

GAO

Report to the Ranking Minority Member,
Committee on Commerce, Science and
Transportation, U.S. Senate

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CARIBBEAN BASIN

Worker Rights Progress Made, but Enforcement Issues Remain



**National Security and
International Affairs Division**

B-280379

July 20, 1998

The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

Dear Senator Hollings:

U.S. trade preferences provided through the Caribbean Basin Initiative (CBI), under which most Caribbean Basin products enter the United States duty free, are tied to worker rights standards, as defined in U.S. trade law.¹

Generally, to be eligible for CBI trade preferences, a country must have taken or be taking steps to provide workers in that country with internationally recognized worker rights. The same worker rights standards are found in the Generalized System of Preferences (GSP) Program,² which has an annual review mechanism that has also been used to enforce compliance with these standards under CBI.³ You have expressed concern that allegations of worker rights abuses have persisted in the CBI apparel industry, one of the largest CBI export industry sectors.⁴ In response to your concerns, we reviewed (1) whether or not Caribbean Basin countries have made efforts to improve worker rights in the CBI apparel industry and (2) what efforts the private sector has made to address concerns about working conditions in CBI countries. We have also updated information previously provided to you about U.S. apparel imports from CBI countries⁵ (see app. I).

In conducting this review, we analyzed the efforts of the six major CBI apparel shipping countries —Costa Rica, the Dominican Republic, El

¹Internationally recognized worker rights are defined at 19 U.S.C. 2467(4).

²GSP trade preferences provide duty-free access to the United States for designated products of eligible developing countries worldwide, not just in the Caribbean Basin, in order to promote development through trade rather than traditional aid programs. For more information about the GSP Program and the review of worker rights, see International Trade: Assessment of the Generalized System of Preferences Program (GAO/GGD-95-9, Nov. 9, 1994).

³CBI trade preferences do not cover apparel products, and GSP does not cover most apparel products. Nonetheless, all beneficiary country governments are responsible for abiding by these worker rights standards in all sectors of the national economy, including textiles and apparel.

⁴This issue was also addressed in a 1993 GAO study, Foreign Assistance: U.S. Support for Caribbean Basin Assembly Industries (GAO/NSIAD-94-31, Dec. 29, 1993).

⁵Caribbean Basin Apparel Imports (GAO/NSIAD-98-59R, Dec. 3, 1997).

Salvador, Guatemala, Honduras, and Jamaica⁶ —to improve their worker rights standards and the working conditions in their apparel assembly industries. We interviewed officials and reviewed documents from the Departments of State and Labor, the Office of the U.S. Trade Representative (USTR), and U.S. embassies in these six countries. We also reviewed the State Department's annual worker rights reporting for 1992-97 for these countries, as well as GSP worker rights case files. We conducted field work in July/August 1997 in the Dominican Republic and Guatemala. We also interviewed industry associations and labor and human rights groups. It was not possible for us to conduct an independent assessment of worker rights in each country or to independently verify specific allegations of worker rights abuses. Rather, we relied primarily on discussions with country officials and State and Labor Department and USTR reports. In the Dominican Republic and Guatemala, we discussed the allegations where possible with government officials, including senior labor inspection officials. Although much of the available information on worker rights was not industry specific, we tried to obtain as much specific information pertaining to the apparel industry as possible. We also assessed private sector efforts to address concerns about working conditions in these CBI countries through codes of conduct. We obtained information on industry association and company codes of conduct from industry associations, companies, and labor and human rights groups in the United States, as well as in the Dominican Republic and Guatemala. (See app. IV for further details about the objectives, scope, and methodology for this review.)

Background

CBI was announced in 1982 to promote export-led growth and economic diversification in the countries of the Caribbean Basin.⁷ Although most CBI products enter the United States duty free, textiles and apparel were specifically excluded from duty-free entry. In 1986, the Special Access Program was initiated to provide trade preferences for apparel assembled in CBI countries from U.S.-formed and -cut fabric and imported to the United States under the production-sharing provisions of item 807 of the U.S. Tariff Schedule (now heading 9802 of the U.S. Harmonized Tariff

⁶Jamaica seems to be a unique case among these countries in that it has a history of strong worker rights standards that differs from the history of labor problems experienced elsewhere in the region. Many Jamaican political leaders came out of its labor movement. State Department reports on worker rights in Jamaica state that the government generally enforces the labor law effectively. Also, there have been no GSP worker rights cases filed. For this reason, the discussion in this report about worker rights problems generally does not pertain to Jamaica.

⁷CBI legislation, the Caribbean Basin Economic Recovery Act (P.L. 98-67, title II), was enacted on August 5, 1983, and implemented beginning January 1, 1984 by presidential proclamation.

Schedule).⁸ Under the Special Access Program, CBI countries became eligible to negotiate bilateral agreements with the United States containing favorable quotas, or Guaranteed Access Levels (GAL), for these products. The Special Access Program allows for virtually quota-free access to the U.S. market for CBI apparel assembled from U.S.-formed and -cut fabric. The six CBI countries that had GALs in 1997 were Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Jamaica.

The data on trends in apparel imported to the United States under production-sharing provisions from 1987 to 1997 show that total CBI imports grew by over sevenfold, from \$864 million to \$6.4 billion. However, the performance of individual CBI countries varied. For example, the value of these imports rose from \$336 million to \$2.1 billion for the Dominican Republic, consistently the leading CBI apparel shipper, and from \$113 million to \$425 million for Jamaica, which moved from third to last place among the six CBI countries with GALs. The countries with the fastest rates of growth over the last 4 years were El Salvador and Honduras. (See app. I for more detailed information.)

The shift of apparel assembly to the Caribbean Basin—over half of all imports under production-sharing provisions come from the CBI countries—is a source of concern to U.S. apparel unions, although apparel manufacturers believe their ability to compete to some extent depends upon it. The U.S. apparel manufacturing industry, for a variety of reasons, went from a peak of 1.45 million workers in 1973 to 853,000 workers in May 1996, a drop of 41 percent. The unions, as well as labor rights advocacy groups, are concerned that U.S. jobs are being lost and that the workers in apparel assembly plants in developing countries are being employed under abusive labor conditions. The apparel and textile manufacturers and retailers say that the intense price competition in the U.S. market is driving apparel assembly jobs to low-cost countries and that production-sharing reduces the loss of jobs in the U.S. apparel manufacturing industry to imports with no U.S. content. Apparel manufacturers state that U.S. companies take their working standards with them and U.S.-owned plants are considered to have the best working conditions in these countries.

⁸Production-sharing occurs when certain aspects of an article's manufacture are performed in more than one country. By importing products under the production-sharing provisions of heading 9802, companies are exempted from paying U.S. Customs duties on the value of the U.S.-made components used in making imported products. The United States started participating in the international Harmonized System in 1989. For more information about the Special Access Program and apparel import levels, see Caribbean Basin Apparel Imports.

Generally, to be eligible for CBI or GSP benefits, countries must have taken or be taking steps to afford workers in that country (including any designated zone in that country) internationally recognized worker rights. Internationally recognized worker rights are defined as including (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.⁹ According to USTR, while a beneficiary country's level of development is taken into account in assessing worker rights situations, it is U.S. policy that basic human rights are universal and that all governments are required to respect basic human rights, which include the first three cited worker rights, irrespective of social systems or stage of economic development. Worker rights petitions can be filed under the GSP annual review process to challenge a country's eligibility for GSP benefits when parties believe that worker rights violations are occurring. Loss of GSP benefits in such a case would generally result in the loss of CBI benefits as well. Under the GSP annual review, governments, not individual companies, are held responsible for worker rights in a country.

Results in Brief

The major CBI apparel shipping countries have made efforts to improve worker rights in recent years; however, allegations of worker rights violations persist and enforcement of labor laws generally remains a problem. Governments have reformed their labor laws to meet international standards where needed and have been making efforts to upgrade the performance of their labor departments. These reforms have included strengthening and streamlining procedures to form unions and negotiate collective bargaining agreements, establishing labor courts, enhancing the labor inspection and enforcement capabilities of labor ministries, and increasing salaries and training for labor inspectors. All the major CBI apparel shipping countries except Jamaica had GSP worker rights petitions filed against them over the past decade, and all have been settled with a determination that steps had been taken to improve worker rights. However, unions and human rights groups claim that labor laws are still not being adequately enforced and worker rights abuses are continuing. There are persistent reports of abuses, such as firing union organizers, refusing to engage in collective bargaining, and forcing overtime work, as well as of workplace health and safety hazards. Our work in the Dominican Republic and Guatemala and review of State and Labor Department reports indicates that while efforts to improve worker rights

⁹19 U.S.C. 2467(4).

are continuing in CBI countries, there is some validity to allegations of worker rights violations. CBI governments' enforcement efforts have been hampered in many cases by limited resources and training, as well as by judicial systems that are generally inefficient and sometimes susceptible to corruption, according to recent State and Labor Department reports.

Prompted in part by continuing allegations of labor violations, the private sector has taken steps designed to assure consumers of acceptable working conditions in their industries. Industry associations located in El Salvador, Guatemala, Honduras, and Costa Rica have established workplace codes of conduct to be voluntarily adopted by their members. In the United States, two organizations have created industrywide workplace codes of conduct that can be voluntarily implemented by companies with domestic and overseas contractors and suppliers. In addition, numerous U.S. apparel companies have also established their own individual company codes of conduct for their domestic and overseas operations. However, across all these private sector efforts, there is no agreement within the industry on an effective means to monitor and enforce these codes of conduct.

Efforts Made to Improve Worker Rights, but Enforcement Remains a Problem

The major CBI apparel shipping countries have made efforts to improve worker rights to meet international standards in recent years. The GSP annual review process has provided an important mechanism for the filing and resolution of worker rights petitions and has played a role in encouraging the adoption of reforms. Since the early 1990s, CBI countries have undertaken worker rights reforms that have included revising their labor codes to meet international worker rights standards, improving governmental processes for resolving worker rights problems, and working to enhance the performance of their labor ministries. Despite these worker rights reforms, reports of abuses in working conditions—such as firing union organizers and forcing overtime work—have persisted, and our work shows that enforcement of labor laws generally remains a problem.

Worker Rights Enhanced Across CBI Region

The GSP annual review mechanism has provided an important means by which worker rights reforms could be encouraged. All the major CBI apparel shipping countries except Jamaica had GSP worker rights petitions filed against them over the past decade, and all have been settled with a determination that steps had been taken to improve worker rights. However, GSP is only one piece of the larger picture. The past decade has

been a period of fundamental political and economic changes in most CBI countries that preceded the labor reforms that followed.¹⁰ In addition, reform governments came to power in most CBI countries that wanted to more fully integrate their economies into the regional and global economy and acknowledged that they must meet international standards. Since the early 1990s, the major CBI apparel shipping countries have reformed their labor laws where needed to meet international worker rights standards, strengthening their labor code provisions related to the right of association and the right to organize and bargain collectively. They have also been making efforts to improve their processes for resolving worker rights problems, such as by creating tripartite labor councils to resolve labor issues, establishing the government's authority to revoke the export licenses of companies that violate labor laws, and by setting up new or additional labor courts to handle labor cases. Moreover, they have taken initiatives to improve the performance of labor ministries by reorganizing them to make them more efficient, increasing labor inspectors' salaries, and providing training. CBI countries are also participating in a regional initiative to harmonize labor codes and modernize labor ministries.

