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The Miami Summit launching the Free Trade Area of the Americas (FTAA) process recognized that free markets and free societies work best when they work together. The core labor standards—freedom of association and the right to organize and bargain collectively, freedom from forced labor, the abolition of child labor, and freedom from discrimination—are part of the summit-FTAA process because they strengthen both markets and democracy. These core standards are broadly recognized as fundamental rights to which all workers are entitled, regardless of the level of development of the country or the sector where they work. And, in an environment that promotes democracy and market-oriented economies, as the FTAA is intended to do, there is no trade-off between these principles and development; indeed, they become mutually reinforcing.

At a time when the importance of social institutions in development has been widely recognized, the real debate is over how and with what urgency to promote the core labor standards. In this debate the questions include whether *universal* means *uniform* and what that implies for development. And, of course, the central question is whether implementation and enforcement of global labor standards should be explicitly linked to trade agreements. The paper begins with the case for global labor standards as not just politically necessary but as substantively complementary to economic integration in the hemisphere. It then summarizes the situation with respect to implementation of the core labor standards in the hemisphere. It also reviews recent developments in the treatment of labor issues in trade agreements and assesses the various options for addressing labor issues in the FTAA.

Two sets of issues—not addressed in detail in this paper—should be mentioned. First, the implications of the FTAA for workers obviously go far beyond standards issues. Important policy issues related to the need for adjustment assistance and safety nets are addressed elsewhere (see, for example, Lustig and López Calva 2002 and Ocampo and Bustillo 2002) and are mentioned only in passing here. The second issue not treated extensively is the potential use of trade sanctions to enforce labor standards in trade agreements. In chapter 4 of *Can Labor Standards Improve Under Globalization?* (2003), authors Kimberly Ann Elliott and Richard Freeman review the evidence on sanctions effectiveness and on the probability of protectionist capture. They concluded that trade measures could be designed to contribute to improved compliance with labor standards in discrete situations while also guarding against protectionist abuse. They recommended a limited role for the WTO in disciplining *trade-related* violations of core labor standards but concur with those who argue that the International Labor Organization (ILO) should have the principal role in promoting and enforcing international labor standards generally.

The reason for not repeating those arguments here is that the recent pattern of bilateral and regional negotiations suggests that the push to include enforceable labor standards in trade agreements has

shifted from the dead-end track of non-negotiability to a track of nominal success but practical futility. Although recent trade agreements between the United States and Jordan, Singapore, and Chile include enforceable labor standards provisions, they seem to be aimed primarily at finding procedurally elegant and politically acceptable trade-labor mechanisms that permit trade agreements to proceed. They are a useful precedent supporting the importance of labor standards, but it is not yet clear whether they will give a meaningful boost to improved compliance. Moreover, negotiating obstacles are likely to remain a bar to progress at the broader regional level.

Thus, the paper concludes with suggestions for a way forward that uses a parallel track to negotiate labor issues but that also links progress in those negotiations more closely to the trade negotiations than usually contemplated.[1] The problem with parallel tracks is that, absent an explicit political commitment or linkage, there is nothing to guarantee that the trains on the two tracks move at similar speeds. Indeed, advocates of labor standards suspect that the practical effect will be to allow the free trade train to move ahead while the labor standards train remains stuck in the station. Addressing that concern is the key to breaking the impasse over trade and labor standards in the hemisphere and elsewhere.

I. WHY GLOBALIZATION, DEVELOPMENT, AND LABOR STANDARDS GO TOGETHER

There is relatively little controversy over the importance of three of the four core standards. No one is in favor of forced labor, and discrimination on a broad range of grounds is also rejected as morally unacceptable. Moreover, gender discrimination is now widely recognized as detrimental to both economic and social development (World Bank 2001). The summit process also recognizes the particular needs and vulnerabilities of indigenous peoples throughout the hemisphere, who are often marginalized and unable to reap the benefits of globalization. The abolition of child labor is more controversial, but on pragmatic, not principled grounds—no one disagrees on the goal, just on how to get there and at what speed. There is also broad agreement that countries should move quickly to eliminate the "worst forms" of child labor, as defined in the new ILO convention 182.[2]

The real heat is generated by the right to freedom of association and associated union rights and the push to link compliance with core labor standards to negotiation of the FTAA. But promoting social dialogue, including with unions, can make economic reforms more acceptable and sustainable.

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[1] For a similar proposal addressing environmental issues in the FTAA negotiations, see Audley and Sherwin (2002); for an alternative proposal suggesting delinking trade and labor negotiations, see Carnegie Endowment for International Peace (2001).

[2] These include forced labor, recruitment of child soldiers, illicit activities such as drug-trafficking, prostitution, and pornography, and "other hazardous" work to be defined by each country adhering to the convention.

International enforcement of labor standards can also help prevent races to the bottom from the bottom, particularly for relatively more progressive countries that find themselves competing with other low-wage but weak or nondemocratic countries. Attention to labor standards issues can also address concerns of the critics—in both developed and developing countries—that economic globalization today is unbalanced, disproportionately favoring capital over labor and other social groups.

Freedom of Association under Globalization

The ambivalence (or hostility) regarding unions derives in part from the examples in Latin America and elsewhere of politically powerful and monopolistic trade unions living up to the caricature of corrupt, elitist, rent-seeking entities that are interested mainly in protecting their insider advantages at the expense of outsiders. But of course, the same can be said of firms and politicians in countries where this is true. The appropriate response in these cases is the same for unions as for corrupt firms and politicians: expose them to competition and ensure that they are accountable to stakeholders. Globalization and democratization help promote the "voice face" of unions, which can reduce conflicts, improve productivity, and make globalization and the reform process more inclusive (Freeman and Medoff 1984). In addition, a World Bank survey of evidence on the effects of unions shows that coordinated bargaining can help small, open economies adjust to economic shocks more quickly and at a lower cost (Aidt and Tzannatos 2002). Evidence in the study also supports the intuition that more competitive product markets constrain the market of unions, as they do of firms. But unions can still play a useful role in this environment in improving working conditions for workers, settling grievances, and providing other services such as training or job placement assistance.

Improved "voice" mechanisms are also essential in sustaining and expanding needed reforms in the region. Currently, labor market regulations in many Latin American countries make it difficult or expensive to hire and fire workers. Simply doing away with these regulations has proved politically difficult and, where progress has been made, it has often produced a backlash against reforms.[3] Moreover, because economic growth in the region has not responded as expected to liberalizing reforms, workers often find that flexibility for employers means increased risk for them—without the promised increases in employment or a safety net to fall back on.[4] In addition to expanding and strengthening safety nets where needed, strengthening the institutions of social dialogue are a complement to reforms to increase labor market flexibility. In addition to giving workers a voice in the reform process, strengthened association

[3] Navia and Velasco (2003, figure 3) note that labor market reforms have barely begun in most of the region; see also Saavedra (2003).

