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**GUATEMALA**  
**LABOR RELATIONS ANALYSIS**

**Final Report**

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## **GUATEMALA LABOR RELATIONS ANALYSIS**

### **EXECUTIVE SUMMARY**

#### **I. Introduction**

Over the past several years the Government of the United States, through the United States Agency for International Development ("USAID"), has provided support for the economic expansion of the private sector in Guatemala, especially in the export of non-traditional manufactured and agricultural products. Recently, there has been growing concern in the United States that Guatemalan workers have not shared equally in the economic benefits of Guatemala's development, and that expansion may be occurring at the expense of workers' rights.

In response to these concerns, USAID/Guatemala is developing a project that will address the dual goals of increasing trade and improving labor relations. The purpose of this assessment is to identify and prioritize those activities which can be undertaken under the new project, the Trade Policy and Labor Relations Project, to support improved labor relations in the context of expanding trade in the non-traditional industrial and agriculture sectors.

This programming effort was undertaken by a three person which spent two weeks in Guatemala meeting with representatives of groups that inform labor relations, i.e., organized labor groups, employers and business groups, and government representatives. With the kind assistance of these representatives, the team was able to identify those constraints which impede improved labor relations in Guatemala. A summary of the constraints identified by the project team is listed below in order of importance (highest priority first). A series of program priorities was also developed and is designed to enumerate activities and approaches that can be used in the short and medium term to begin to reduce or eliminate existing constraints.

#### **II. Prioritized Constraints**

Considerable time could be spent debating what constitutes a constraint to improved labor relations. To provide a framework for this analysis, a constraint is defined as any impediment or obstacle to an ideal state of labor relations. The ideal state of labor relations consists of labor and management interacting rationally and constructively to reach mutually established productivity and competitiveness goals and to improve the quality of life of the worker. In the ideal world of labor relations, the principal burden for improving labor relations is on management and labor. It anticipates that the role of the government in such a world would be unintrusive and catalytic; providing leadership and vision, and maintaining a level playing field for management and labor to work out their differences. Within this framework, the team identified four priority constraints to improved labor relations.

**A. Lack of Common Objectives/Differences in Perception**

The principal obstacle to improved labor relations in Guatemala is disagreement among organized labor groups, the private sector, and the Ministry of Labor ("MOL") over common objectives. This appears to be due, at least in part, to the fact that there has been only limited interaction among these sectors in the past. A very basic framework has been created in recent years by progressive groups in each of the sectors to begin to address some common concerns. There has been no concerted effort, however, to create a national consensus of the issues or their solutions. In order for any improvement in labor relations to occur, business, labor and government must develop an expanded framework for constructive interaction and begin to define common issues and agree on common solutions that will permit Guatemala to be competitive in the international marketplace and workers to share in the benefits of increased trade. The effort must focus generally on those who are willing and able to participate in such a process, including other groups in individualized training and assistance.

**B. Employer "Attitudes" Regarding Labor Law and Labor Unions**

Organized labor and government officials cited general employer disregard for labor legislation and government enforcement efforts. Both claim that employers in non-traditional industrial and agriculture export sectors are the worst violators. Employers acknowledge their reluctance to interact with labor unions and that they lack the necessary training and understanding of modern management and labor relations principles to permit them to interact constructively with labor and government. Most employers (in particular, local Guatemalan firms) understand the competitive pressures of the international marketplace and are anxious to work constructively with labor and the government to address the challenges confronting them. This can only happen if they are given the proper tools for adjusting existing paradigms and attitudes.

**C. Lack of Enforcement of Labor Laws by the Government**

Labor unions and management uniformly cited numerous examples of the Guatemalan government's failure to enforce labor laws. Most felt that until laws are uniformly enforced, there can be no meaningful improvement of labor relations. Without a level playing field, labor and management will utilize whatever means available to gain advantage. Several opinions were expressed as to why enforcement was lax, but the factor cited most often was lack of political will on the part of the Guatemalan government. The lack of will is reflected by low levels of funding and political support given to the MOL and the Labor Courts by the Central Government. Efforts to increase the number and quality of MOL and labor courts personnel have until recently been ineffective.

**D. Lack of Information and Training of Labor Unions**

Labor unions expressed a general need for more information and training related to the political and economic changes currently affecting the region, especially in areas such as privatization, regional integration, trade and investment, models for improved workplace organization and worker participation. Several groups were interested for the purpose of participating in national debates on economic issues that affect workers. Without improved understanding, many felt they could not productively participate with representatives of other sectors.

**III. Program Priorities**

**A. Developing a Consensus**

In the near to medium term, a strategy designed to improve labor relations in Guatemala should focus on assisting leaders from business, labor, and government to establish a framework within which dialogue can occur. Within this framework, the groups must begin to develop a shared vision of Guatemala's role in an international economy, prospects for achieving significant economic growth, the relationships between economic growth and worker-welfare, and ways in which improved labor relations can contribute to growth prospects.