GSP Worker Rights Reviews Encourage Improvements

Worker rights reforms made since the early 1990s were encouraged, in part, through the GSP worker rights review process. The GSP Program's annual review process provides an important mechanism for petitions to be brought against beneficiary countries in cases in which worker rights violations are alleged. The GSP Subcommittee, an interagency working group of the Trade Policy Staff Committee led by USTR, reviews petitions in a two-stage decision process. In the first stage, a decision is made on which petitions to accept for full review. Factors such as sufficiency of evidence and whether substantially new information is presented in resubmitted cases are considered. In the second stage, the accepted petitions are fully reviewed, and a decision is made on whether beneficiary countries are meeting worker rights standards. All the major CBI apparel shipping countries except Jamaica had GSP worker rights petitions brought against them, usually by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), as well as labor rights and human rights groups concerned about labor abuses in these countries. Of the 15 petitions filed from 1987 to 1997, 5 were accepted for review. These petitions generally focused on violations of the right of association or the right to organize and bargain collectively, that is, unionization issues. These reviews often were continued, or "pending," over a number of annual review cycles, as USTR consulted with CBI governments over the steps that

¹⁰For example, El Salvador's civil war was settled and the peace accords signed in 1992. Guatemala returned to civilian government in 1986 and started a peace process that resulted in the signing of peace accords in December 1996, ending 36 years of internal conflict.

needed to be taken. In some cases, labor code reforms were drafted, debated, and enacted in legislatures, or governments took other substantive actions to enhance worker rights. From 1987 to 1997, all the cases were closed with U.S. government determinations that steps had been taken in providing internationally recognized worker rights.

Table 1 shows GSP worker rights petitions accepted for review against CBI countries, the worker rights violations alleged in the petition, and a summary of the outcome of the review and steps taken.

Table 1: GSP Worker Rights Cases Accepted for Review Against Major CBI Apparel Shipping Countries, 1987-97

| Country | Year(s) | Violations alleged in petition | Outcome of review & steps taken |
|--------------------|---------|--|--|
| Costa Rica | 1993 | *Right of association *Right to organize & bargain collectively *Acceptable conditions of work | Petition withdrawn 11/16/93 after labor code reforms enacted 11/12/93 and Supreme Court decision of 10/93 enforcing right of association/collective bargaining. Review terminated 12/93. |
| Dominican Republic | 1989-91 | *Right of association *Right to organize & bargain collectively *Forced labor *Child labor | Review terminated in 1991 due to introduction of labor code reform legislation, which was enacted in 5/92. |

(continued)

| Country | Year(s) | Violations alleged in petition | Outcome of review & steps taken |
|-------------|---------|---|--|
| | 1993-94 | *Right of association *Right to organize & bargain collectively Allegations of government not enforcing reformed labor code | Petition withdrawn 10/94. Review terminated 12/94. Government showed the will to enforce the labor code in export license suspension and other actions to enhance worker rights enforcement. |
| El Salvador | 1990-94 | *Right of association *Right to organize & bargain collectively | Review terminated 7/94. Labor code reforms enacted 4/94. |
| Guatemala | 1985 | General review ^a | Review terminated January 1987; Guatemala found to be taking steps. |
| | 1992-97 | *Right of association *Right to organize & bargain collectively | Review terminated 5/97. Labor code reforms in 11/92. ^b |

(Table notes on next page)

^aWhen GSP was reauthorized by the Trade and Tariff Act of 1984 (P.L. 98-573, Oct. 30, 1984), worker rights eligibility criteria were added. The GSP Subcommittee conducted a general review of worker rights in beneficiary developing countries at that time. It reviewed 11 countries and announced the results in January 1987. Guatemala was the only one among these six countries to be included in the general review. No subsequent general review has been conducted.

^bAlthough Guatemala reformed its labor code in 1992, the GSP worker rights review was not terminated until May 1997. A USTR official stated that every time the United States started to consider termination, there was some worker rights violation or incident that required further review. At the same time, there were concerns about the Guatemalan government's ability to enforce its labor laws. According to a U.S. embassy official, the Guatemalan government felt that the goalposts were constantly being moved and that nothing it did would be enough.

Sources: USTR and Departments of Labor and State.

There was also another noteworthy petition that is not in this table because it was officially rejected for review. It was a petition against Honduras in June 1995 in which the petitioner alleged violations of the right of association and the right to organize and bargain collectively, and claimed that the Honduran government was not enforcing the labor code. USTR entered into consultations with the Honduran government and negotiated a memorandum of understanding in November 1995, under which the Honduran government agreed to take steps to better enforce its labor laws.

Because CBI trade preference benefits are linked to GSP benefits through the worker rights provisions that are part of the conditions for eligibility for both, U.S. government and private sector officials stated that the U.S. government had substantial leverage in encouraging CBI governments to take steps to improve worker rights. In fact, the labor code reforms that were undertaken were associated with GSP worker rights reviews of that country. While certainly not the only factor, GSP reviews are generally considered to have played an important role in encouraging reforms to meet international worker rights standards. (See app. II for more information.)

Labor Codes Reformed to Meet International Worker Rights Standards

In the early 1990s, there was a wave of worker rights reforms, with new labor codes passed in the Dominican Republic and Guatemala in 1992, Costa Rica in 1993, and El Salvador in 1994.¹¹ The two areas of greatest focus in the worker rights reforms were the right of association and the right to organize and bargain collectively.¹² These two worker rights,

¹¹In the case of Honduras and Jamaica, their labor laws generally met international standards, according to State Department officials.

¹²Country Reports on Human Rights Practices, U.S. Department of State (Washington, D.C.: 1992-97). This is an annual report to the Congress. (Hereafter referred to as the Human Rights Report.) We reviewed Human Rights Reports for 1992-97 for the six major CBI apparel shipping countries.

together with the prohibition on the use of any form of forced or compulsory labor, are considered basic human rights, according to USTR. While forced labor has generally not been an issue in the major CBI apparel shipping countries, the rights of association and of organizing and bargaining collectively—fundamental unionization rights—have been very problematic.

The right of association was strengthened by these CBI governments through labor code reforms that included protecting union organizers from dismissal during union formation and streamlining the process to form a union. In the Dominican Republic, for instance, the new labor code of 1992 specified in detail the steps legally required to establish a union and provided for automatic recognition of a union if the government did not act on the union's registration application within 30 days, according to the Dominican Secretary of Labor. In Guatemala, the labor code was amended in 1992 to provide that legal recognition of a new union was to be finalized by the Ministry of Labor within 20 days, shortening the time frame from 60 days. The labor regulations were also revised to include specific wording indicating that Ministry officials responsible for delaying petitions for union status could be fired, according to USTR GSP documents and the Human Rights Report for 1993. Authority to grant legal status to a union, formerly the exclusive domain of the President, was transferred to the Minister of Labor. The reform also strengthened a provision that in the event that the Labor Ministry determines that workers were dismissed for union formation activities, they are to be reinstated within 24 hours of the determination.

The right to organize and bargain collectively was strengthened through labor code reforms that included protections for union organizers and specification of the procedures for entering into collective bargaining agreements. For example, in the Dominican Republic, the former labor code did not prohibit employers from firing workers who organized as long as severance pay was given, according to the Human Rights Report for 1992. Companies were able to fire union organizers as soon as they attempted to form a union. The new labor code provided job protection for specific numbers of union organizers and officials, so that union representatives could not be fired without just cause. The right to organize and bargain collectively was also strengthened in this way in the labor code reforms of Costa Rica and Guatemala. (The Salvadoran Constitution already included such a provision.) In Costa Rica, there was also concern that Solidarity Associations were beginning to infringe on unions'

collective bargaining rights.¹³ The Human Rights Report for 1993 notes that the reforms established that only trade unions had the right to bargain collectively on behalf of the workers. Similar reforms pertaining to Solidarity Associations were also made in Guatemala.

The International Labor Organization (ILO) was also involved in working with CBI governments in improving the worker rights standards in their labor codes. ILO worked extensively behind the scenes in providing technical assistance for the labor code reforms that were enacted in Costa Rica, the Dominican Republic, and El Salvador. Similar technical assistance has been provided to Guatemala and Honduras, where proposed reforms are still under consideration.

Efforts to Improve Process for Resolving Worker Rights Problems

Some countries established tripartite commissions, with representation from industry, labor, and government, to work together to resolve worker rights issues. For example, the Dominican Republic established the Tripartite Oversight Commission in August 1993 to mediate disputes in the free trade zones.¹⁴ In April 1994, an agreement was signed between the government, the Dominican Association of Free Trade Zones, and five of the six major labor confederations that established (1) the rules governing the Commission's mediation process for collective disputes in the zones and (2) an Educational Commission to enhance knowledge of the labor code and worker rights, according to USTR GSP documents. The sixth confederation signed the agreement later that year. The Human Rights Report for 1996 notes that a tripartite commission was also established in El Salvador in August 1996 to help resolve conflicts in the zones and in-bond plants.

An important reform undertaken by some of the major CBI apparel shipping countries focused on their export license authority. They established or reaffirmed a legal provision that companies in free trade zones must abide by national labor laws or their export licenses could be revoked. In a high-profile case in the Dominican Republic, an apparel company had a persistent record of illegal anti-union behavior. It had

¹³Solidarity Associations are formed by employers to provide access to credit unions and savings plans for their workers, as well as other benefits such as food purchase cooperatives and educational programs. Unions contend that such associations are used by companies as a kind of company union to preclude the development of real unions where workers would have bargaining power.

