



July 27, 2021

Thea Lee, Deputy Undersecretary  
U.S Department of Labor  
Bureau of International Labor Affairs  
Office S-5315  
200 Constitution Ave NW  
Washington, DC 20210  
*Via email*

**RE: USDOL Roundtable on the Nexus between Labor and Migration in El Salvador, Honduras, and Guatemala**

Dear Undersecretary Lee:

Thank you for inviting GLJ-ILRF to be part of ILAB’s first roundtable with labor, migrant and human rights organizations to discuss the connection between labor and migration in Central America. We welcome the opportunity to provide input on what the United States can do to support decent work, promote development and labor rights, and create economic opportunity in these countries.

As part of the overall strategy, the Administration has issued a “Call to Action” to promote business investment and development in the region. As we enter this phase, it is crucial that any investments coordinated through the Administration’s efforts advance the rights and opportunities of all workers in these countries. Consequently, we believe it is also crucial that the U.S. holds corporations accountable to the highest labor standards, including both living wages and strong workers’ rights provisions. These labor standards must allow workers to exercise freedom of association and the right to organize, and include strong anti-retaliation provisions as well as health, safety and social protections. Additionally, they must include an enforcement, monitoring, and complaint mechanism that holds corporations accountable to both U.S. and Central American governments.

Existing labor rights provisions in the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) have failed to protect workers in this region. As detailed in the 2012 CAFTA complaint—filed by the AFL-CIO and 26 Honduran trade unions and civil society organizations against the multinational fruit company Fyffes Plc—labor violations on local farms

occur routinely and with impunity.<sup>1</sup> Violations continue to this day, where conditions remain largely unchanged for workers.<sup>2</sup> As recently as May of this year, STAS union leaders testified before Representatives Grijalva and Schakowsky on recent ongoing anti-union threats against workers at Fyffes farms at a congressional briefing. CAFTA provisions need to be re-written with stronger worker rights protections, union neutrality language, effective enforcement and complaint mechanisms, sanctions for non-compliant multinationals, and provisions that make workers whole.

To continue the conversation, and in response to the Administration's "Call to Action" in Central America, GLJ-ILRF, in collaboration with partners in the United States and abroad, has put together a set of policy language recommendations regarding opportunities for growth, prosperity, security, and decent work across all sectors for the Administration to consider as part its overall strategy to promote investment and development in the Central American region and address the root causes of migration.

We look forward to continuing to work with you on these important efforts.

Sincerely,



Jennifer (JJ) Rosenbaum  
Executive Director  
Global Labor Justice - International Labor Rights Forum

cc: Halima Woodhead, ILAB

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<sup>1</sup> See AFL-CIO, *Honduras CAFTA Complaint* (2012), <https://www.dol.gov/sites/dolgov/files/ILAB/legacy/files/HondurasSubmission2012.pdf>

<sup>2</sup> See, e.g. International Labor Rights Forum et al, *Fyffes Farms Exposed: The Fight for Justice in the Honduran Melon Fields* (2020), <https://laborrights.org/sites/default/files/docs/FyffesHondurasReport.pdf>. See also Jennifer Gordon and JJ Rosenbaum, *Decent Work and Central American Immigration*, <https://globallaborjustice.org/decent-work-and-central-american-immigration/>.

**Policy Recommendations for Central American Decent Work Policy**  
**Submitted by GLJ-ILRF**  
**July 27, 2021**

In response to the Administration's plans for security and prosperity with the people of Central American and the Vice President's Call to Action, we recommend the follow specific additions:

**1. Investments in the region**

U.S. funds and private investments made in the region for poverty reduction and economic development should require strong job standards for the work they create, including living wages, union neutrality, and the strongest of anti-retaliation, health, and safety provisions. Additionally, workplaces must have a functioning complaint mechanism so that workers and worker organizations can monitor and redress issues without relying on current local government processes that have been shown to not work. Once issues are identified, there should be robust and consistent enforcement, such as conditioning finance on compliance with the above job standards. Contractors should face the loss of their contract and or face other major economic consequences if they do not comply with labor standards.

Furthermore, U.S. diplomacy should lift up the right of union workers to organize in Central America by encouraging governments in the region to protect unions and respect the right to decent work. To do this effectively, any consultation with civil society organizations in the United States or in Central America must include unions.

**2. CAFTA**

The Labor provisions within CAFTA have failed and need to be rewritten. CAFTA should be changed to include stronger labor rights provisions and union neutrality language; effective enforcement, monitoring, complaint mechanisms; and sanctions for transnational companies that violate the provisions. The Honduras CAFTA complaint presents a perfect case study to demonstrate that effective enforcement requires both a strong system of sanctions as well as provisions that make workers whole.

Until the CAFTA labor rights provisions are strengthened, the USG should implement a program of remediation of 3-5 emblematic cases per country, with binational teams of inspectors responsible for documenting the cases and facilitating the implementation of remediation plans to address the labor disputes at the root of the documented problems and violations. Both the documentation and remediation components should be time bound and completed in one year or less.

### **3. Power grids, ports, and roads**

Biden's Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border discusses focusing economic development on infrastructure.<sup>3</sup> Economic development should also require strong job standards including living wages, union neutrality with the strongest of anti-retaliation provisions, and health and safety protections. Communities must also have the right to free, prior and informed consent on projects to be developed on their land, particularly since both Guatemala and Honduras have ratified ILO Convention 169 with enforceable commitments.