[4] See Saavedra (2003) for an analysis of the labor market trends in Latin America during the recent period of structural reforms, as well as recommendations for changes in policy; also see Lustig and López Calva (2002) and Ocampo and Bustillo (2002).

and bargaining rights enable workers to negotiate to protect their own interests, without having to resort to detailed, interventionist government regulation. In sum, labor market reforms are likely to be more effective and less painful if they are undertaken in the context of a comprehensive "decent work" program that addresses all four of the pillars targeted by the ILO: employment, standards, social protection, and social dialogue (Somavia 1999).

In addition, the role workers can play in monitoring labor standards needs to be strengthened. The primary problem in most countries is not the law but the lack of capacity to enforce it, a problem that has grown worse with the need for fiscal rectitude. Workers are on the job every day and are thus in the best position to monitor compliance with labor standards, whether incorporated in voluntary codes of conduct, collective bargaining agreements, or government regulations. Governments, employers, and multinational corporations sourcing in developing countries should think of unions as a cost-effective mechanism for responding to the pressures from civil society for more monitoring and verification of labor standards, *particularly* in developing countries where government capacity is limited.[5]

Making Standards Global

The question remains, however, whether there is any reason for *global* promotion and enforcement of labor standards. First, while there is little evidence of the feared race to the bottom from the top, a race to the bottom from the bottom is more plausible, especially in highly price-competitive and footloose sectors like footwear and, especially, apparel. But this is not inevitable, especially where democracy and social institutions are strong, and some countries are beginning to promote good labor standards as a competitive *advantage* in attracting multinational corporations with strong brand identities and an interest in "reputation insurance."

A second rationale for giving higher priority to global labor standards is that political support for the current system of global economic governance is increasingly undermined by the perception that it is unbalanced. Rules protecting trade, capital flows, and intellectual property have progressed much further and faster than rules to protect workers or the environment. If this lack of public enthusiasm in developed countries for multilateral rules and reciprocal negotiations on integration further erodes political support for the international trade system, it is developing countries that will suffer most.

Progressive, democratic developing countries might even want to *strengthen* international enforcement of labor standards to resolve potential collective action problems if a race to the bottom is occurring. Chau and Kanbur (2000) have developed a theoretical model showing how a "race to the bottom from the bottom" can develop, particularly among small countries that cannot affect their terms of trade. This should not be interpreted as meaning that higher labor standards undermine *comparative*

[5] Saavedra (2003) also makes recommendations for reforming the collective bargaining process.

advantage and Chau and Kanbur note that this dynamic depends on a variety of factors and is not inevitable.[6] For example, Costa Rica, when faced with increasing competition in traditional low-wage sectors, advertised its political stability and high literacy rates to attract foreign investment in electronics and other higher valued-added sectors. In other words, Costa Rica chose to opt out of the race to the bottom and was able to do so. Cross-country studies also do not show that countries that have low labor standards necessarily grow faster and most show a negative correlation between the level of labor standards and inward foreign direct investment (Rodrik 1996, Morici and Schulz 2001, Kucera 2001).

But not all countries are as stable, democratic, and relatively well-educated as Costa Rica. And repression of labor standards under some circumstances can give a *competitive* advantage—or the perception of such an advantage—to a particular firm or sector. Some studies find correlations between various measures of low standards and textile and apparel exports by low-wage countries, but these results are not robust and other studies find no effect on labor costs (Rodrik 1996; Morici and Schulz 2001; Kucera 2001; and Elliott and Freeman 2003, chapter 1, for a survey). Yet some countries and employers clearly behave as if they believe that improved compliance with labor standards, particularly freedom of association, would threaten their growth or profit. Bangladesh, Pakistan, Panama, and a few other countries explicitly restrict organizing or bargaining rights in export sectors or zones.[7] Problems in practice are far more widespread, and officials from some countries concede privately that foreign investors threaten not to invest there if they have to deal with unions (ILO 2002, 7).

Nevertheless, with regard to trade negotiations, former Costa Rican Trade Minister Jose Manuel Salazar-Xirinachs (2003, 336) argues that most developing countries are more interested in addressing the continuing imbalances they face in market access and regard debates over labor, the environment, and other new issues as diversions from this core priority. But the growing backlash in Latin America and elsewhere against "Washington consensus" reforms suggests that concerns about imbalances related to globalization are not restricted to developed countries. In order to rebuild support for trade liberalization and other market-oriented reforms, governments need to address labor and social issues as well. And developing countries also have an interest in avoiding further backlash against such agreements and against the multilateral trade system more broadly among consumers and voters in the United States, Canada, and elsewhere.

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[6] For example, the key assumption underlying the Chau and Kanbur model is that higher standards must raise costs and adversely affects exports. But, in practice, unions might raise productivity enough to offset the wage premium union members usually receive. Whether discrimination promotes or undermines exports depends on whether it occurs in the traded or nontraded sector.

[7] There are signs of progress, however. After years of pressure from the US government, the ILO, and others, Bangladesh announced that it would permit union activity in EPZs beginning in January 2004 (Chau and Kanbur 2000).

In addition to the diversion argument, and despite generally positive rhetoric about the legitimacy of the core labor standards, concerns remain that the push for global standards is a misguided attempt to force inappropriate developed-country labor institutions on less developed countries (Salazar 2003, 319). On this, useful lessons on how *not* to address labor issues in the context of trade agreements may be found in the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Similar to the ILO, the World Intellectual Property Organization (WIPO) is a specialized UN agency with roots going back more than a century. But, like many worker organizations today, corporations producing intellectual property-rich products regarded it as too weak to protect their interests and wanted to incorporate stronger and globally consistent rules in the World Trade Organization, with trade sanctions to enforce them. The approach taken by Uruguay Round negotiators, who opted for broadly *uniform* minimum rules on intellectual property, stands in contrast to the consensus on international labor standards, which emphasizes principles that are universally applicable but that leave broad scope for national diversity in implementation.[8] Contrary to what many assume, the legal conventions that are the basis for implementing the core standards also leave substantial room for national differences; they do not prescribe any particular set of industrial relations institutions. Even with respect to issues such as minimum wages that cause the most concern among developing countries, ILO conventions focus on the process, the "wage-setting machinery," not the outcome (what the wage should be in any particular case).

Before it was even fully implemented, criticisms arose that the TRIPS agreement was inappropriate for poor countries that do not have intellectual property owners to protect and who would be forced to transfer millions of dollars annually in royalties and monopoly prices to rich-country firms. In order to come into compliance, these countries could also be forced to spend scarce resources to pass new legislation and to create the enforcement capacity needed to implement it. Spurred in particular by the AIDS crisis in Africa, the agreement is currently being renegotiated to make it more flexible and to recognize the special needs of less developed countries. This experience would seem to underscore the need to focus more narrowly on the truly trade-related aspects of nontraditional issues and to pay more attention than in the past to the need for technical assistance and financial transfers to developing countries to help them implement increasingly complex international agreements. Thus, TRIPS is not a good model for how to include labor standards in trade agreements but the arguments used in promoting it—fairness and ethical concerns, the weakness of the WIPO, the need for an agreement with "teeth"—make it far harder to argue that labor (and environmental) standards have no role at all in trade agreements, especially when violations are *trade-related.*

[8] The TRIPs agreement provides for some flexibility in implementation—longer phase-ins for developing countries and limited opt-outs in the form of compulsory licenses in emergencies—but the basic rules are the same for all WTO members, despite widely differing circumstances.