¹⁴Free trade zones, or export processing zones, are secured areas that are officially outside of a country's customs territory. Foreign-made inputs imported into these zones for export-oriented manufacturing are exempt from import duties. However, firms must post a bond with the local customs authorities until their production is exported. When production-sharing takes place in plants located outside such zones, such firms also post a bond for their production, which is similarly held outside of the customs territory for assembly and reexport. Plants with such production-sharing are often called "maquiladoras," or maquilas, for short.

refused to obey a court order to reinstate an unjustly fired worker, and it was also accused of harassing union organizers on the eve of elections that could have set the stage for a collective bargaining process. In response to these and other anti-union activities, the AFL-CIO filed a GSP worker rights petition in June 1993 stating that the government was not enforcing the new labor code. After the GSP case was filed, the Dominican National Free Zones Council used its authority for the first time in April 1994 to suspend the export license of this apparel company for 10 days. Following the suspension, the company immediately reinstated the worker, after having refused to do so for 2 years. Labor relations improved at the firm, eventually facilitating the signing of the first collective bargaining contract in the history of Dominican free trade zones. After this breakthrough, three other collective bargaining agreements were signed in the zones before the end of the year, according to USTR GSP documents and a Labor Department report. Also, in El Salvador, the Human Rights Report for 1996 notes that a new law was passed in January 1996 that gave the Ministry of Economy the power to remove free zone privileges from companies violating labor regulations.¹⁵

Some of the major CBI apparel shipping countries have established or expanded separate labor courts within their judicial systems, which have generally been inefficient and often corrupt, according to the State and Labor Departments. Others are reforming their national judicial systems. For instance, the 1992 labor code reform in the Dominican Republic created labor courts in the capital, Santo Domingo, and the second largest city, Santiago, which began functioning in January 1993. Labor cases in other parts of the country continued to be handled in regular courts, according to a Labor Department report. The Dominican Secretary of Labor told us in July 1997 that three additional labor courts had been established in 1994 and that they had recently approved another. However, the Dominican government has recently also begun to overhaul its judiciary, as promised by the new administration that took office in 1996. A new 16-person Supreme Court was installed in August 1997, which, in turn, began a revision of the labor courts. The Human Rights Report for 1997 states that the system of labor courts established in the 1992 labor code reform to deal with labor disputes had proven ineffective at enforcing the law. There had been many reports of bribes solicited by labor judges from companies during the deliberation process. The new Supreme Court's overhaul of the labor courts had resulted, as of

¹⁵This authority also resides in the Ministry of Economy in Honduras. In Costa Rica, according to the State Department, the labor code does not directly provide for such suspensions. However, indirect authority exists since a company's violation of labor, safety, tax, or other laws may be considered criminal offenses, resulting in suspension of operations, and thus stoppage of exports.

Steps Taken to Improve Performance of Labor Ministries

January 1998, in the dismissal of the President of the labor court in Santo Domingo. In Guatemala, the President of the Supreme Court announced creation of eight new labor courts and two appeals courts in November 1996, according to the Human Rights Report for 1997. Seven of the new labor courts have been set up and are functioning.

CBI governments have also made efforts to improve the performance of their labor ministries. For example, some governments have reorganized labor ministries to streamline their operations and make them more efficient. Other steps have included increasing salaries of labor inspectors to redress past problems with bribery and increasing the training of Labor Ministry employees. CBI governments are also participating in a regional initiative to harmonize labor codes and upgrade the performance of labor ministries.

In Honduras, inadequate enforcement by the Ministry of Labor had been a major concern. According to the Human Rights Report for 1994, Honduran labor leaders believed that worker rights violations would continue until the Ministry of Labor was reorganized to make it more efficient. Specifically, labor leaders felt that the Ministry was not enforcing the labor code, was taking too long to make decisions, and was timid and indifferent to workers' needs. In June 1995, the AFL-CIO filed a GSP worker rights petition against Honduras, and USTR entered into consultations with the Honduran government. The case was resolved by a November 1995 memorandum of understanding between the Ministry of Labor and USTR, which called for greater enforcement of the Honduran labor code. The Human Rights Report for 1996 found that the Ministry had made significant progress toward enforcing the code. For example, the report cited a case in which the Ministry had imposed a \$10,000 fine on a company for failure to rehire 16 workers fired for organizing a union. This action resulted in the company reinstating the workers the next day. The Ministry also increased its inspections of maquilas and the training of its inspectors; however, the Human Rights Report noted that more needed to be done to completely adhere to international worker rights standards. In January 1998, a new government took office and appointed a Labor Minister who had been Secretary-General of one of the three union confederations for 28 years. The new Minister has said publicly that he needs a 25-percent budget increase and that the Ministry needs computers and training funds.

In the Dominican Republic, the Secretary of Labor told us in July 1997 that within the last 5 years the Labor Secretariat had created a new Department

of Inspection. The Secretariat had computerized its labor force registry, which included enterprises, the number of workers, and collective bargaining contracts. There was a second data base, which, among other things, enabled workers to come to the Secretariat to double-check how much severance a company owed them. The Labor Secretariat had also reorganized its labor inspector corps. The Director of Inspections for the National District told us that the new labor code provided that labor inspectors be lawyers, so that the Secretariat would have a more professional corps that better understood the law. Within 4 years, the Labor Secretariat had also tripled inspectors' salaries in order to reduce the temptation to accept bribes, and it planned additional increases in salaries if the budget permitted. In addition, the Secretariat had set up procedures so that labor inspectors did not know which plant they would inspect in advance and rotated inspectors in order to make it harder for the companies to bribe them.

In Guatemala, the Inspector General of Labor told us that the functions of the Labor Inspection Division were reorganized and streamlined in June 1997. She also told us that the Ministry was planning to computerize its operations. According to the Human Rights Report for 1997, enforcement is improving as new labor inspectors complete their training and as the rate of inspections has increased. The Ministry has increased the number of court cases filed for failure to comply with the labor code and has begun an educational campaign on worker rights. In terms of training, the Labor Ministry opened a School of Mediation and Conciliation in July 1997, with assistance from the U.S. Agency for International Development (USAID) which is funding the salaries of instructors. The school is providing a tuition-free, 6-month, university-level course of study for about 30 students each July and January of the year. The top 10 graduates will be offered jobs in the Ministry's new Mediation and Conciliation Division.

In addition, the USAID office in Guatemala has sponsored three occupational safety and health seminars over the last 2 years. According to a Labor Department official who has participated in the seminars, the seminar is a basic introduction to the issue, since there are few standards. The occupational safety and health inspectors only inspect after the fact to determine the level of indemnification due to the worker, not to prevent problems. During the training course, the instructors take the participants on plant visits to see how to use the equipment.

In El Salvador, a new law reforming the Ministry of Labor was passed in January 1996. The Minister of Labor reorganized the Ministry, increased

the number of inspectors, and opened field offices in two free trade zones. The Human Rights Report for 1997 noted that the Labor Ministry had made significant progress in modernizing its facilities and professionalizing its staff. According to a U.S. embassy official in April 1998, the Minister has succeeded in enhancing the authority of the Labor Ministry. The Minister has gotten an increase in his budget over the last 2 years and has worked to raise the professionalism of the Ministry, including providing training for the inspector corps. In addition, the Ministry of Labor strongly supports starting a regional labor training school and is working with the Inter-American Development Bank (IDB)¹⁶ to get a loan for this school.

CBI countries are also participating in a new regional initiative to improve the capabilities of ministries of labor throughout the region,¹⁷ through a jointly funded USAID and IDB program. The USAID component, called PROALCA, is a regional program designed to encourage the Labor Ministers to get together to harmonize labor codes, develop strategies for regional integration, devise a joint strategy for accession to the Free Trade Area of the Americas,¹⁸ and, finally, to develop a strategy to upgrade the ministries of labor in the areas of labor inspection and labor management relations. A USAID official told us that the aim is to get governments to think more strategically on a regional basis and to preclude competition among countries based on worker rights and lower labor costs. USAID will provide technical assistance and a grant of \$5 million over 5 years. The IDB's efforts for its component, the Labor Market Modernization Program, are focused on four areas: (1) producing research to give an empirical basis to claims about labor law reforms in the region, (2) creating information systems for the labor market for the labor ministries, (3) promoting harmonization of labor standards, and (4) running a series of pilot programs to test new approaches. An IDB official told us that the IDB has made an initial commitment of \$4 million per year and has also required counterpart funding from each country's Labor Ministry, totaling \$1 million per year. Together with USAID's commitment, funding would total \$6 million per year over 5 years.

¹⁶The IDB is a regional financial institution that works to accelerate economic and social development in Latin America and the Caribbean.

¹⁷The eight countries participating in this regional initiative include Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

¹⁸The 34 democratically elected leaders in the Western Hemisphere committed in 1994 to conclude negotiation of a Free Trade Area of the Americas by 2005.

Allegations of Worker Rights Abuses Persist, and Labor Law Enforcement Remains a Problem

Although worker rights progress has been made since the early 1990s, enforcement of labor laws generally remains a problem. There are continuing reports of abuses, such as firing union organizers, refusing to engage in collective bargaining, and forcing overtime work, as well as of workplace health and safety hazards. Our work in the Dominican Republic and Guatemala, the State Department's annual Human Rights Reports, and Labor Department reports indicate that, despite the progress that has been made, there is some validity to allegations of worker rights violations. CBI governments' enforcement efforts have been hampered in many cases by limited resources and training, as well as by judicial systems that are generally inefficient and sometimes susceptible to corruption, according to recent State and Labor Department reports.

Dominican Republic

In the Dominican Republic, for example, there are reports of widespread discreet intimidation by employers of union activity, according to the Human Rights Report for 1997. Union members in free trade zones said that they hesitate to discuss union activity at work, even during break time, for fear of losing their jobs. The report notes that some Dominican zone companies have a history of discharging workers who attempt to organize unions. Although there are about 100 unions in the zones, many exist only on paper. Only eight of these unions have collective bargaining agreements. During our visit there in July 1997, the Secretary-General of the National Federation of Free Trade Zone Workers (FENATRAZONAS), the union federation for the majority of zone unions, told us about nine cases of anti-union behavior that the federation was pursuing, in which the common element was that apparel maquilas had fired union leaders and members due to their union activities. FENATRAZONAS officials alleged that some of these union leaders and members were also targets of physical intimidation and, in one case, that the union leaders were fired, accused of damaging work, and jailed.

We visited three of the apparel plants about which FENATRAZONAS had complained that union leaders had been fired and discussed their allegations with the labor inspection office at the Secretariat of Labor. When we interviewed the managers at the three plants, none acknowledged having unions in their plants. Managers at the first two plants told us that union organizers had falsely set up a union organizing committee in order to solicit severance payments.¹⁹ The managers at the third plant told us that they were challenging the legitimacy of the union

¹⁹At the first plant, the company had paid the severance. After mediation at the Labor Secretariat, the second company offered reinstatement, but the workers did not accept.

registration in court.²⁰ The labor inspectors reviewed these allegations and concluded that the union organizers had been fired in all three cases because of their union activities.²¹ Given the Labor Secretariat's assessment, the result was that the unions in these three companies were effectively undercut. The Labor Secretariat only has authority to make determinations and to try to mediate resolutions, it cannot sanction companies. Cases of violations may be brought to the courts, which have the authority to levy fines, but which are generally inefficient and often have been corrupt, according to Human Rights Reports. Moreover, the authority to suspend a company's export license rests with the National Free Zones Council, which, according to a Council official, would only use this authority in extreme cases.

Another problem in the Dominican Republic was with forced overtime, according to the Human Rights Report for 1997, Labor Secretariat officials, and union representatives we talked to. There were numerous reports of forced or coerced overtime in factories, as well as instances of workers being fired for refusing to work overtime. In addition, the report noted that the Dominican government, in September 1997, denounced the fact that many employers withheld Social Security payments from employee paychecks but did not transfer the funds to the Dominican Social Security Institute. The government estimated that the Institute lost \$11 million (160 million pesos) a month. An associated problem, according to FENATRAZONAS, was that if Social Security payments were not made, workers could not receive medical service from the Social Security hospitals.