### **4. Poverty reduction by more effectively reintegrating returning migrants**

From past experience, we know that job training alone is not enough—effective workforce development requires a pipeline from the training to a good job with a strong career ladder. In creating workforce development programs for returned migrants in Central America, the U.S. should look to existing models that work well, such as U.S. union apprenticeships, and work with local independent unions to support job training and pathways to good union jobs. Interventions such as grants, investments, and training funds should not perpetuate companies' exploitation of communities of returning migrants as a source of cheap, vulnerable English-speaking workers, but rather should create decent work, as defined under section 9 below.

### **5. Climate crisis planning**

With climate change comes increased natural disasters—and when disaster strikes, the poorest are most directly impacted. For example, when hurricanes battered Central America last year, Honduran and Guatemalan union employers of all sizes in the agricultural sector were particularly hard hit. The Administration should set aside aid that assures quick support to union employers and workers to assure good jobs are not lost when disaster strikes. Moreover, any development projects to address climate issues in the region must include clear job standards that require living or higher wages, union neutrality, strong anti-retaliation provisions, as well as respect for the rights of local communities.

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<sup>3</sup> Joseph R. Biden, Jr., *Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border* (2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing>.

## 6. U.S. companies investing and doing business in the region/VP's Call to Action

U.S. companies who are supported to invest and create jobs in the region should be required to offer high labor standards. Wages should be set at either a living wage<sup>4</sup> or at a rate equivalent to the purchasing power parity of U.S. worker counterparts— whichever is higher. Additionally, work standards should also include union neutrality, anti-retaliation provisions, and health and safety protections. As mentioned above, internal complaint mechanisms are also critical to allow workers and worker organizations to monitor and redress issues without relying on ineffective local government processes. Finally, there should be robust enforcement of these provisions through conditional financing.

Local companies or corporate members of local consortiums who wish to partner with U.S. companies in the Call to Action should undergo extensive screening in consultation with local trade unions prior to being considered for participation. They should be ineligible for participation in a Call to Action partnership if:

- They are the subject of a CAFTA complaint;
- They are the subject of an OECD complaint;
- They are the subject of an ILO complaint;
- They have pending cases of labor rights violations in the administrative or judicial systems; or
- They have been criminally charged, particularly in cases of anti-union violence, drug trafficking, corruption, or tax evasion.

## 7. Migrant Worker Protection

Temporary labor migration and guestworker programs have been shown to be rife with abuse. [Labor Citizenship](#) is fundamental to ensuring that migration is compatible with decent work. When the U.S. government admits Central Americans for entry, they should have full labor rights whatever the category of their visa. The Administration should abandon recently-announced efforts to channel Central American migration through the H-2B guest worker program, which ties migrants to a single employer and makes them deportable as soon as they stand up for their rights. Instead, all migrant workers should have work permits, mobility between jobs, and access to support from the Department of Labor, unions, worker centers, and other institutions to help them make their rights real.

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<sup>4</sup> In defining a “living wage,” see the ILO’s resources on minimum wages, e.g. ILO, *2021 Global Wage Report*, 100-132 (2021), [https://ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_762534.pdf](https://ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_762534.pdf)

## 8. Technical Support/ILAB

To support the development of decent work opportunities described above, including jobs that offer workers sustainable livelihoods, safe working conditions, and a voice at work, the U.S. strategy should elevate the role of ILAB in providing both technical and programmatic support. DOL Labor Attachés with expertise in worker rights, including freedom of association, should be posted in both Guatemala and Honduras to report to both the State Department and DOL. ILAB and other USG financial and technical assistance programs should accompany investment programs and incentives, and include significant funding for trade union organizations to strengthen their capacity to represent the interests of workers, bargain collectively, and engage in social dialogue with employers and governments.

USG financial and technical assistance programs with the Central American labor ministries should track key performance indicators related to compliance with and application of fundamental labor rights, such as:

- Number of unions registered and recognized;
- Number of collective bargaining agreements registered and in force;
- Number of collective cases resolved in the first instance; and
- Number of cases resolved through mediation and conciliation, thus averting protracted judicial proceedings in labor courts.

## 9. Call to action: Defining decent work/job standards

In discussion with Honduran, Salvadoran, and Guatemalan union leaders who will be directly impacted by the Administration's potential investment in Central America, GLJ-ILRF has identified the following core standards as crucial to defining "decent work":

- Worker safety and just compensation. This means providing safe working conditions and sufficient wages for workers and their families to live with dignity, overtime pay, 8-hour days, opportunities for education and training, and social protections for workers and their families.
- Annual/education bonuses for workers. These bonuses should guarantee access to education for the children of all workers to address intergenerational poverty. According to a conversation with a Honduran union leader, children of workers in Honduras are often multiple years behind in their schooling due to missed school and lack of access to basic resources such as the internet, and, even when access to schooling is restored, it takes several years to catch up academically.

- Job stability year-round. It has been repeatedly documented that in sectors where there are only 6 months of work per year, such as palm oil, bananas, and melons, workers have no labor rights. Ensuring job stability is crucial to protect workers' ability to organize and remedy labor abuses.
- Respect for the fundamental rights of workers. Fundamental rights include freedom of association, the right to organize and form unions, non-retaliation and harassment clauses (which are nondiscriminatory with respect to age, gender, race, etc.), and real enforcement mechanisms within U.S. and local governments which apply to all sectors.