There are other pragmatic political economy arguments for paying attention to labor standards in the FTAA process. Large majorities of survey respondents in the United States say they think trade agreements should include minimum labor standards and that they would avoid buying goods if they knew they were made under bad conditions. The US Congress also included labor issues as a principal negotiating objective when it passed "trade promotion authority" in August 2002, and it seems unlikely that even a majority-Republican Congress will be able to ratify an FTAA without any reference to labor standards.

Most governments in Latin America support labor standards in principle but oppose including them in trade agreements with sanctions to enforce them out of fear they might be manipulated to restrict exports. The experience with American antidumping and countervailing duty policies certainly gives developing countries ample reason to be suspicious of potential new avenues for "contingent protection." Given the stridency of the debate, however, there is surprisingly little evidence from existing trade-labor linkages to support the fears (Elliott and Freeman 2003, chapter 4). What the labor-friendly Clinton administration negotiated in the side agreement to the North American Free Trade Agreement (NAFTA) and in the US-Jordan free trade agreement (FTA) is actually quite modest (discussed below) and no complaint submitted under the NAFTA labor agreement has gone beyond ministerial consultations. Nor was the Clinton administration more aggressive than its predecessors in using worker rights as an excuse to withdraw developing country trade benefits under the Generalized System of Preferences (GSP). Despite all the rhetoric, the Clinton administration actually did rather little to promote trade-labor linkages in practice. This was in part because it could not convince trading partners to accept stronger links but it was also because the administration was no more interested in blocking trade than the George W. Bush administration (arguably less so in light of the differing approaches to steel imports).

In sum, core labor standards and globalization are complementary policies that strengthen one another and compensate for one another's weaknesses. Just as globalization can discipline the monopolistic tendencies of unions and shine a light on abuses such as forced labor, the core standards can encourage a broader distribution of the benefits of globalization than markets alone often produce. The opportunities provided by economic and political opening, combined with respect for the core standards, can encourage the development of human capital and reassure consumers and reputation-conscious foreign investors that conditions are minimally acceptable. In so doing, attention to labor standards issues also increases public support for trade agreements.

II. THE CURRENT STATUS OF LABOR STANDARDS IN THE WESTERN HEMISPHERE

Table 1 compares Latin America and the Caribbean to other developing regions on readily available indicators for three of the four core standards: the incidence of child labor (the percentage of children

aged 10-14 that are in the labor force), differences between female and male illiteracy rates (a proxy for gender discrimination), and union density. In broad terms, the results are as expected, with the relatively higher-income Latin American region having far lower overall illiteracy rates and child labor participation rates than sub-Saharan Africa or South Asia. It is more difficult to interpret the figures on union density, since one might see higher demand for unions where conditions are bad and lower where conditions are good (political repression of unions aside).[9] But it is not surprising that the rates are lower in poorer regions with smaller formal sectors.

Not all the results track income levels so neatly, however. Despite higher per capita incomes, child labor rates are as high on average in Latin America as in the developing countries of East Asia and the levels in some countries (Brazil, Bolivia, and the Dominican Republic) reach those of South Asia (table 2). No matter how gender differences in illiteracy are measured, higher-income Latin America does better than other developing regions and, for those countries with available data, there are fewer large outliers than for child labor. Despite higher income levels, the Middle East and North Africa do relatively poorly on the discrimination measures and, by one calculation, East Asia has the worst record on gender literacy differences. There is less comparable cross-country data available on freedom of association indicators and forced labor. Overall, however, these measures support the argument that labor standards rise with incomes but clearly not in linear fashion.

Going beyond these broad regional trends, it is possible to identify the most common or most serious labor rights problems in the region using the various reports from the ILO supervisory system.[10] Potential problems in consistency should be noted here as well, however. As a result of the 1998 Declaration on Fundamental Principles and Rights at Work, all ILO members are required to report routinely on their laws and practices with respect to the four core standards. But only the reports of those countries that have ratified the associated conventions are subjected to systematic scrutiny and comment by the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR). When the CEACR identifies serious problems, the politically more prominent Conference Committee on the Application of Conventions and Recommendations (CCACR) may review them and invite the country's government delegate to respond in public session. Similarly, allegations of violations under Articles 24 and 26 of the ILO Constitution can generally only be lodged against countries that have ratified the relevant convention. The exception to these procedures is freedom of association, which is regarded as so fundamental that complaints may be brought against any member, regardless of whether

[9] The figure for the Middle East and North Africa should be taken with a large grain of salt as it is based on only three countries and would be much lower if data were available for the oil-exporting states of the Middle East.
[10] A broad picture of the application of the core labor standards around the world may also be found in the "global reports," submitted by the director-general each year to the International Labor Conference. Initial reports on freedom of association, forced labor, and child labor were released in 2000, 2001, and 2002, respectively, and are available on the ILO Web site. The report on discrimination was submitted to the conference in June 2003.

they have ratified convention 87 or 98, and these will be referred to the specialized Committee on Freedom of Association.[11]

Table 3 summarizes some of the data available from the searchable ILO database on standards (ILOLEX). On average, Western Hemisphere nations have ratified 44 of the ILO's about 180 conventions and 7 of the 8 "core" conventions.[12] The countries that have ratified fewer conventions tend to be the smaller island nations of the Caribbean and, most notably, the United States. Only tiny St. Kitts and Nevis, with a population of 41,000, has ratified fewer conventions overall than the United States but has even ratified 7 of the 8 core conventions. The United States, by contrast, has ratified only two core conventions—conventions 105 (on the abolition of forced labor) and 182 (on the worst forms of child labor). The Clinton administration submitted convention 111 (on nondiscrimination) to the Senate Foreign Relations Committee for ratification but no vote had been held as of the end of 2002. Unless several additional ratifications occur, it seems unlikely the United States will alter its position of seeking only the enforcement of national laws, not international standards, when it tries to include labor issues in trade agreements (see below).