During our trip to the Dominican Republic, we visited nine apparel plants in five zones (including three of the plants that FENATRAZONAS had described), where we interviewed the plant managers and toured the plants. Although we did not conduct a formal inspection of these plants, we did observe physical working conditions.²² While most of the plants appeared to have acceptable physical working conditions, in a few plants the ventilation was poor; the restroom facilities were unsanitary; and the

²⁰They said that the union organizers had arranged a meeting under false pretenses and then used the attending workers' names without their permission to register the union and had also used names of workers who were not employees.

²¹The Labor Secretariat's determination in these three cases was that unions had officially been registered at all three plants and if a company wanted to challenge a registration in court that was its right. Their investigations had not addressed whether the unions in the first two cases were extortion attempts. However, in other discussions at the Labor Secretariat, officials had acknowledged that such attempts have occurred at times. To preclude such attempts, they supported reinstatement of fired union members rather than severance payments.

²²We observed conditions related to lighting, drinking water, restrooms, ventilation, fire extinguishers, and fire doors and exits.

exit doors were padlocked, including two of the three plants at which anti-union complaints had been made. Given the limited number of plants we were able to visit, and because we only visited plants that agreed to be visited, this should not be considered a representative sample of all Dominican plants. Furthermore, our observations of the plants were limited to physical working conditions.

Guatemala

In Guatemala, while the law protects workers from retribution for forming and participating in union activities, enforcement is spotty, according to the Human Rights Report for 1997. The report noted that while an increasing number of employers accept unionization, many routinely try to circumvent labor code provisions in order to resist union activities, which they view as historically confrontational and disruptive. While the law specifies that workers illegally fired for union activity should be reinstated within 24 hours, employers often file a series of appeals or simply defy judicial orders of reinstatement. An ineffective legal system and inadequate penalties for violations have hindered enforcement of the right to form unions and participate in union activities, according to the report. During our visit to Guatemala in August 1997, we met with officials of two unions, the Guatemalan Labor Unity Confederation and the Guatemalan Workers' Trade Union Syndicate, who cited numerous cases in which they said union organizers were fired or intimidated. They also cited cases in which companies closed to avoid dealing with unions. (A different perspective was held by many of the plant managers and industry representatives we met, who believed that these plants had closed because union demands had driven them out of business.)

According to the Human Rights Report for 1997 and union representatives, the lack of effective enforcement of the Guatemalan labor code is also due to a scarcity of labor inspectors, continuing corruption, the absence of adequate training and resources, and structural weaknesses in the labor court system. The labor courts have generally been ineffective, and efforts to restructure and modernize the labor court system have made little headway. In addition, occupational health and safety standards are inadequate, as is their enforcement. When serious or fatal industrial accidents occur, the authorities generally take no steps against those responsible. The Labor Ministry provides training for labor inspectors in health and safety standards but does not accord such training a high priority, due to scarce resources.

During our trip to Guatemala, we visited four apparel plants, where we interviewed the plant managers and toured the plants. As in the Dominican

Republic, we did not conduct a formal inspection, and our observations of the plants were limited to physical working conditions. All the Guatemalan plants appeared to have acceptable physical working conditions. Given the limited number of plants we were able to visit and because we only visited those plants that agreed to be visited, this should not be considered a representative sample of all Guatemalan plants.

A recent case at a U.S.-owned apparel plant in Guatemala, which was investigated by Human Rights Watch, is an example of the difficulties encountered in enforcing worker rights against anti-union discrimination, even in what was generally considered to be a model plant. The plant management had refused to negotiate a collective bargaining agreement with the union, as was required by the labor law, because management did not accept the union's declaration that it had gained membership of 25 percent of the work force. Subsequently, there were irregularities in the Labor Ministry's handling of the registration by the union, and there were indications that the plant managers reacted by discriminating against union members in order to induce them to quit the union or the plant, according to the Human Rights Watch study. The U.S. apparel company subsequently accepted the findings and recommendations of the study and negotiated a collective bargaining agreement with the union. This was the first collective bargaining agreement to be reached in a Guatemalan maquila.

Other CBI Countries

To varying degrees, the problems with enforcement appear to be similar in the other CBI countries, according to the Human Rights Report for 1997, Labor Department reports, and discussions with U.S. embassy officials. Even in Costa Rica, where enforcement seems to be somewhat stronger, workers trying to form unions can still lose their jobs. The Labor Ministry has 1 inspector for every 30,000 workers in the zones. Due partly to budgetary constraints, the Ministry has also not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside the capital, San Jose, according to the Human Rights Report for 1997.

In El Salvador, there is still an anti-union atmosphere, with continued reports of employers using illegal pressures, including dismissing labor activists, to discourage organizing, according to the Human Rights Report for 1997. For instance, in one high-profile case discussed in a Labor Department report,²³ a union federation had attempted to organize a union

²³Foreign Labor Trends: El Salvador, 1995-1996, U.S. Department of Labor, Bureau of International Labor Affairs (Washington, D.C.: 1996).

at a Taiwanese-owned plant in a San Salvador free trade zone, which had resulted in violence and the firing or resignation of 300 workers in 1995. The case generated interest in the United States and led to a consumer boycott of one of the plant's well-known U.S. customers. The U.S. apparel firm subsequently reached an agreement with the company in March 1996 to establish standards to protect worker rights in the plant and to have an independent monitoring group ensure compliance. A U.S. embassy official, in April 1998, said that there was a strong general feeling in El Salvador that the unions represented a disruptive element. This belief had been amplified by the civil war, in which unions were seen as radicals. He said that this perception is improving slowly and there is more cooperation now between business and labor. In terms of enforcement, the Human Rights Report for 1997 stated that corruption continued to affect labor inspectors and courts, but improvements in training and salaries had begun to address this problem. In the area of occupational safety and health, regulations were outdated, and enforcement, while improved, was inadequate. The report noted that the Labor Ministry attempted to enforce regulations, but had limited, though growing, resources to ensure compliance.

In Honduras, unions were active in the government-owned Puerto Cortes free trade zone, but factory owners have resisted union efforts to organize in the new, privately owned zones, according to the Human Rights Report for 1997. In one case, workers starting organizing at a Korean-owned plant in a zone near San Pedro Sula in August 1996, resulting in mass firings and intimidation. Although the company signed an agreement with the Labor Ministry to reinstate fired workers, not all were rehired, according to an official of the AFL-CIO's American Center for International Labor Solidarity, known as the Solidarity Center. The company also began to organize a company-controlled union to compete with the first union. The Solidarity Center official said that two high-level Labor Ministry officials had personally intervened to intimidate union leaders on behalf of the company in April 1997. A U.S. embassy official said that the unions had never filed a formal complaint about this incident with the government. In June 1997, the company agreed to allow an independent monitoring group to observe working conditions in its plant.

Informal blacklisting has occurred in the privately owned Honduran free trade zones, according to the Human Rights Report for 1997. There were reports that some inspectors had sold the names of workers involved in forming unions to companies that then fired them before the Ministry could recognize the unions. There were also reports of compulsory

overtime at zone plants. In addition, the report notes that the Ministry of Labor lacked the staff and resources for effective enforcement of either the labor laws or the national health and safety laws. A U.S. embassy official told us in April 1998 that the Ministry employees lacked basic office supplies, computers, and vehicles for inspections. The official said that while the will exists to enforce the labor law, the Ministry is so hampered by inadequate resources and training that it cannot effectively do so. A Department of Labor official gave a similar assessment in January 1998, adding that the Ministry has had trouble paying labor inspectors their per diem and transportation expenses to inspect plants in the San Pedro Sula area, a major industrial center where the maquila sector is growing.

Apparel Industry Acts to Improve Labor Conditions Through Codes of Conduct, but Monitoring and Enforcement Issues Exist

The apparel industry is pursuing numerous voluntary initiatives designed to assure consumers that apparel imported from CBI countries is not manufactured under abusive labor conditions. Apparel assembly or maquila associations located in several CBI countries have established voluntary workplace codes of conduct for their respective members. Two U.S. organizations have also created voluntary industrywide workplace codes of conduct. In addition, numerous U.S. apparel companies have devised their own individual company codes of conduct. Regardless of the approach taken, however, there is no agreement within the industry on an effective means to monitor and enforce these private sector codes of conduct. Many in the apparel industry object to the imposition of outside independent monitors to verify their compliance with the codes of conduct, while consumer and labor rights groups do not believe that codes of conduct will be meaningful without such independent monitoring and enforcement.

CBI Maquila Associations Adopt Workplace Codes of Conduct

Over the past 2 years, CBI apparel assembly or maquila industry associations operating in El Salvador, Guatemala, Honduras, and Costa Rica have established workplace codes of conduct to be voluntarily adopted by their respective members. Although each association's code and approach to implementation and monitoring vary to some extent, they have similar provisions. For example, each association's code includes a prohibition against forced labor, child labor, and employment discrimination; protection of the freedom of association, lawful compensation, and hours of work; and provisions for safe and healthy working conditions. Noticeably absent, however, is a provision recognizing the right of workers to participate in collective bargaining,

although each code acknowledges a commitment to observing the country's laws and labor codes. In addition to these provisions, three of the four associations have the authority to hire external monitors to verify company compliance. However, it is too soon to determine how effective the associations' efforts will be.

In El Salvador, the Salvador Association of Clothing Industries (ASIC) developed its code of conduct in consultation with companies that have codes of conduct, the U.S. embassy, the Ministry of Labor, and ASIC members. ASIC consists of 250 maquilas, all of which have signed on to the code of conduct and have voluntarily agreed to be monitored. ASIC contracted with Peat Marwick, Price Waterhouse, and two other firms to monitor compliance of its code. In May 1998, ASIC began a pilot program under which 10 maquilas will be audited on a biannual basis. Companies that receive positive evaluations would get a seal of approval that they can use to assure customers that they are in conformance with labor standards. In the event that a problem is found, the auditing firms would discuss any problems directly with the maquila and allow the maquila 4 weeks to take corrective action. If problems persist, the auditing firm would request that ASIC work to bring those maquilas into compliance with the code. If ASIC is unsuccessful, it would contact the Vice Minister of Commerce and Industry within the Ministry of Economy. ASIC has not established punitive measures to enforce the code. Any sanctions against ASIC members would be imposed by the government.

The Guatemalan apparel maquila association, the Commission of the Apparel and Textile Industry (VESTEX), was the first of these four maquila associations to establish a voluntary code of conduct. According to VESTEX officials, the association's code was developed based on the codes of companies and consultations with the regional ILO office. Among its provisions, the code of conduct provides for the right of freedom of association, a prohibition against child and forced labor, and the establishment of environmental safeguards. The association's code of conduct was also written in an effort to combat negative images that potential investors might have about labor conditions in Guatemalan apparel plants.

VESTEX hired Ernst & Young International Guatemala, an auditing and consulting firm, to help develop the code of conduct and an accompanying manual for monitoring compliance, to conduct training seminars, and to monitor companies' compliance with the code. VESTEX funds training on its code for each company out of the export fees that it collects from its

members. VESTEX also issues certificates to those companies that have passed audits. In the event that a company is found not to be complying with the code of conduct, VESTEX may withhold certification from the company. As of May 1998, 49 of VESTEX's 236 members have signed on to the association's code of conduct and have agreed to undergo an audit. Of these 49 companies, 24 companies had passed and received certification, 7 were not found in compliance and were recommended for a follow-on audit, and audits for the remaining companies are pending. An Ernst & Young representative noted that some of the problems that were uncovered during the audits were that companies paid bonuses for piecework that required overtime but were not paying overtime wages. The most serious problem was that companies sometimes forced their employees to work overtime.

