's request but due to a change of schedule, was unable to attend.) ©

Banana Unions Elect Iris Munguia as Coordinator



At its biannual meeting in August 2011, the Coordination of Latin American Banana and Agricultural Workers Unions (COLSIBA) elected Iris Munguia (Honduras) as Coordinator, Gilbert Bermudez (Costa Rica) as Sub-coordinator, and Adela Torres (Colombia) as Coordinator of Women and Labor. The three form the executive committee of COLSIBA, which represents most of the unionized banana workers in Latin America and develops common strategies despite representing different companies, countries, and political ideologies.

Ms. Munguia is the first woman elected to lead COLSIBA and was profiled in *Bananeras*. The book examines the challenges women banana workers confront at home, in the workplace, and within the union.

World Banana Forum Plans Second Conference

The World Banana Forum has tentatively decided to hold its second global conference in Ecuador in February 2012. The WBF, with a secretariat staffed by the Food and Agricultural Organization, brings together all major "stakeholders" in the industry, including national and international banana companies, governmental representatives, farmers, unions, and worker rights, fair trade and environmental groups, in an effort to find common ground in addressing a range of

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Big Split in Fair Trade Certification; Implications for Worker Rights Unclear

The U.S. representative in the global governing body for “fair trade” has resigned its membership. Fair Trade USA, previously known as Transfair USA, will be leaving FLO, the Fairtrade Labelling Organizations, at the end of 2011. FLO represents national fair trade groups in the North, as well as several producer organizations, and promotes Fair Trade labeling and certification. Fair Trade USA is the leading third-party certifier of Fair Trade products in the U.S.

The split raises a number of questions and issues not only for the Fair Trade movement, including the expectation that FLO could introduce its label into the U.S. market alongside the Fair Trade USA label, but also renews concerns from worker rights supporters.



Fair Trade USA will retain its own label (left) rather than use the global Fairtrade Labelling Organizations label (right). The bigger issue for worker rights is Fair Trade USA's controversial decision to certify coffee plantations.



recently stopped certifying flowers in Colombia.

Progress on Concerns

FLO and international trade union representatives have been in discussion over the past two years to address worker rights concerns and both sides report that

Over the objections of the anti-sweatshop community, including students, worker rights supporters, USLEAP, and the International Textile Garment and Leather Workers Federation (the global union representing apparel workers), Fair Trade USA this past year launched a Fair Trade initiative in the apparel sector.

While the initiative is currently very small-scale, worker rights advocates believe that the challenges to certifying good labor conditions in apparel production have proven to be extremely challenging.

USLEAP is in communication with FLO, FairTrade USA and union partners in the North and South to better understand the implications of the separation for worker rights concerns and to determine how to respond most effectively.

Coffee Plantations Key Issue

A key substantive issue in the rupture is Fair Trade USA's decision to expand certification in the coffee sector from cooperatives and small producers to plantations. This immediately raises concerns for worker rights advocates like USLEAP who have been engaging FLO and Transfair USA for a number of years regarding trade union concerns about Fair Trade certification of plantations and other larger-scale producers in the banana and flower sectors who employ up to hundreds of workers.

While FLO has developed and improved standards for “hired labor” to be met by producers, concerns persist. Banana unions in Latin America have more than once threatened to campaign against Fair Trade on the grounds that it has certified plantations and large cooperatives with hired labor where worker rights are violated. Flower worker unions in Colombia have denounced Fair Trade certification, although it has

there has been recent progress, which USLEAP welcomes.

The crux of the matter is that FLO has tried to apply to plantation agriculture a Fair Trade model that was originally developed for small farmers and cooperatives in, ironically, the coffee sector. The expansion into new products like flowers and bananas that are not produced in large quantities by small producers coupled with growing demand and the desire by some to increase the scale of its impact has led Fair Trade to source from plantation agriculture in the banana and flower sectors.