Of the two core conventions that the United States has accepted, convention 105 on forced labor has been ratified by all 34 FTAA countries, and convention 182 on the worst forms of child labor likely will be ratified within a few years. As of fall 2002, convention 182 had only 25 ratifications but was gaining new adherents at a rapid pace, globally as well as regionally, and may be the first ILO convention to achieve universal ratification. On forced labor, only the United States, Bolivia, and Canada have not also ratified convention 29, while convention 138 (setting a minimum age for employment) is the least ratified of the eight, regionally and globally. Among those not ratifying 138 but have ratified 182 are Canada, Mexico, Paraguay, St. Kitts and Nevis, St. Lucia, Saint Vincent and the Grenadines, and the United States. Only Grenada, Haiti, Jamaica, Suriname, and Trinidad and Tobago have ratified neither. On nondiscrimination, only the United States and Suriname have ratified neither convention 100 (on equal remuneration) nor convention 111 (on nondiscrimination in employment); in addition, Antigua and Barbuda has not ratified convention 100, and Grenada has not ratified convention 111. Finally, only the United States and El Salvador have ratified neither convention 87 on freedom of association nor convention 98 on the right to organize and bargain collectively; beyond that, only Brazil has not ratified convention 87, and Canada and Mexico have not ratified convention 98.

[11] The ILO supervisory system is discussed in detail in the FAQs section of the International Labor Standards page on the ILO Web site (www.ilo.org).

[12] The conventions in order of adoption are: 29 on forced labor; 87 on freedom of association; 98 on the right to organize and bargain collectively; 100 on equal remuneration for men and women for work of equal value; 105 on the abolition of forced labor; 111 on nondiscrimination in employment; 138 setting a minimum age for child labor; and 182 calling for immediate action against the "worst forms" of child labor.

As a first step in assessing compliance, it is obvious that the ILO supervisory system has generated far more cases on forced labor and freedom of association issues than on child labor and discrimination. This does not necessarily mean that there are fewer problems in these areas. But, recognizing that child labor is usually the product of poverty and that no country has clean hands when it comes to discrimination, CEACR comments on the applications of these conventions are generally promotional in nature, reminding countries what their obligations are under the conventions and asking for information on implementation. The ILO has also substantially beefed up its technical assistance programs for child labor, especially to promote compliance with convention 182 on the worst forms, which include forced labor and illicit activities, such as prostitution, pornography, and drug-trafficking. At least with respect to countries in the Western Hemisphere, child labor and discrimination are rarely brought before the conference committee, which focuses attention on the more serious problems identified by the CEACR each year, and these areas are also rarely the subject of Article 24 complaints.

Indeed, in 12 years from 1990 through 2001, there was not a single complaint against a Western Hemisphere country alleging violations of the minimum age for child labor, again for reasons of efficacy and not because no violations occurred. As found in most studies, however, available data show that child labor in the region is broadly correlated with poverty, with the highest labor participation rates by those between 10 and 14 years in Haiti, Nicaragua, Guatemala, El Salvador, Bolivia, the Dominican Republic, and Brazil. Interestingly, however, and suggesting that there is scope for policy measures other than just economic growth to address the problem, simple correlation coefficients show a closer (negative) relationship between child labor and democracy (as measured by the Freedom House rankings) than between child labor and per capita income.

Discrimination, which is rooted in history, culture, and institutions, is also generally treated by the ILO as an area in which promotional measures are preferred. CEACR observations and "direct requests" typically relate to the need for additional information, especially statistical data on relative levels of employment and wages of women and men, as well as what plans the government has to achieve the goals of the conventions. The most common requests from the experts in the 1990s related to clarification as to whether national laws on equal remuneration are consistent with the goal of "equal wages for work of equal *value*" rather than the lesser standard of equal pay for equal work. Several countries were also asked to provide information on vocational training for women, as a means of achieving the goals of nondiscrimination in employment and remuneration. In a few cases, explicit discrimination in labor laws or collective bargaining contracts have been identified by the CEACR and, usually, rectified.

Both the most frequent and serious allegations in the hemisphere relate to freedom of association and forced labor. From 1990 through 2001, there were 314 Article 24 complaints against Western

Hemisphere countries; of those, 312 related to alleged violations of freedom of association and the other two to forced labor (in Brazil and Guatemala). These cases can be on relatively technical grounds and the numbers reflect complaints, not whether any ILO body confirmed a violation. Individual observations by the conference committee, however, are reserved for relatively more serious and substantiated problems and over the same period, there were 86 of these regarding countries in the Americas and the Caribbean, 93 percent relating to either freedom of association or forced labor, mostly the former. Of the 34 FTAA countries, 14 were not the subject of an individual observation and most others were the subject of just a few. Six countries were the subject of more than five observations, with only Brazil and Colombia reaching double digits.

Colombia, because of the many murders of union organizers and members during its civil conflict, is the only Latin American country in recent years to be the subject of an Article 26 investigation, a procedure reserved for the gravest violations. This case fits the pattern of the most serious allegations, which typically involve situations of conflict and political repression and weak or nonexistent democracy. In the 1970s, when the human rights situation deteriorated in a number of Latin American countries, Argentina, Bolivia, Chile, and Uruguay were all the subject of Article 26 investigations, usually involving conventions 87 and 98. In recent years, in addition to Colombia, the most serious problems with freedom of association have been in Venezuela and Guatemala. Peru has actually been the most frequent target of freedom of association complaints over the past decade or so, mostly issues related to anti-union discrimination and restrictions on collective bargaining or the right to strike but without the levels of violence seen in Colombia. Table 3 also shows large numbers of freedom of association complaints against Argentina and Canada, democratic countries where unions are relatively strong. In Canada, the primary role of the provinces in regulating labor markets also boosts the number of cases filed.

Beyond the most serious allegations of violence against and political repression of union organizers, common complaints include the failure of governments to punish anti-union discrimination by employers, including dismissals, and restrictions on the right to strike. Also common are complaints about administrative impediments to establishing and organizing unions that workers freely choose (regulations on the proportion or absolute number of workers required to register a union, restrictions on the nationality of officers, and preferential treatment of employer-established worker associations, i.e., "company unions"). Among the most common complaints and sources of comment by the CEACR are restrictions on the right of public employees to organize, bargain collectively, and strike (for example, by defining "essential services" too broadly).

With respect to forced labor, the most serious but least common allegations involve debt bondage, deceptive recruiting practices, and other forms of coerced labor, mainly among indigenous peoples—in

plantation agriculture, forestry, and mining—in Brazil, Paraguay, and Peru.[13] There are also problems with forced child labor in domestic service in Haiti, and, earlier in the 1990s, forced labor by (often illegal) Haitians on Dominican Republic sugar plantations. More frequently in this area, one finds CEACR reports asking for clarification or technical corrections to laws that countries claim are not enforced—for example, restrictions on leaving public service, particularly the military and police, and maritime services. A number of CEACR observations relate to prison labor—under what conditions the work occurs, including whether it is for private profit, and for what offenses (for example, to punish political dissent or unauthorized strikes).

Beyond the core standards, the most common complaints relate to health and safety issues, which are probably among the most common globally, and to respect for the rights of indigenous peoples, which may be a bigger problem in the Western Hemisphere than elsewhere.