In Honduras, a U.S. embassy official indicated that the Honduran Maquiladora Industry Association had released its code of conduct to the public in late 1997. The code applies to over 40 companies in the maquila industry. Beyond the establishment of the code itself, the association has not yet set guidelines for implementation. The Honduran Maquiladora Industry Association has the authority to select independent monitors and impose penalties against companies that do not comply with its code. According to the U.S. embassy official, local unions do not favor the code and question its validity, primarily because they doubt that human rights groups and religious groups have the technical expertise to monitor plants.

The Costa Rica Textile Chamber (CATECO) released its code of conduct to the public in June 1997. Almost all of the companies in the textile sector, which are primarily U.S.-owned companies (approximately 55), have signed on to the code. CATECO's code only provides general guidelines for implementation. Unlike maquila associations in the other three CBI countries, CATECO has not established provisions for outside monitors. It also has not established punitive measures to enforce compliance. CATECO has an internal Conduct and Ethics Committee that supervises its company members and their compliance with the code and would conduct an investigation only if a complaint were raised. Otherwise, disputes are usually resolved by worker-management teams at the plant level. According to a U.S. embassy official, CATECO has also started a program to recognize members as "model companies" for registering annual accident rates of 5.9 percent or less, establishing formal occupational safety departments or committees, organizing subcommittees in specific areas, and providing training for their personnel.

Industrywide Standards May Not Be Widely Accepted in the U.S. Apparel Industry

In response to the criticism about labor conditions in apparel plants overseas, two U.S. organizations have established industrywide labor standards that may be voluntarily adopted by U.S. companies and implemented with their domestic and overseas contractors and suppliers. However, whether the apparel industry participates in either organization's initiatives may hinge upon acceptance of industry standards and procedures for monitoring.

Apparel Industry Partnership Launches Initiative on Voluntary Workplace Code of Conduct

In August 1996, President Clinton called upon representatives of the garment and apparel industry, labor unions, and nongovernmental organizations (NGO) to join together as the Apparel Industry Partnership (AIP) to develop a plan that would assure consumers that apparel imports into the United States are not produced under abusive labor conditions.²⁴ In response to this initiative, the AIP announced plans in April 1997 to implement a new Workplace Code of Conduct, which defines "decent and humane" working conditions.²⁵ The AIP also established principles for the ongoing independent monitoring of apparel contractors and suppliers in the United States and abroad. Currently, the AIP is developing the framework to establish a nonprofit association to oversee the implementation of the code of conduct and monitoring apparatus. According to a Department of Labor official, this was the first time that representatives of the apparel industry, consumer groups, human rights and religious rights groups, and labor unions agreed on a workplace code of conduct and principles for monitoring such conduct in the apparel industry. Furthermore, this code of conduct was developed based on international labor standards and comprises many of the best individual company codes, according to an AIP member.

The AIP has worked to reach consensus on how to implement the code of conduct and monitoring apparatus over the past year. The process is not yet complete, and deliberations continue. As of April 1998, the partnership was continuing to develop certification standards for monitors and to determine what or how much information should be disclosed to the public, according to AIP members. One of the key issues addressed was the extent to which human rights groups, labor unions, and NGOs should be

²⁴The AIP consists of nine U.S. apparel and footwear companies. The group's members also include representatives from human rights and labor rights groups and a university. See appendix III for further information.

²⁵The AIP formulated a code of conduct that prohibits (1) forced labor, (2) child labor under the age legally stipulated in the country of manufacture, (3) harassment and abuse, and (4) employment discrimination. The code further sets forth standards on health and safety, freedom of association and the right to collective bargaining, wage and benefits (minimum or prevailing wage, whichever is higher including legally mandated benefits), and hours of work.

involved in the monitoring process. AIP members appear to have reached an agreement that human rights groups and NGOs, as well as accounting firms, can be certified to monitor companies for compliance. Based on the AIP's principles of monitoring, all monitors will consult with local NGOs, if the monitor is not itself an NGO. The AIP was also considering how to handle conflict of interest issues. Specifically, it was determining how companies could use firms as monitors, where a business relationship already existed, without posing a conflict of interest. Monitoring will likely cover a variety of areas, including financial accounting, workplace conditions, and worker rights. According to an AIP member, this initiative would not serve as an absolute guarantee that apparel was made under appropriate labor conditions; it would, if implemented, establish a process to guard against labor abuses and to monitor labor conditions.

The AIP also continues to work on developing a mechanism to inform the public that companies are complying with the code. The AIP has tentatively agreed to publicize a list of companies that are participating in the association's efforts to promote a code of conduct and those that are certified by the association as complying with the code. At present, the AIP continues to determine what and how much information will be disclosed to the association or the public about a company's performance without divulging proprietary business information.

Council on Economic Priorities Also Establishes a Standard to Address Labor Conditions

The Council on Economic Priorities (CEP) is a public research firm that has analyzed the social and environmental records of corporations over the past 26 years. In October 1997, its affiliate, the Council on Economic Priorities Accreditation Agency (CEPAA), established a set of voluntary social accountability standards (SA8000) and a monitoring and certification process to help companies conform with internationally recognized worker rights standards. In many ways, there are similarities between the CEPAA's and the AIP's efforts. For example, the CEPAA's SA8000 and the AIP's code of conduct include provisions on child labor, forced and bonded labor, wages, freedom of association and the right to collective bargaining, discrimination, and occupational safety and health standards. In addition, both groups plan to certify auditing firms and NGOs such as human rights groups to monitor company compliance.

However, there are differences between these two approaches as well. (See app. III for more detailed information.) For example, the CEPAA would certify that individual companies and contractors, at the plant level, are in compliance with SA8000 standards, whereas the AIP would certify a

company's compliance based on monitoring a percentage of a company's contractors and suppliers. Furthermore, the CEPAA's approach includes a provision that allows NGOs, unions, or workers to appeal a company's certification. At present, the AIP's code of conduct and principles of monitoring do not include a provision allowing an interested party to appeal a company's certification. Concerning wages, the CEPAA's standard bases wages on an amount that includes discretionary income,²⁶ rather than on a minimum or prevailing wage, as the standard for remuneration as adopted by the AIP. Another difference is that the CEPAA has a specific provision for the remediation of child labor. Companies must implement a plan to remediate child labor, which may include providing support to enable such children to attend and remain in school and employing their parents or older siblings. According to the AIP principles of monitoring, companies are obligated to establish a means of remediation for noncompliance with the code of conduct including child labor. Although the principles of monitoring do not include any detailed provisions for the remediation of child labor, a Department of Labor official told us in July 1998 that AIP members have agreed on overall provisions for remediation of the standards covered by the code of conduct including child labor.

The Apparel Industry May Not Accept Proposed Industrywide Standards and Monitoring Procedures

Major industry groups and apparel companies have not endorsed either the AIP's or the CEPAA's code of conduct because they object to the imposition of industrywide standards and to these associations' plans for external monitoring of the codes of conduct. The American Apparel Manufacturers Association (AAMA)²⁷ objects to what it sees as AIP and CEPAA attempts to dictate labor standards for the apparel industry. Moreover, it views these efforts as attempts to force compliance with U.S. standards on other countries. In particular, AAMA objects to the CEPAA's SA8000's establishment of a wage standard that includes discretionary income, rather than a minimum or prevailing wage as the standard for remuneration. The National Retail Federation (NRF)²⁸ objects to the CEPAA's wage standard as well.

Apparel industry groups and companies have expressed the strongest objections to the AIP's and the CEPAA's positions on independent

²⁶Wages are computed by determining the cost of a basic food basket (using local government statistics), the percentage of household income spent on food, the appropriate number of household members, and a percent multiplier for providing discretionary income.

²⁷The AAMA represents about 300 members that are responsible for approximately 80 percent of the apparel that is sold in the United States.

²⁸The NRF membership represents an industry that comprises 1.4 million U.S. retail establishments. Its international membership includes 1,000 stores in 50 countries.

monitoring. Both the AIP and the CEPAA allow NGOs, accounting firms, or other independent entities to become certified or accredited as monitors. The AAMA, the NRF, and apparel companies object to these provisions, particularly the AIP's requirement that monitors consult with local labor unions and human rights and religious groups during the monitoring process. For example, these groups are concerned that (1) labor unions, human rights groups, and other NGOs might have their own agendas in participating in the monitoring process; (2) the quality of audits might be impaired by the lack of experienced social auditors; and (3) these are attempts to dictate standards for monitoring across the industry. The AAMA contends that the cost of these audits could be prohibitive to some smaller firms. Therefore, companies should have the flexibility to establish internal monitoring programs or choose their own monitors. Another company representative told us that the AIP's approach might result in inconsistent and uneven monitoring and enforcement, if a firm does not have a consistent program for monitoring compliance at each factory. Furthermore, there would be no institutionalization of the monitoring process due to the variance in participation by local organizations. Thus, there is no consensus on who should control the monitoring. These industry groups have also expressed concerns about disclosing proprietary information such as wages, the names of suppliers, and the results of their audits to possible industry competitors.

Numerous U.S. Apparel Companies Require Contractors to Comply With Company Codes of Conduct, but Whether Current Monitoring Practices Will Be Sufficient Is Unclear

Over the past few years, numerous U.S. apparel manufacturing and retail companies have established their own workplace codes of conduct. A 1996 Department of Labor study²⁹ identified 36 U.S. companies that have adopted some form of code of conduct for their overseas factories and contractors. According to this study, each corporate code varies with respect to its specific labor standards but generally includes such prohibitions as child and forced labor and discrimination based on race, religion, or ethnic origin. These codes also can include health and safety requirements, wage provisions that are based on the local minimum or prevailing wage, limits on working hours and forced overtime, and the right of freedom of association and collective bargaining.

With respect to monitoring and enforcing the codes in overseas plants, the Labor study found that the monitoring programs of U.S. companies included (1) announced and unannounced site visits and inspections and/or (2) contractual monitoring or self-certification by stipulating labor

²⁹The Apparel Industry and Codes of Conduct: A Solution to the International Child Labor Problem? U.S. Department of Labor, Bureau of International Labor Affairs (Washington, D.C.: 1996), p. iv.

standards in contractual agreements and by requiring proof of compliance or reserving the right to inspect plant sites. Enforcement took various forms, including prescreening, monetary fines and penalties, corrective action requirements, educational programs, and contract termination. For example, U.S. companies may prescreen prospective contractors prior to entering into a contractual relationship to assess the contractor's ability to comply with quality control and labor requirements. Once a contractual relationship has been established, the U.S. company may require the contractor to take certain corrective actions if the contractor does not comply with the company's code or other requirements. In extreme cases, such as instances where the contractor has employed child labor, the company may decide to terminate the contract altogether.