Coffee has not raised the same concerns, until now, since certification of Fair Trade coffee has been limited to small producers and cooperatives. Fair Trade USA now seeks to significantly expand its coffee business and source from plantations, potentially raising new worker rights concerns.

Worker rights and trade union concerns with Fair Trade certification are not limited to plantation agriculture.

Rainforest Alliance More Problematic

Meanwhile, almost under the radar, a less rigorous worker rights certification scheme by Rainforest Alliance continues to expand in the U.S. market. Rainforest Alliance was founded to address environmental concerns but added social, i.e. labor, criteria in response to the marketplace. While Rainforest Alliance labor standards are relatively comprehensive, many are not mandatory but aspirational. Over the strong objections of banana unions, Rainforest Alliance introduced certified bananas into the U.S. market this year (with Dole and Chiquita); over the past two years, it has supplied the Costco flower market, having certified 20 flower plantations in Colombia. Rainforest Alliance certification has been denounced by Colombian flower worker rights groups.



Updates: Brief but Important

Honduras Teachers Win A Reprieve

Teacher unions in Honduras have been on the front line of the resistance to the 2009 coup that ousted former President Manuel Zelaya, battling not only for democracy but also against efforts by the government of Porfiro Lobo to roll back the rights of teachers. Massive protests by teachers coupled with occupations by students in the face of violence (with one student reportedly killed), have been successful, at least temporarily. In mid-August, the government announced it would withdraw the controversial Law of Education bill that teacher unions said would have opened the door to privatization of public schools and the possible demise of teacher unions.

Violence Continues in Honduras

While violence against trade unionists in Honduras ebbed somewhat in recent months, it has escalated against campesinos in the Aguán Valley who are being supported by banana unions. Peasants have been organizing to regain land they say was effectively stolen from them but are up against a company led by one of Honduras's most powerful men. Miguel Facussé is dean of one of the families that control much of the Honduran economy, including about one-fifth of the land in Aguán Valley. In recent weeks, over 15 campesinos have been killed and homes burned to the ground by troops led by military officials reportedly trained by the U.S. government's School of the Americas.

Flower Workers Still Waiting in Colombia

USLEAP and flower workers are still waiting for a U.S. agency to explain how it gave a clean bill of health to a major violator of worker rights in the Colombian flower sector. The Overseas Private Investment Corporation (OPIC)

provides financing for U.S. investment abroad conditioned on adherence to worker rights standards. OPIC says it is still investigating USLEAP reports in early June of worker rights violations on plantations owned by the Nannetti family and financed by a \$20 million OPIC loan. Colombian flower workers have faced a wave of layoffs in the last year due in part to the economic downturn; thousands of the dismissed workers, including many from Nannetti operations, are owed backpay and severance.

No Justice for FLOC Organizer Murdered in Mexico

Over four years after the murder in Mexico of a labor organizer for the Farm Labor Organizing Committee (FLOC), the union continues to press for justice. FLOC President Baldemar Velásquez released in early September an appeal to Mexican President Felipe Calderón

from trade union leaders from 18 countries. Organizer Santiago Rafael Cruz was beaten to death in April 2007 in the FLOC office in Monterrey, Mexico, shortly after a new initiative designed to inform workers planning to migrate to the U.S. of their rights.

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Banana Forum...

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sustainability issues facing the industry. COLSIBA and the International Union of Foodworkers, the global union that represents agricultural workers, are active members of the Steering Committee; USLEAP is currently the only U.S. NGO member of the Steering Committee. The WBF traces its origins to the first International Banana Conference held in 1998. For more information on the WBF, which is open to interested parties, visit their website at <http://www.fao.org/wbf/en/> or contact USLEAP.