To sum up, in terms of ratification of the core conventions in the region, it is close enough to universal to suggest that the US position of asking countries to agree to enforce their own laws would approximate a commitment to international standards for most of the region. Ironically, it is the United States that is the clear outlier on ratification, if not on compliance with the broad principles embodied in the standards. Unlike some other countries that view convention ratification as a statement of an aspiration to comply, the United States will not ratify a convention until it determines that its law is consistent. At this stage, the government seems unwilling to change US labor laws in ways that would allow it to ratify additional conventions, except possibly for convention 111 (on nondiscrimination). Convention 29 (on forced labor) is a problem because of the trend toward prison privatization and private-sector employment of prison labor for commercial production. Although a variety of inconsistencies between US law and practice and the provisions of conventions 87 and 98 (on association rights) have been alleged, among the most important are sectoral exclusions from collective bargaining rights, particularly in the public sector, and various restrictions on the right to strike, including a legal provision allowing employers to hire permanent strike worker replacements, which the ILO has concluded undermines the right to strike.[14] US practice is probably in broad compliance with convention 100 (on equal remuneration), but the refusal by Congress to enact comparable worth pay legislation would make it politically difficult to ratify this convention. With respect to convention 138 (setting a minimum age for child labor), US practice is again broadly in compliance, but the diversity of state laws in this area,

[13] These problems are also rooted in discrimination but the complaints are usually addressed under the forced labor conventions.

[14] As it is wont to do, the Committee on Freedom of Association used far more circumspect language, concluding that the use of permanent strike replacement workers, "entails a risk of derogation from the right to strike which may affect the free exercise of trade union rights." See Potter (1984) for an employers' group perspective on the changes to US law that would be required by ratification of conventions 87 and 98 and the *Human Rights Watch* report (Compa 2000) on how US law and practice fa ils to protect workers.

combined with the relatively technical nature of this convention, make it difficult to bring US law into compliance. This situation of few US ratifications leads to charges of hypocrisy and effectively rules out any language in the FTAA agreement that would condition membership on compliance with *international* labor standards.

In terms of compliance with the core standards, problems could arise to haunt governments and employers in the region if they are not addressed more vigorously and systematically. A comparison of the top ten exports of each FTAA country with the sectors cited in ILO supervisory documents shows that most countries in the hemisphere are potentially vulnerable to a worker rights scandal that could hit key exports (table 4).[15] In particular, the allegations of forced and child labor in plantation agriculture and other natural resource sectors and of repression of freedom of association in export processing zones (EPZs) are serious and could become more visible with increased integration. The pressure on Ecuador in late 2002 to address labor problems on its banana plantations, as a condition of gaining eligibility for expanded US trade preferences, is one example. In addition, the AFL-CIO has already announced that it will focus closely on labor standards compliance during free trade area negotiations between the United States and Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) in 2003–04.

III. RECENT PRECEDENTS FOR LINKING LABOR STANDARDS AND TRADE

In fall 2001, the US Congress approved the US-Jordan FTA with enforceable labor (and environmental) standards in the main body of the agreement. In August 2002, it passed "trade promotion authority" that incorporates labor issues as negotiating objectives and endorses "equivalent" dispute settlement procedures and remedies. In spring 2003, President George W. Bush and US Trade Representative Robert Zoellick signed bilateral trade agreements with Singapore and Chile, respectively. These agreements have labor standards in the main text, subject to the same dispute settlement procedures as commercial disputes, but with fines rather than trade measures as the principal enforcement mechanism. While the Bush administration is not suggesting that the same mechanisms are necessarily appropriate in all other trade negotiation, they are being used as the basis for negotiations with Central America, and they clearly make it more difficult for negotiators to completely delink trade and labor issues in future negotiations.

Two key questions typically arise in discussions over how to address labor issues during trade negotiations (if they are addressed at all). First, should labor issues be in the main body of an agreement text; in a supplementary or "side" agreement; or should they be addressed in parallel negotiations delinked from trade negotiations? Second, should trade measures be available to enforce labor standards,

[15] Most FTAA countries have been the target of Committee of Experts observations on laws or practices that are inconsistent with international core standards, but only the more serious cases are included in table 4.

as they are in other commercial disputes? Existing agreements answer these questions in a variety of ways (see table 5). The only common element is that each agreement requires only that the parties to it enforce their own national labor laws, with no requirement that those laws be consistent with the core labor standards as defined by the ILO. This is an unfortunate feature of these agreements because it undercuts the international consensus that has been reached on the core standards, and it could discourage improvements in local law. But as noted, it is unlikely to change as long as the United States has ratified so few ILO core conventions.

The North American Agreement on Labor Cooperation (NAALC) and Canada-Chile and Canada-Costa Rica FTAs all have side agreements on labor issues with their own institutional structures and dispute settlement resolution mechanisms. The labor provisions in the Canada-Costa Rica FTA authorize ministerial consultations on labor issues but include no enforcement mechanism. The other two agreements provide for ministerial consultations on a list of 11 labor standards, including all the core standards, but authorize monetary fines as a last resort only for child labor and technical standards relating to wages and health and safety conditions. In the case of a bilateral dispute between the United States and Mexico, bilateral tariff concessions can be withdrawn to the extent necessary to collect the value of the fine, but this provision is not regarded as authorizing *trade sanctions.* Under these agreements, disputes will be referred for dispute settlement only if there is a "persistent pattern" of failures to enforce relevant labor laws and if the violations are in trade-related sectors.[16]

The US-Jordan FTA, completed in late 2000 and approved in fall 2001, includes a section on labor in the main text that is subject to the same dispute settlement procedures as the rest of the agreement. The principal risks in this model, however, arise from the vague language of the dispute settlement procedures, not from the language on labor standards. At the end of the day, if consultations, a dispute settlement panel, and the joint committee created to implement the agreement do not result in resolution of a dispute, the complaining party is authorized "to take *any* appropriate and commensurate measure" (emphasis added). But the labor standards text is so weak, it seems unlikely that any dispute would get that far. Most paragraphs in this section require only that the parties "*strive* to ensure" that domestic laws are consistent with "internationally recognized labor rights," and that they do not "waive or otherwise derogate from … such laws as an encouragement for trade…." The only "shall" in the labor text refers to the obligation of the parties to "not fail to effectively enforce its laws," on a sustained basis in a way that affects trade. But other paragraphs in that section preserve the discretion of governments to adopt, modify, and enforce labor laws and regulations so that a party will be in compliance with its labor

[16] See Hufbauer et al. (2002) for a more detailed description and assessment of the NAFTA side agreement.

obligations under the agreement if:

> a course of action or inaction [in enforcing labor laws] reflects a reasonable exercise of such discretion, or results from a *bona fide* decision regarding the allocation of resources" (section 4(b) of Article 6 of the agreement).