Despite the existence of these corporate codes of conduct, Labor's study indicated that the codes were not readily transparent (clear) to the workers, although many but not all of the factory managers were familiar with the codes of their U.S. clients. Workers may have been unaware of the existence of the codes due in part to a lack of effort on the part of managers to inform their workers. Based on plant visits, the study cited only one example of a plant that explicitly informed its workers about its U.S. customer's code of conduct. Moreover, many maquilas often operate under more than one code of conduct, particularly if they are contracting with multiple U.S. companies and belong to maquila associations that have also established a code of conduct. The Labor study expressed a concern that having multiple codes that had different definitions of standards and monitoring requirements created confusion for companies that are required by their U.S. contractors to implement these codes.

Furthermore, current monitoring practices may not sufficiently ensure compliance with company codes of conduct. The Labor study indicated that plants that were either owned by U.S. companies or contracted with U.S. companies appeared to undergo more frequent and thorough monitoring. However, based on field visits conducted at several plants, with some exceptions, U.S. corporations primarily monitored for quality control and health and safety conditions, with little interaction between monitors and workers to determine other labor practices. According to Labor's report, some workers indicated that they had not seen an inspector nor could they be certain that company representatives had ever visited; others indicated that monitors did not speak with workers. In addition, the report indicated that monitoring of subcontractors is erratic, suggesting that U.S. importers exert less control over the labor practices of subcontractors.

We visited 13 apparel maquilas in Guatemala and the Dominican Republic, of which 4 maquilas in Guatemala and 7 maquilas in the Dominican Republic contracted with U.S. companies that had corporate codes of conduct. Based on interviews and our observations in the four Guatemalan maquilas, we did not see any physical working conditions that were inconsistent with the codes of conduct of their U.S. contractors. According to managers at the four Guatemalan maquilas, U.S. company representatives inspected the maquilas for quality control and working conditions at least once a year, and in most cases much more often. At two maquilas, managers also indicated that they had been audited and certified under VESTEX's code of conduct. However, at several of the Dominican maquilas, we observed some physical working conditions that appeared to be inconsistent with their U.S. contractor's code, especially with occupational safety and health standards. For instance, we found examples of poor ventilation, padlocked exit doors, and poorly maintained restrooms. However, given the limited number of plants we visited, this should not be considered a representative sample of all apparel plants in these two countries.

Conclusions

The major CBI apparel shipping countries have made efforts to improve worker rights standards and to better address labor problems in their apparel industries in recent years. CBI governments have reformed their labor laws to meet international standards where needed and have been making efforts to upgrade the performance of their labor departments. However, despite the progress that has been made, allegations of worker rights abuses persist, and enforcement of labor laws generally remains a problem in CBI countries. CBI governments' efforts to improve the enforcement capabilities of their labor ministries have been hampered by limited resources and training, as well as by generally inefficient and sometimes corrupt judicial systems, according to recent State and Labor Department reports. Some governments are currently trying to redress this situation by establishing additional labor courts or by starting to overhaul their judicial systems, by providing additional training for labor inspectors and mediators, and by participating in a regional initiative to harmonize their labor codes and modernize their labor ministries. In the private sector, the fact that U.S. companies and CBI maquila associations have begun to adopt codes of conduct to self-regulate their industry is another sign of progress. However, there is no agreement within the industry on an effective means to monitor and enforce these codes of conduct. Many in the apparel industry object to the imposition of outside independent monitors to verify their compliance with the codes of conduct, while

consumer and labor rights groups do not believe that codes of conduct will be meaningful without such independent monitoring and enforcement.

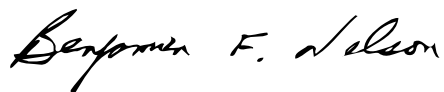
Agency Comments

The Departments of State and Labor and USTR provided oral comments on a draft of this report. The Departments of State and the Office of the U.S. Trade Representative generally concurred with the information presented. The Department of Labor expressed concern that our discussion of the AIP deliberations did not provide sufficient information on the groundbreaking nature of the AIP initiative and that we were describing deliberations that were still ongoing. In response, we revised the report to provide more context and to reflect the ongoing nature of the AIP deliberations. Our report recognizes that the initiative is ongoing; we wanted to provide information on the status of all private sector efforts, including the AIP initiative. The Department of Labor also expressed concern about the appropriateness of comparing the way the CEPAA and the AIP would implement their codes of conduct given that they were taking different approaches. Our purpose was to highlight the differences in the two industrywide approaches to implementing and monitoring their codes of conduct and not to make any judgments. The Department of Labor also provided technical comments, which we incorporated where appropriate.

We are sending copies of this report to appropriate congressional Committees. We will also make copies available to other interested parties upon request.

Please contact me at (202) 512-8984 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix V.

Sincerely yours,



JayEtta Z. Hecker, Associate Director
International Relations and Trade Issues

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Abbreviations

| | |
|--------------|---|
| AAMA | American Apparel Manufacturers Association |
| AFL-CIO | American Federation of Labor and Congress of Industrial Organizations |
| AIP | Apparel Industry Partnership |
| ASIC | Salvador Association of Clothing Industries |
| CATECO | Costa Rica Textile Chamber |
| CEP | Council on Economic Priorities |
| CEPAA | Council on Economic Priorities Accreditation Agency |
| CBI | Caribbean Basin Initiative |
| FENATRAZONAS | National Federation of Free Trade Zone Workers (Dominican Republic) |
| GSP | Generalized System of Preferences |
| GAL | Guaranteed Access Level |
| IDB | Inter-American Development Bank |
| ILO | International Labor Organization |
| NGO | Nongovernmental organizations |
| NAFTA | North American Free Trade Agreement |
| NRF | National Retail Federation |
| UNITE | Union of Needletrades, Industrial and Textile Employees |
| USAID | U.S. Agency for International Development |
| USTR | Office of the U.S. Trade Representative |
| VESTEX | Commission of the Apparel and Textile Industry (Guatemala) |

Trends in Apparel Imports to the United States, 1987-97

The U.S. apparel industry has pursued a strategy of assembling apparel offshore—or production-sharing¹—in low-wage countries in order to remain competitive. This strategy has particularly benefited the Caribbean Basin Initiative (CBI) apparel industry, which has the advantage of proximity and a preferential trade program that makes apparel assembly in CBI countries very attractive to U.S. firms.

Apparel Industry Pursues Production-Sharing Strategy

The apparel industry, once concentrated in the United States and other industrialized countries, has gradually spread to countries with lower production costs, becoming a global industry. Many developing countries have based their industrialization on labor-intensive export sectors, such as the apparel sector. At the same time, companies in the United States and other industrialized countries have adopted strategies to shift labor-intensive activities like apparel assembly to low-wage countries through direct investment (building their own plants) or outsourcing (buying from contractors). The strong competition in the U.S. apparel industry, intensified by the increased market share of imports, has led many U.S. apparel manufacturers to shift their apparel assembly activities to the Caribbean Basin and Mexico to take advantage of their preferential trade programs and proximity. This trend has also been followed by U.S. retailers, who have been directly sourcing brand-name and private-label merchandise domestically and internationally. A result has been that many of the largest retailers have also become the large importers of apparel. More than half of the \$178 billion in apparel sold at the retail level in the United States in 1995 was imported.²

The shift of apparel assembly to the Caribbean Basin was facilitated by the initiation of the Special Access Program in 1986, under the Caribbean Basin Initiative. The Special Access Program provided trade preferences for apparel assembled from U.S.-formed and -cut fabric in CBI countries and imported to the United States under the production-sharing provisions of item 807 of the U.S. Tariff Schedule, which is now heading 9802 of the U.S. Harmonized Tariff Schedule.³ Under the Special Access Program, CBI countries became eligible to negotiate bilateral agreements with the United States containing favorable quotas, or Guaranteed Access Levels

¹Production-sharing occurs when certain aspects of an article's manufacture are performed in more than one country.

²The Apparel Industry and Codes of Conduct: A Solution to the International Child Labor Problem?

³By importing products under the production-sharing provisions of heading 9802 (formerly 807), companies are exempted from paying U.S. Customs duties on the value of the U.S.-made components used in making imported products.

(GAL), for these products. The result was that CBI apparel assembled from U.S.-formed and -cut fabric was allowed virtually quota-free access to the U.S. market under the Special Access Program. The six CBI countries that had GALS in 1997 were Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Jamaica.

The shift of apparel assembly to the Caribbean Basin—57 percent of all imports under production-sharing provisions came from the CBI countries in 1997—is a source of concern to U.S. apparel unions, although apparel manufacturers believe their ability to compete to some extent depends upon it. The U.S. apparel manufacturing industry, for a variety of reasons, went from a peak of 1.45 million workers in 1973 to 853,000 workers in May 1996, a drop of 41 percent. The apparel and textile manufacturers and retailers say that the intense price competition in the U.S. market is driving apparel assembly jobs to low-cost countries but that production-sharing reduces the loss of jobs in the U.S. apparel manufacturing industry to imports with no U.S. content.

Trends in Apparel Imports From CBI Countries

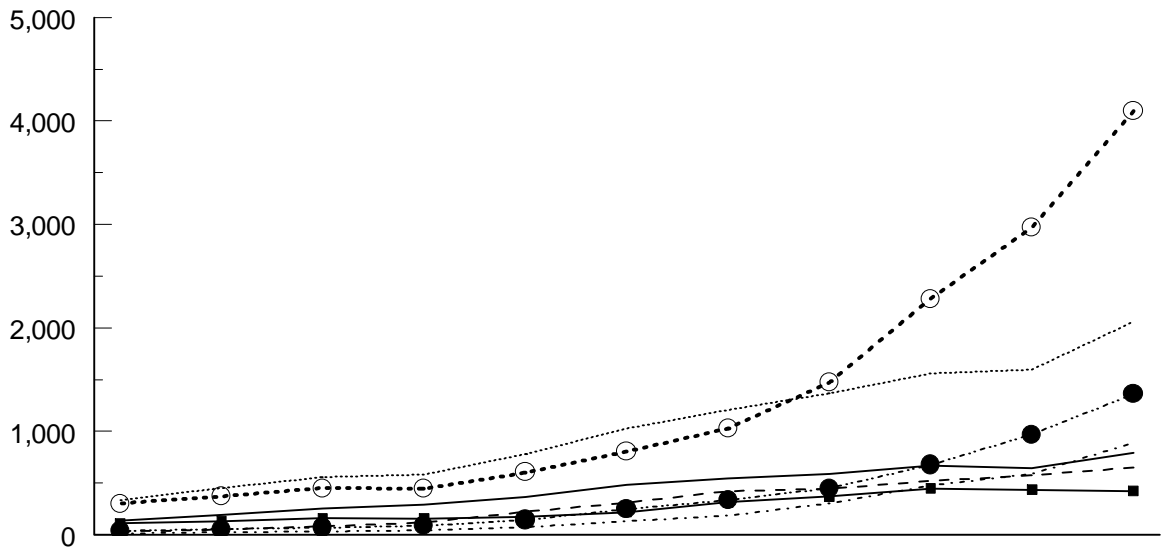
The data on trends in apparel imported to the United States under production-sharing provisions from 1987 to 1997 show that total CBI imports grew by over sevenfold, from \$864 million to \$6.4 billion. However, the performance of individual CBI countries varied. For example, the value of these imports rose from \$336 million to \$2.1 billion for the Dominican Republic, consistently the leading CBI apparel shipper, and from \$113 million to \$425 million for Jamaica, which moved from third to last place among the six CBI countries with GALS. Figure I.1 shows the value of apparel imports under production-sharing or 9802 (807) provisions for the six CBI countries that had GALS in 1997 and Mexico.⁴ The data cover the years 1987 through 1997, the years that the Special Access Program has been in effect. (Since it was late 1986 before the GALS were negotiated, 1987 is the first full year of data for the program.)