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A STITCH delegation of U.S. women meet with banana women union leaders in San Pedro Sula, Honduras in early August. STITCH Executive Director Lupita Aguila Arteaga (and former USLEAP Program Coordinator) is in the center with USLEAP board member Dana Frank far right. Credit: STITCH

Colombia Trade Agreement Awaits Vote

The Obama Administration is expected to send the Colombia Free Trade Agreement (FTA) to Congress any day, although a continuing dispute with the House leadership on “sequencing” has for weeks stymied a vote. At presstime, the House Republican leadership was refusing to schedule a vote on renewing a decades-old program to assist U.S. workers who lose their jobs to trade before a vote on the Colombia FTA; the Administration has made clear that renewal of the job training program must come before a vote on the Colombia agreement and two other pending FTAs with Korea and Panama.

Once the Colombia FTA is introduced, congressional action, and approval, is likely to come quickly. Under the “fast track” rules that governed the FTAs when they were negotiated, no amendments are permitted.

A vote on the Colombia FTA has been stalled since it was signed by Colombian and U.S. government officials in 2006, primarily due to concerns about violence against trade unionists in what remains the world’s deadliest country to

be a trade unionist. Human rights advocates and opponents of the free trade model cite other concerns, including an expected negative impact on small farmers, health care, Afro-Colombians, and the environment.

Murders Continue Despite Labor Action Plan

The Obama Administration paved the way for a vote on the Colombia FTA when it signed a Labor Action Plan with the Colombian government in April 2011. The Plan contains a series of steps, some of which could be meaningful if implemented, including steps intended to strengthen the prosecution of perpetrators of violence against trade unionists, criminalize anti-union behavior, and reign in the use of cooperatives and contract labor that blocks workers ability to form unions. However, the Administration is opposed to giving the Plan time to see what it can, or cannot, accomplish. Indeed, since the Plan was signed, another 15 trade unionists have been murdered in

Colombia, bringing the 2011 total to at least 22, putting Colombia on pace to lead the world once again.

Not only is the Administration refusing to give the Plan time to work (or not) before a vote on the FTA, there is no provision to ensure enforcement once the FTA is approved. Rep. Sander Levin, the leading Democrat on the House Ways and Means Committee with jurisdiction over trade issues, came out in opposition to the Colombia FTA when the Administration refused his request to include enforcement of the Labor Action Plan in the legislation that will implement the FTA, demonstrating on how weak a foundation the LAP rests.

Finally, there is no similar “Plan” to address a wide range of other concerns, including human rights violations, internal displacement, and the impact of the FTA on small farmers, Afro-Colombians, and others. Fundamentally, the FTAs with Colombia, Korea and Panama represent an extension of the deficient NAFTA-style free trade model which candidate Obama opposed during the 2008 elections. ©

Take Action!

Urge your members of Congress to oppose the Colombia FTA. Check the Colombia Tool Kit available on the USLEAP website for fact sheets and talking points, or request materials from the national office at 773.262.6502.

While it is expected to be approved, members of Congress should be reminded that the general public is opposed to more NAFTA-style trade deals like the Colombia FTA, and that the Colombia FTA is particularly egregious given the continuing violence against trade unionists. From a U.S. self-interest stand-point, note that it is difficult for U.S. workers to compete with countries when workers who seek to organize to improve their wages and working conditions are murdered. While the Administration has justified passage of the Colombia FTA as a way to create jobs, the Economic Policy Institute estimates a net loss of 55,000 jobs for the U.S. economy; they also point out that over 800,000 jobs, mostly good-paying jobs, were lost as a result of NAFTA in the first ten years of the agreement.

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any labor chapter that fails to include sanctions against employers. The Guatemala business sector has little to lose if the government is forced to pay a fine; under GSP, it could have lost trade benefits, i.e. real money. Endless violations over the years could raise the prospect of being kicked out of CAFTA, but that remains to be seen (and not anytime soon).

The process is also time-consuming and cumbersome, requiring extensive resources to keep the complaint process moving forward. Even if the remedies were more substantial, the lack of a timely response offers little relief in the cases that comprise these complaints. ©