It is certainly conceivable that a protectionist American president could abuse this language, but there is no evidence from US implementation of worker conditionality in the GSP or the side agreement to NAFTA to suggest that is remotely likely.[17]

During the congressional debate over trade promotion authority, then Senate Finance Committee Chair Max Baucus (D-MT) insisted that all future trade agreements should meet the "Jordan standard" of having enforceable labor standards in the main text. Since passage of the Trade Act of 2002, Baucus and other Democrats have continued to assert that this is the interpretation of the labor provisions that US Trade Representative Robert Zoellick should follow. Current Senate Finance Committee Chair Charles Grassley (R-IA) is equally adamant that this is a misinterpretation of congressional intent.

The only thing that seems reasonably clear in mid-2003 is that it will be difficult for US trade negotiators to ignore labor issues entirely. In the section of the Trade Act providing trade promotion authority, references to worker rights and labor standards appear as an "overall" and a "principal" trade negotiating objective, as well as one of several other priorities that the president should promote "in order to address and maintain" US competitiveness. The key section, 2102(b)(11), essentially copies the language from the US-Jordan agreement in defining principal US negotiating objectives with respect to labor (and the environment), emphasizing the legitimacy of discretion in setting and enforcing one's own laws.

In an amendment that muddies the enforceability question, however, Senator Phil Gramm (R-TX), a leading linkage opponent, convinced his House colleagues to insert additional language barring retaliation "based on the exercise of these rights [to discretion in enforcement] or the right to establish domestic labor standards…." Gramm's intent has variously been reported as taking sanctions off the table for enforcing labor and environmental standards or preventing a trade agreement being used to change US labor (or environmental) laws. Moreover, the interpretation of this provision is further complicated by the next negotiating objective on the list, which requires US negotiators to "seek provisions" that treat all the "principal negotiating objectives equally with respect to" the availability of "equivalent dispute settlement procedures and remedies."

In its first attempt to interpret this potentially conflicting language, the USTR office devised a clever and creative compromise for the bilateral FTA negotiations with Chile and Singapore. The

[17] See Elliott and Freeman (2003, chapter 4) on GSP and Hufbauer et al. (2002) on the NAFTA side agreement.

provisions in these agreements are similar and are based on a combination of the NAALC and the US-Jordan agreement. Like NAALC, the new proposal would follow the practice of basing labor-related obligations on the effective enforcement of each country's own laws in trade-related sectors. It would also, like NAALC, authorize monetary fines in the case of unresolved disputes over covered labor issues, allow the suspension of tariff concessions if necessary to *collect* the fine (explicitly *not* a sanction), and cap the fine at a level to be negotiated. Like the US-Jordan agreement, however, labor obligations would be included in the main text of the agreements, violations would be subject to the same dispute settlement procedures as commercial disputes, and, unlike NAALC, there would be no distinction among applicable labor standards and the fines would continue to accrue annually if the problem remains unresolved. In commercial disputes, the country in violation of the agreement could choose to pay a fine, but traditional trade retaliation would also remain an option. USTR officials argue that while not "mirror images," the mechanisms for enforcement of labor and commercial disputes would be equally effective and would, therefore, meet the congressional standard of equivalence.

IV. WHERE'S THE BEEF?

It is almost certainly no coincidence that the agreements explicitly linking trade and labor issues that have been reached or proposed so far (with the exception of Mexico) are with relatively small trading partners with little negotiating leverage and relatively good labor standards. The agreements with Jordan, Singapore, and Chile set a precedent in terms of bilateral FTAs, and they provide an opening to discuss labor issues with trading partners. But it is not clear that they will be used as examples of how labor standards can be improved under globalization. Moreover, larger trading partners and developing country blocs are less susceptible to US pressure and are unlikely to be as accommodating, so that even less is likely to be achieved on labor issues in the FTAA or WTO negotiations than in these bilateral agreements.

Workers, labor rights supporters, and other activists nevertheless try to link the issues they care about to issues, like trade, that corporations and governments care strongly about because that is the only way they can get a hearing. Labor activists are also right to be suspicious of parallel tracks because the support for them to date has been mostly rhetorical. USTR Zoellick recently proposed increasing the funding for trade capacity building by a third overall, with $140 million allocated just for the Western Hemisphere (*Inside U.S. Trade,* November 8, 2002, 23). This is nearly twice the $86 million requested for the Department of Labor's Bureau of International Labor Affairs for FY2003, which funds the entire US

budget for technical assistance on labor. Moreover, this figure is a substantial cut from the peak of $150 million under the Clinton administration.[18]

Nevertheless, pushing to increase technical assistance and use it more productively is at least consistent with how the Bush administration and most developing-country governments around the world say they want to approach labor standards issues. This more positive attitude is in stark contrast with the consistent opposition to the use of trade sanctions to enforce labor standards. This suggests there may be more scope for progress in holding the Bush administration to its promises to create a separate "tool box" for labor standards than in continuing to try to block the international trade agenda by insisting on an enforceable linkage to labor issues. This is particularly true now that the Doha round of multilateral trade negotiations has been launched and President Bush has trade promotion authority from Congress. A change in strategy of this kind should also be more appealing to workers and governments in the rest of the hemisphere that are concerned about the potential for protectionist abuse of trade sanctions to enforce labor standards clauses. It would thereby facilitate a broadening of the coalition in favor of doing something serious to promote higher labor standards and better compliance throughout the region.

The first focus of efforts to make the parallel track for labor issues credible should be to pressure donor countries and the multilateral development agencies to put money on the table. Equally important, NGOs, unions, and other elements of civil society need to continue play an oversight role and agitate as necessary to ensure that the money is used effectively. The "plan of action" agreed to at the 12th conference of Inter-American labor ministers in Ottawa in October 2001 has one brief paragraph calling on member states to "devote the necessary and available" economic resources needed to implement the plan. But the plan of action primarily calls for more working groups, more studies, and more technical workshops, to build on the working groups, studies, and workshops conducted under the plan of action adopted at the 11th conference of ministers held three years earlier. And, finally, a meaningful parallel track for labor should harness the energies of all the relevant actors—not just the governments and international organizations, but civil society and the private sector as well.

The obvious starting point for designing a real plan of action, following what environmentalists have suggested, is to prepare systematic "national assessments" to help governments—and workers and other citizens—to understand and prepare for the labor market adjustments that will be required by the FTAA. The Hemispheric Cooperation Program approved at the Quito Ministerial in October 2002 calls on countries seeking assistance to "develop national or regional strategies" identifying areas where their capacity to participate in the FTAA is inadequate, including in the area of "adjusting to integration." This could be a hook for addressing technical assistance needs in the labor area as well. But it would be useful,

[18] Although each Bush budget since he entered office has proposed cuts in funding for international labor affairs, Congress has thus far maintained spending at roughly the levels of the last years of the Clinton administration.

first, to have a baseline picture of the application of the core labor standards across the region, perhaps prepared by the ILO regional office, against which requests for technical assistance could be compared. In addition, since the implications for workers of hemispheric integration go well beyond standards issues, it would also be useful to have some external oversight, perhaps by the Economic Commission for Latin America and the Caribbean (ECLAC), of government's own assessments of the likely sectoral and regional effects in order to ensure that adequate provision is being made for safety net and other adjustment programs. Apparently some of this is being done on an ad hoc basis, but a more systematic effort is needed to identify and prepare for the potentially large adjustments that will be required.