⁴We have included Mexico because it had a similar program, the Special Regime Program, under which it gained preferential market access in 1988 for apparel assembled from U.S.-formed and -cut fabric. This program was superseded in 1994 by duty-free, quota-free entry under the North American Free Trade Agreement (NAFTA) for such apparel. Mexico thereby gained an advantage in competing for market share in relation to the CBI countries in this segment of the apparel industry. CBI countries have desired parity with Mexico in this segment of the apparel industry ever since.

**Appendix I
Trends in Apparel Imports to the United
States, 1987-97**

Figure I.1: Value of U.S. Apparel Imports Under Production-Sharing Provisions From Six CBI Countries and Mexico, 1987-97

Dollars in millions



| | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 |
|-------------------------|---------|---------|---------|---------|---------|-----------|-----------|-----------|-----------|-----------|-----------|
| Costa Rica — | 138.399 | 193.975 | 253.091 | 293.229 | 363.723 | 480.709 | 542.785 | 586.125 | 668.650 | 645.421 | 792.582 |
| Dominican Republic | 336.003 | 454.115 | 556.681 | 581.067 | 781.058 | 1,028.589 | 1,207.556 | 1,369.182 | 1,561.106 | 1,598.073 | 2,059.274 |
| El Salvador - - | 16.105 | 23.803 | 32.766 | 41.643 | 76.311 | 130.439 | 185.004 | 303.295 | 476.660 | 587.405 | 894.140 |
| Guatemala - | 30.311 | 49.166 | 79.268 | 117.031 | 225.770 | 311.739 | 422.777 | 448.109 | 519.454 | 577.327 | 648.973 |
| Honduras ● | 40.397 | 55.001 | 67.767 | 87.956 | 142.774 | 245.778 | 332.603 | 449.621 | 674.824 | 969.698 | 1,360.516 |
| Jamaica ■ | 113.058 | 132.797 | 162.658 | 158.361 | 172.831 | 217.685 | 314.014 | 371.046 | 448.255 | 436.934 | 424.862 |
| Mexico ⊕ | 300.939 | 370.228 | 449.955 | 448.939 | 603.289 | 804.643 | 1,029.325 | 1,469.895 | 2,282.036 | 2,966.819 | 4,096.041 |

**Appendix I
Trends in Apparel Imports to the United States, 1987-97**

Note: Data for 1997 are initial data and are subject to revision.

Source: Major Shippers Report for 9802 (807) Imports, U.S. Department of Commerce, Office of Textiles and Apparel (Washington, D.C.: Dec. 1989-February 1998).

Table I.1 provides data on the rates of growth of apparel imports to the United States under production-sharing or 9802 (807) provisions from the six CBI countries with GALS, from all CBI countries combined, and from Mexico. The data cover 1987 through 1997. The table shows that the CBI countries with the fastest rates of growth over the last 4 years were El Salvador and Honduras. It also shows that imports to the United States from Mexico have been growing much faster than the CBI countries combined since 1994.

Table I.1: Rates of Growth of Apparel Imports to the United States Under Production-Sharing Provisions From CBI Countries and Mexico, 1987-97

Numbers in percent

| Year | Costa Rica | Dominican Republic | El Salvador | Guatemala | Honduras | Jamaica | CBI total | Mexico |
|------|------------|--------------------|-------------|-----------|----------|---------|-------------|--------|
| 1988 | 40.2 | 35.2 | 47.8 | 62.2 | 36.2 | 17.5 | 28.4 | 23.0 |
| 1989 | 30.5 | 22.6 | 37.7 | 61.2 | 23.2 | 22.5 | 22.1 | 21.5 |
| 1990 | 15.9 | 4.4 | 27.1 | 47.6 | 29.8 | -2.6 | 8.3 | -0.2 |
| 1991 | 24.0 | 34.4 | 83.3 | 92.9 | 62.3 | 9.1 | 32.8 | 34.4 |
| 1992 | 32.2 | 31.2 | 70.9 | 38.1 | 72.2 | 26.0 | 29.8 | 33.4 |
| 1993 | 12.9 | 17.4 | 41.8 | 35.6 | 35.3 | 44.3 | 24.9 | 27.9 |
| 1994 | 8.0 | 13.4 | 63.9 | 6.0 | 35.2 | 18.2 | 14.6 | 42.8 |
| 1995 | 14.1 | 14.0 | 57.2 | 15.9 | 50.1 | 20.8 | 24.3 | 55.3 |
| 1996 | -3.5 | 2.4 | 23.2 | 11.1 | 43.7 | -2.5 | 11.2 | 30.0 |
| 1997 | 22.8 | 28.9 | 52.2 | 12.4 | 40.3 | -2.8 | 28.2 | 38.1 |

Note 1: Data for each year reflect the growth from the previous year. Thus, the growth rate in 1988 is based on the level of apparel imports in 1987.

Note 2: Data for 1997 are initial data and are subject to revision.

Source: Derived from Major Shippers Report for 9802 (807) Imports.

Outcome of Generalized System of Preferences (GSP) Worker Rights Cases

The GSP Program administers an annual review process, during which it considers petitions to add products to or remove products from GSP coverage, as well as petitions related to country eligibility, including worker rights petitions. Petitions may be brought by any interested party. Most worker rights petitions have been filed by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) or by labor and human rights advocacy groups, requesting that GSP benefits be suspended due to worker rights violations. Although the GSP Program, which is administered by the GSP Subcommittee, an interagency working group of the Trade Policy Staff Committee led by the Office of the U.S. Trade Representative (USTR), has the right to self-initiate cases, its policy has generally been to initiate reviews only when triggered by petitions.

During 1987-97, all the major CBI apparel shipping countries except Jamaica had worker rights petitions filed against them. There were 15 worker rights petitions filed, of which 5 were accepted for review. These petitions generally focused on violations of the right of association or the right to organize and bargain collectively, that is, unionization issues. Generally, most petitions that were rejected for full review by the GSP Subcommittee were due to determinations that there was insufficient evidence that countries were not taking steps to provide worker rights or that substantially new information had not been presented (in cases in which a petition was resubmitted in the next year). Petitions were also rejected for review in the case of countries experiencing civil wars where there were allegations that could not be isolated as worker rights violations rather than as human rights violations that were part of the larger conflict.

The GSP annual review has a two-stage decision cycle for petitions that have been submitted. In the first stage, a decision is made on which petitions to accept for full review; in the second stage, the accepted petitions are reviewed and a decision is made on whether beneficiary countries are meeting the worker rights criteria. If a decision cannot be reached by the end of the review year, the case is continued, or “pended,” into the next annual review cycle. Table II.1 shows GSP worker rights cases for CBI countries by the years of each review, the decision whether to review, and the outcome of the review and steps taken.

**Appendix II
Outcome of Generalized System of
Preferences (GSP) Worker Rights Cases**

**Table II.1: GSP Worker Rights Cases
Against Major CBI Apparel Shipping
Countries, 1987-97.**

| Country | Year(s) | Decision whether to review | Outcome of review & steps taken |
|--------------------|----------------|-----------------------------------|--|
| Costa Rica | 1993 | Accepted for review | Petition withdrawn 11/16/93 after labor code reforms enacted 11/12/93 and Supreme Court decision of 10/93 enforcing right of association/collective bargaining. Review terminated 12/93. |
| Dominican Republic | 1989-91 | Accepted for review | Review terminated in 1991 due to introduction of labor code reform legislation, which was enacted in 1992. |
| | 1991 | Rejected for review | |

(continued)

**Appendix II
Outcome of Generalized System of
Preferences (GSP) Worker Rights Cases**

| Country | Year(s) | Decision whether to review | Outcome of review & steps taken |
|----------------|----------------|-----------------------------------|--|
| | 1993-94 | Accepted for review | Petition withdrawn 10/94. Review terminated 12/94. Government showed the will to enforce the labor code in export license suspension and other actions to enhance worker rights enforcement. |
| El Salvador | 1987 | Rejected for review | |
| | 1988 | Rejected for review | |
| | 1989 | Rejected for review | |
| | 1990-94 | Accepted for review | Review terminated 7/94. Labor code reforms enacted 4/94. |
| Guatemala | 1985 | General review ^a | Review terminated 1/87, found to be taking steps. |
| | 1987 | Rejected for review | |
| | 1989 | Rejected for review | |
| | 1990 | Rejected for review | |
| | 1991 | Rejected for review | |
| | 1992-97 | Accepted for review | Review terminated 5/97. Labor code reforms in 11/92. ^b |

(continued)

**Appendix II
Outcome of Generalized System of
Preferences (GSP) Worker Rights Cases**

| Country | Year(s) | Decision whether to review | Outcome of review & steps taken |
|----------------|----------------|-----------------------------------|---|
| Honduras | 1991 | Rejected for review | |
| | 1995 | Rejected for review | USTR negotiates memorandum of understanding of 11/95. Honduras agrees to take steps to better enforce labor laws. |

Note: Shaded cells mean that this item was not applicable.

^aWhen GSP was reauthorized by the Trade and Tariff Act of 1984 (P.L. 98-573, Oct. 30, 1984), criteria for worker rights eligibility were added. The GSP Subcommittee conducted a general review of worker rights in beneficiary developing countries at that time. It reviewed 11 countries and announced the results in January 1987. Guatemala was the only one among these six countries to be included in the general review. No subsequent general review has been conducted.

^bAlthough Guatemala reformed its labor code in 1992, the GSP worker rights review was not terminated until May 1997. A USTR official stated that every time the United States started to consider termination, there was some worker rights violation or incident that required further review. At the same time, there were concerns about the Guatemalan government's ability to enforce its labor laws. According to the U.S. embassy official, the Guatemalan government felt that the goalposts were constantly being moved and that nothing it did would be enough.

Sources: USTR and Departments of Labor and State.

Two Private Sector Approaches to Industrywide Workplace Standards

Over the past 2 years, the private sector has undertaken two major efforts to develop industrywide workplace standards. These voluntary efforts were designed to assure consumers that their products are not produced under abusive labor conditions in the United States and abroad. In April 1997, the Apparel Industry Partnership (AIP), consisting of several U.S. apparel manufacturing and retail companies, consumer groups, human rights and religious groups, and labor unions,¹ announced its plans to implement a new Workplace Code of Conduct, which defines “decent and humane” working conditions in the apparel industry. Since the announcement, the AIP has worked to reach consensus on how to implement the code of conduct and monitoring apparatus. The process is not yet complete, and deliberations continue. In October 1997, the Council on Economic Priorities Accreditation Agency (CEPAA), an affiliate of the Council of Economic Priorities, also established a voluntary workplace standard—social accountability standards (SA8000)—to address labor conditions across all industry sectors. In the broadest sense, the workplace standards developed by the CEPAA and the AIP are similar with respect to the labor conditions that they address, as can be seen in table III.1 and table III.2.

Table III.1: Summary of Key Attributes of the AIP’s Workplace Code of Conduct

| |
|--|
| |
| |

Source: The AIP.

Table III.2: Summary of Key Attributes of the CEPAA’s Social Accountability 8000 Standards (Sa8000)

| |
|--|
| |
| |

Source: The CEPAA.

Although the CEPAA and AIP workplace standards are similar, there are several differences in each organization’s approach to implementation and monitoring. First, the CEPAA’s approach to implementation and monitoring focuses on ensuring compliance at the plant level. For example, the CEPAA would certify that companies and their contractors or suppliers are in compliance with SA8000 standards, based on the results of an independent external audit conducted by an accredited nongovernmental organization (NGO), accounting firm, or certification agency. Companies would not be

¹AIP membership currently includes the Business for Social Responsibility; The Interfaith Center on Corporate Responsibility; International Labor Rights Fund; Kathy Lee Gifford; Nicole Miller; Lawyers Committee for Human Rights; Liz Claiborne, Inc.; L.L. Bean; National Consumers League; Nike Inc.; Patagonia; Phillips Van Heusen Corporation; Reebok International, Inc.; the Retail, Wholesale, Department Store Union; Robert F. Kennedy Memorial Center for Human Rights; Tweeds Inc.; Union of Needletrades, Industrial and Textile Employees (UNITE); and Duke University.

precluded from establishing their own internal monitoring procedures; however, certification could only be obtained from an accredited independent entity. In contrast, the AIP's approach focuses on ensuring that companies are taking reasonable steps to monitor the compliance of their suppliers. The AIP would certify a company's compliance based on monitoring a percentage of its contractors and suppliers. According to AIP members, it would be almost impossible to monitor every plant because some companies have hundreds and thousands of contractors and suppliers. Moreover, they said that smaller contractors have little incentive to undergo certification, unless pressured by their customers—U.S. manufacturers and retailers that have more incentive to convince the public of their efforts to improve labor conditions than a remote contractor.

Second, under the CEPAA's approach, any interested party (that is, NGOs, unions, or workers) may appeal a company's certification if it presents objective evidence confirming serious violations of SA8000. An interested party may also file complaints about companies and auditors confidentially with the certifying body. The AIP's code of conduct and principles of monitoring currently do not include a provision that would allow an interested party to appeal a company's certification.

Third, concerning wages, the CEPAA's standard bases wages on an amount that includes discretionary income (or an additional 10 percent of the wage), rather than on a minimum or prevailing wage, as the standard for remuneration as adopted by the AIP. This standard takes into account the number of persons in the household and the percentage of household income that is spent on local food items.² The CEPAA recommends that auditors refer to data provided by the World Health Organization, the Ministry of Economy's national consumer price index, the ILO, and the United Nations (Habitat Programme) when conducting their audit. The AIP's standard for compensation is based on the minimum wage required by law in the country of manufacture or the prevailing wage in the industry, whichever is higher.

Finally, although both the CEPAA's and the AIP's approaches include a standard against the use of child labor under the age legally stipulated for the country, the CEPAA's approach also includes a specific provision for the

²Wages are computed by determining the cost of a basic food basket (using local government statistics), the percentage of household income spent on food, the appropriate number of household members, and a percent multiplier for providing discretionary income.

remediation of child labor.³ Companies must establish policies and procedures to remediate child labor and provide enough support to enable such children to attend and remain in school until they are no longer minors. The standard for remediation includes the provision of a specified amount of funds allocated per child for payment of school tuition. In the absence of a school in the local vicinity, the company may work with a local NGO to provide educational facilities and offer to hire minors' parents or older siblings if they are unemployed. For minors legally permitted to work, the company must establish a means to ensure that they are not employed during school hours and that the total number of hours spent on daily transportation, school, and work does not exceed 10 hours a day. Companies must also take precautions to safeguard minors from hazardous working conditions. According to the AIP principles of monitoring, companies are obligated to establish a means of remediation for noncompliance with the code of conduct including child labor. Although the principles of monitoring do not include any detailed provisions for the remediation of child labor, a Department of Labor official told us in July 1998 that AIP members have agreed on overall provisions for remediation of the standards covered by the code of conduct including child labor.

³According to the CEPAA, "child labor" is defined as any work by a child younger than 15 years of age, unless local minimum age law stipulates a higher age for work or mandatory schooling, in which case the higher age would apply. However, if the local minimum age law is set at 14 years of age in accordance with the developing-country exception under ILO Convention 138, the lower age would apply.

Objectives, Scope, and Methodology

The Ranking Minority Member of the Committee on Commerce, Science, and Transportation asked us to review labor conditions in the CBI apparel industry. Due to his concern that allegations of worker rights abuses have persisted in the CBI apparel industry, we reviewed (1) whether or not Caribbean Basin countries have made efforts to improve worker rights in the CBI apparel industry and (2) what efforts the private sector has made to address concerns about working conditions in CBI countries. We also updated information on U.S. apparel imports from CBI countries.

To identify whether or not steps had been taken to improve worker rights in the CBI apparel industry, we focused on the six major CBI apparel shipping countries that had negotiated GAL—Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Jamaica. We interviewed officials and reviewed documents from the Departments of State and Labor; USTR; the U.S. Agency for International Development (USAID); the Inter-American Development Bank (IDB); the ILO; and U.S. embassies in Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Jamaica. We reviewed the 1992-97 State Department Country Reports on Human Rights Practices, which is a legislatively mandated annual report to Congress that covers worker rights issues. We also reviewed the Labor Department's more detailed Foreign Labor Trends reports where available for the CBI countries, as well as GSP worker rights case files. It was not possible for us to conduct an independent assessment of worker rights in each country or to independently verify specific allegations of worker rights abuses. Rather, we relied primarily on discussions with country officials and State and Labor Department and USTR reports. The information presented in this report on foreign law does not reflect our independent analysis but is based on secondary sources and interviews.

To understand the perspectives of the three main groups that are concerned about labor conditions in the CBI apparel industry, we interviewed and obtained documents from apparel industry, labor and human rights, and regional representatives. To gain the industry perspective, we consulted with officials of the American Apparel Manufacturers Association (AAMA), the National Retail Federation (NRF), the U.S. Association of Importers of Textiles and Apparel, and the American Textile Manufacturers Institute. To gain the labor and human rights perspective, we consulted with representatives of UNITE; the American Center for International Labor Solidarity (affiliated with the AFL-CIO); the International Labor Rights Fund; Human Rights Watch; the Guatemala Labor Education Project; and the International Textile, Garment & Leather Workers' Federation (headquartered in Belgium). To

gain the regional perspective, we consulted with Caribbean/Latin American Action, a private, independent organization promoting private-sector-generated economic development in the countries of the Caribbean Basin.

To assess efforts to enforce labor laws in these countries, we interviewed officials and reviewed documents from the Departments of State and Labor, USTR, and U.S. embassies in these countries and relied extensively on State and Labor Department worker rights reports. We also interviewed and obtained documents from industry association officials and labor and human rights representatives. We followed up on enforcement issues during our field work in the Dominican Republic and Guatemala.

We visited the Dominican Republic and Guatemala in July/August 1997 in order to conduct more in-depth case studies. We selected the Dominican Republic because it is a Caribbean country and also the largest CBI shipper of apparel to the United States. We selected Guatemala because it is a Central American country and had the first regional code of conduct for maquilas. During our visits, we interviewed U.S. embassy officials; Dominican and Guatemalan government officials; a Dominican expert on economic development; representatives of the maquila industry associations; American Chamber of Commerce officials; a Dominican free trade zone operator; apparel plant owners and managers; labor union representatives and members; and labor rights, human rights, and women's rights organization representatives. In the Dominican Republic, we visited nine apparel plants in five zones: Las Americas, San Isidro, Santiago, La Roma, and San Pedro de Macoris. We requested and received agreement to visit three of the plants at which the free trade zone union federation had alleged worker rights violations had occurred. In Guatemala, we visited four apparel plants. We conducted a structured interview with the plant manager in all 13 plants we visited and toured each plant. Given the limited number of plants we were able to visit, and because we only visited plants that agreed to be visited, our results cannot be generalized to all plants in those countries. Furthermore, we did not conduct a formal inspection of these plants; our observations of the plants were limited to physical working conditions. We observed conditions related to lighting, drinking water, restrooms, ventilation, fire extinguishers, and fire doors and exits. We did not interview any of the workers in the plants, although we did talk to some apparel maquila workers at our meetings with the union federations in both countries. It was not possible for us to independently verify the various allegations of

worker rights abuses, but where possible we discussed them with government officials, including senior labor inspection officials.

To determine the private sector efforts to address concerns about working conditions in CBI countries, we interviewed officials at the Departments of Labor and State and U.S. embassies in Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Jamaica. During these interviews, we also obtained information on the status of actions taken by the maquila associations in the export-processing zones to establish and monitor codes of conduct. During our visits to the Dominican Republic and Guatemala, we interviewed maquila association members, maquila plant owners and managers, export-processing zone operators, an Ernst & Young International Guatemala official, and labor union representatives and members. During our visits to the 13 apparel plants, we inquired as to whether the plant was contracting with U.S. companies that had codes of conduct and whether they were monitored. We also spoke with representatives from the AIP and the CEPAA to discuss their efforts to develop codes of conduct and the current status of their plans to implement and monitor their codes of conduct. In addition, we interviewed representatives from the AAMA, the NRF, and the U.S. Association of Importers of Textiles and Apparel, as well as representatives from Levi Strauss & Co., The Gap, Warnaco, and Karen Kane. We interviewed representatives from these industry associations and apparel companies to obtain their views on individual and industrywide efforts to establish, implement, and monitor codes of conduct. We selected Levi Strauss & Co. and The Gap because they had established their own codes of conduct and had chosen not to participate in the formation of the AIP. We selected Warnaco and Karen Kane because they had originally participated in formation of the AIP and later decided to withdraw.

To understand trends in the CBI apparel industry, we interviewed and obtained documents from the Department of Commerce and the U.S. International Trade Commission, as well as officials of the AAMA, the NRF, the U.S. Association of Importers of Textiles and Apparel, the American Textile Manufacturers Institute, and UNITE. We obtained apparel import data for 1987-97 from the Commerce Department's Office of Textiles and Apparel. We also attended a conference at Marymount University, Arlington, Va., entitled An Academic Search for Sweatshop Solutions, in May 1997.

Appendix IV
Objectives, Scope, and Methodology

We conducted our review from May 1997 to April 1998 in accordance with generally accepted government auditing standards.

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