Second, while recognizing that the worst labor abuses are typically not in export sectors, the ILO and human rights groups have identified problems with child labor and forced labor in commercial agriculture and mining in some countries and with freedom of association and discrimination in the garment and other manufacturing sectors, especially in EPZs. Programs to address labor violations in those sectors could have several benefits. They could be designed to build capacity in ways that would be generally applicable; they might also generate other spillovers as examples of best practice in labor relations; and they would help to broaden public support for the FTAA.

In addition to getting money on the table and meaningful action plans in place, the labor track needs to involve all the relevant actors. In improving labor standards compliance in EPZs, for example, civil society and the private sector can play important roles. With increasing global integration, consumers in Northern countries are increasingly aware of and concerned about the conditions under which products they consume are made. In turn, most major retailers and importing firms in certain industries (especially clothing, footwear, and a few food products) are now aware that their brand reputations are at risk if their goods are exposed as being produced under abusive conditions. As a result, a number of multi-stakeholder initiatives and social auditing firms—some for profit, some nonprofit—have emerged to fill the demand for monitoring of codes of conduct.[19]

As of mid-2003, however, only 36 of 258 facilities certified by Social Accountability International (SAI) were in Latin America, all but two in Brazil. There were only five (of 14) auditors accredited by the Fair Labor Association (FLA) operating in the Western Hemisphere. The volume of monitoring activities in Central America and the Caribbean should increase as the FLA, which focuses on the garment and footwear sectors, gets fully up and running.[20] Other manufacturing sectors could be encouraged to seek certification under SAI's SA 8000 code, which is not sector-specific. But, while

[19] For more on the monitoring initiatives and the "market for standards," see Elliott and Freeman (2003, chapters 2 and 3).

[20] The FLA released its first public monitoring reports in June 2003, available at www.fairlabor.org. It is also working on a Central America project to address alleged problems with freedom of association in that region. See *Fair Labor Association Update*, June 2003.

Chiquita recently had its banana operations in Costa Rica certified under the SA8000 code, and both SAI and the UK-based Ethical Trade Initiative are doing pilot projects on how to monitor code compliance by agricultural facilities, none of the code of conduct initiatives adequately deals with this sector.

While these initiatives are expanding as a result of market forces, the public sector could also encourage the process. The Organization of American States or ECLAC could sponsor workshops in areas with concentrations of EPZs or labor-intensive agricultural operations to inform them about the major monitoring initiatives and how social auditing works. The Inter-American Development Bank could also stimulate the market for monitors by requiring social audits on projects that it funds where labor violations are a potential problem. In the interim, while private-sector monitoring capacity is being built, the ILO, at the request of concerned governments, might supplement local inspection resources as it is currently doing in Cambodia (Elliott and Freeman 2003, chapter 6). But if the ILO is asked to do more, its financial and operational capacity will also have to be strengthened.

In sum, the way forward in the FTAA involves taking steps to ensure not just that the labor and trade tracks are parallel but also that the trains on them run at roughly similar speeds. For that to happen, workers and labor activists need to keep the pressure on but need to shift their attention from sanctions to enforce standards in trade agreements to pressuring governments to adopt concrete, real plans of action for raising labor standards and to provide the financial resources to implement them.

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Table 1 Latin America in comparative perspective, 2000

	Percentage of children aged 10-14 in the labor force	Adult illiteracy rate (percent)	Differences in female and male illiteracy rates: Ratio	Differences in female and male illiteracy rates: Difference (percentage points)	Union membership as a percent of the non-ag. labor force	GNI per capita (US$, Atlas method)
Latin America and Caribbean	8.2	11.6	1.2	1.8	15.9	3,560
Middle East and North Africa	4.4	35.2	1.9	21.1	20.7 [b]	2,000
East Asia and Pacific[a]	8.2	14.5	2.6	13.1	10.1 [c]	900
Sub-Saharan Africa	29.0	38.5	1.6	16.5	13.8	470
South Asia	15.0	45.2	1.7	23.4	5.1	450

a. Excludes developed countries, South Korea, and Taiwan.

b. Egypt, Jordan, and Morocco only; most of the undemocratic oil-exporting regimes restrict or ban unions.

c. Excludes China's misleading 55 percent; includes Indonesia, Malaysia, Philippines, and Thailand.

Source: World Bank, *World Development Indicators* database.

Table 2 Labor outcomes, economic, and political indicators, 1995

Country	Percent of children aged 10-14 in the labor force	Female/male illiteracy rates (percentage points)	Union membership as percent of: Non-ag. labor force (select years 1992–95)	Union membership as percent of: Formal sector wage earners (select years 1992–95)	Formal sector as percent of total non-ag. employment	Population (thousands)	GDP per capita (dollars)	Freedom House rank[b]
Antigua/Barbuda	n.a.	n.a.	n.a.	53.8 [a]	n.a.	65	6,930	4.5
Argentina	4.5	0.1	25.4	65.6	50.7	34,768	8,030	5.5
Bahamas	0.0	-1.3	n.a.	n.a.	n.a.	278	11,830	6.5
Barbados	0.0	n.a.	n.a.	n.a.	n.a.	264	6,590	7.0
Belize	2.4	n.a.	n.a.	n.a.	n.a.	217	2,650	7.0
Bolivia	14.4	14.7	16.4	59.7	n.a.	7,414	870	5.5
Brazil	16.1	0.5	32.1	66.0	53.5	159,346	3,690	5.0
Canada	0.0	n.a.	31.0	37.4 [a]	n.a.	29,615	19,460	7.0
Chile	0.0	0.5	15.9	33.0	61.2	14,210	3,880	6.0
Colombia	6.6	0.3	7.0	17.0	44.4	38,542	1,880	4.0
Costa Rica	5.5	-0.1	13.1	27.3	56.7	3,374	2,570	6.5
Dominica	n.a.	n.a.	n.a.	n.a.	n.a.	73	2,900	7.0
Dominican Republic	16.1	0.7	17.3	n.a.	n.a.	7,823	1,430	5.0
Ecuador	5.4	4.2	9.8	22.4	36.3	11,460	1,400	5.5
El Salvador	15.1	6.2	7.2	10.7	n.a.	5,669	1,570	5.0
Grenada	n.a.	n.a.	n.a.	n.a.	n.a.	95	2,830	6.5
Guatemala	16.2	15.4	4.4	7.7	n.a.	9,976	1,400	4.0
Guyana	0.0	1.5	25.2	n.a.	n.a.	830	620	2.0
Haiti	25.3	5.2	n.a.	n.a.	n.a.	7,168	300	1.5
Honduras	8.5	1.2	4.5	20.8	42.9	5,654	670	5.0
Jamaica	0.1	-8.5	n.a.	n.a.	n.a.	2,522	1,570	5.5
Mexico	6.7	4.6	31.0	72.9	56.8	91,145	3,800	4.0
Nicaragua	14.0	0.1	23.4	48.2	n.a.	4,426	360	4.0
Panama	3.5	1.3	14.2	29.0	62.9	2,631	2,950	5.5
Paraguay	7.9	3.1	9.3	50.1	n.a.	4,828	1,740	4.5
Peru	2.5	10.8	7.5	18.3	44.9	23,532	2,320	3.5
St. Kitts and Nevis	n.a.	n.a.	n.a.	n.a.	n.a.	41	5,500	6.5
St. Lucia	n.a.	n.a.	n.a.	n.a.	n.a.	156	3,400	6.5
St. Vincent and the Grenadines	n.a.	n.a.	n.a.	n.a.	n.a.	111	2,320	6.5
Suriname	0.5	n.a.	n.a.	n.a.	n.a.	409	880	5.0
Trinidad and Tobago	0.0	1.9	n.a.	n.a.	n.a.	1,287	3,780	6.5
United States	0.0	n.a.	12.7	14.2 [a]	n.a.	262,761	27,410	7.0
Uruguay	2.1	-0.8	11.6	20.2	56.7	3,218	5,120	6.5
Venezuela	0.9	1.2	14.9	32.6	55.5	21,844	3,040	5.0
Average	**6.2**	**2.7**	**15.9**	**35.3**	**51.9**	**22,228**	**4,285**	**5.4**

a. All wage and salary earners. b. The Freedom House Rank has been recalculated so that 1 indicates unfree and 7 indicates free.
Sources: World Bank, *World Development Indicators*; ILO 1997; Freedom House, *Freedom in the World* database.

Table 3 Evidence on the formal implementation of core labor standards

Country	ILO conventions ratified (Fall 2002)	Core conventions ratified (Fall 2002)	Observations on core conventions by CCACR[a] (1990–2001)	Number of freedom of association complaints (1990–2001)
Antigua/Barbuda	27	7	0	0
Argentina	71	8	1	33
Bahamas	33	8	0	2
Barbados	39	8	0	1
Belize	42	8	0	1
Bolivia	46	6	4	2
Brazil	89	7	12	11
Canada	30	5	1	33
Chile	59	8	1	10
Colombia	59	7	13	25
Costa Rica	50	8	4	16
Dominica	23	8	0	0
Dominican Republic	35	8	5	5
Ecuador	59	8	5	14
El Salvador	25	6	1	11
Grenada	28	5	0	0
Guatemala	72	8	8	21
Guyana	46	8	0	0
Haiti	23	6	1	5
Honduras	22	8	2	5
Jamaica	26	6	1	0
Mexico	78	6	1	9
Nicaragua	59	8	0	12
Panama	74	8	7	9
Paraguay	36	7	3	13
Peru	69	8	9	37
St. Kitts and Nevis	8	7	–	–
St. Lucia	28	7	1	0
St.Vincent and the Grenadines	21	7	0	–
Suriname	28	4	0	0
Trinidad and Tobago	16	6	0	0
United States	14	2	0	3
Uruguay	103	8	0	8
Venezuela	53	7	6	26
Average	**44**	**7**	**3**	**10**

– = Indicates conventions ratifies in 1998–2001 and no reports yet reviewed.

a. Numbers refer to comments on core conventions only. Individual observations by the ILO Conference Committee on the Application of Conventions and Recommendations (CCACR) are reserved for the more serious or long-standing problems identified by the Committee of Experts on the Applications of Conventions and Recommendations (CEACR).

Table 4 Labor standards violations investigated in key export sectors, 1996–2000

Country	Type of ILO supervision involved[a]	Export sector involved[b]
Argentina	FOA case	Petroleum
Bolivia	CC observation on FOA FOA case	Agriculture Mining
Brazil	CC observation on forced labor FOA cases	Agriculture Automotive vehicles and parts Citrus
Chile	FOA case	Agriculture
Colombia	CC observations and FOA cases FOA cases	Horticultural and agricultural products Bananas Petroleum Cement, glass, and ceramics Textiles and apparel Coffee
Costa Rica	CC observations and FOA cases CC observation on FOA	Agriculture Bananas EPZs
Equador	CC observation and FOA case CC observation on FOA FOA case	Petroleum EPZs Bananas
El Salvador	FOA cases	Coffee EPZs—apparel
Guatemala	CC observation and FOA	Bananas Coffee Agriculture generally EPZs Sugar Steel Textiles
Haiti	FOA case	Apparel
Honduras	FOA case	EPZs—apparel
Mexico	FOA case	Petroleum
Nicaragua	FOA cases	Bananas EPZs (apparel)
Panama	CC observation on FOA	EPZs
Paraguay	FOA case	Meat
Peru	CC observations on forced labor, FOA and FOA cases CC observation on forced labor FOA cases	Gold mining Other mining and metals Agriculture Textiles Petroleum
Uruguay	FOA case	Dairy
Venezuela	CC observations and FOA cases	Petroleum and products

a. Only Conference Committee (CC) observations, freedom of association (FOA) cases, and Article 24 and 26 complaints are included. Countries not listed have not come under these types of scrutiny.
b. Only the top ten export sectors, based on the average value in 1996-2000 for each country, are included.

Sources: International Labor Organization, ILOLEX database (online); UNCTAD/WTO International Trade Center, trade database (online).

Table 5 Approaches to linking trade and labor standards

Approach	Pros	Cons
Social clause in trade agreements authorizing trade measures: • Against *any* violation of labor standards		Not appropriate since most labor violations in non-traded sectors and trade experts not competent to resolve labor standards disputes
• Against trade-related violations of labor standards	Intellectual consistency	A political nonstarter for the foreseeable future
US-Jordan FTA: Labor standards in main text	Treats trade-related labor standards violations equally with other potential distortions of trade and investment flows	Labor language so weak as to exert little upward pressure on labor standards Vague dispute settlement provisions risk abuse by leaving too much discretion to individual governments
NAALC: Side agreement on labor	Provides mechanism for problems to be investigated and discussed, enforcement with fines possible for technical labor issues and child labor	Creates tiers for labor standards that is inconsistent with international consensus on core labor standards Provisions requiring only enforcement of national laws provides disincentive to raise standards
Canada-Chile FTA: Side agreement on labor	Similar to above	Same as above Relies on local judiciary to enforce, which could be problematic in less developed countries
Chile and Singapore bilateral agreements: Labor standards in main text	Provides for "equivalent," though not identical, dispute settlement procedures Does not distinguish among the core labor standards	Not clear how the fines would be collected or how they would be used and, therefore, whether they would be likely to contribute to improved working conditions Making only enforcement of national laws subject to dispute resolution provides disincentive to raise standards