The process of dialogue and decisionmaking must be supported by technical studies such as a comparative study of countries that have used a tripartite approach to design an economic growth strategy which benefits management and labor (and collaterally the government); case studies of productivity models which may be or have been successfully implemented in Guatemala and/or other countries; and, economic studies on issues such as the cost to the Guatemalan economy of enforcing labor rights and resolving labor disputes, the economic impact of amending labor laws, etc. The technical studies would be most effective if undertaken as a joint effort involving international technical specialists and local business, government, and labor representatives. One possible format would be to establish a Program Implementation Unit (PIU) that would bring together staff from representative business organizations (GEXPRONT or CAEM), government (the Ministries of Labor and Economy) and labor groups (CUSG, CTC, etc.). The analytical activities could provide the basis for three or four tripartite workshops or seminars designed to discuss current realities and examine possible solutions (perhaps over a six month period). The efforts would be designed to culminate in a "tripartite summit" at which a framework or plan to improve labor relations could be designed as part of an overall strategy to improve the productivity and competitiveness of Guatemala. Future activities would then be designed to target each participating group based on the priorities established by the participants, not on criteria imposed externally.

**B. Firm-level Support for Businesses**

In addition to the short term effort to establish a working tripartite institution, the project could initiate specialized training and technical assistance to private sector businesses. Training activities offered through CAEM and GEXPRONT could focus on productivity, human resource development, employee incentives, and employee participation. Technical assistance would be designed to respond to specific problems related to management/worker relationships. Specific pilot projects could be initiated where the parties are willing to demonstrate new models of labor-management relations. The firm-level training and technical assistance would have the objective of demonstrating the value to both labor and management of improving labor relations.

**C. Support for the Ministry**

The project should provide training and technical support to the MOL, principally to strengthen the Division of Labor Inspectors. Training should focus on relationships between export promotion activities and workers rights protection; relationships between Guatemalan law and international workers' rights standards (from U.S. trade legislation, ILO Conventions, etc.); improving management of certification and inspection programs; other specialized topics such as improving mediation, conciliation, and arbitration services; improving collection and analyses of labor statistics; productivity measurement; monitoring safety and health standards, etc. Technical assistance should be provided on an as needed basis in specialized areas. The U.S. Department of Labor would be the most logical delivery mechanism for training and technical assistance to the MOL.

**D. Support for Organized Labor**

In addition to the activities described above that would require funding support from USAID/Guatemala, a concerted effort should be made to develop close coordination with ongoing technical assistance and training support to labor organizations that is currently being provided through centrally-funded USAID programs with organizations such as AIFLD, the U.S. Department of Labor ("DOL") and international groups such as the Friedrich Ebert Foundation.

**I. INTRODUCTION**

**A. Purpose**

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The objectives of this report are to define the parameters within which USAID/Guatemala may intervene with short- and medium-term activities to improve labor relations in the context of its current programs to increase trade and investment in Guatemala, and to establish the priority of their implementation.

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The report is organized into four sections.

- Section I provides an overview of labor relations in Guatemala and describes the reasons for U.S. concern regarding present and future conditions of labor and labor relations in Guatemala
- Section II analyzes Guatemala's institutional and legal structure related to labor relations, particularly in the nontraditional agricultural and light manufacturing sectors
- Section III identifies constraints to improved labor relations and increased productivity within the private and public sectors
- Section IV seeks to specify and prioritize specific short- and medium-term activities that could lead to improved management and labor relations if undertaken as part of the Trade Policy and Labor Relations Project.

**B. Methodology**

The project team, consisting of three specialists, spent a total of two weeks in country meeting with representatives from the labor, private and public sectors to receive input and perspective on the current state of labor relations in Guatemala. By reviewing background materials related to the pending case of Guatemala before the United States Trade Representative ("USTR"), the team was able to probe the individual concerns of each group and to determine what each viewed as the most important constraints to improved labor relations in the country. In addition, the

team, through observations made during the interviews, determined the extent to which participants in the sectors require assistance with training, policy analysis and technical problems. The team also looked at those groups currently providing training, technical assistance and policy analysis support to determine the most readily available sources for delivering support.

## **C. Background**

### **1. Summary of Labor Relations in Guatemala**

Generally, it can be said that the status of labor relations in Guatemala tracks the country's social and political stability. In the minds of most Guatemalans, labor relations are inextricably linked to political ideology and concepts of social welfare. As a result, when extreme polarization and violence infect conflicts over political ideology and social class, those same elements spill over into the world of labor relations. Unfortunately, Guatemala has seldom enjoyed extended periods in which polarization and violence were not part of the equation. Similarly, the history of labor relations in the country has followed a pattern of confrontation and violence.

The success of the democratic electoral process over the past six years reflects the view of a still fragile majority of Guatemalans that political and social differences should be settled peacefully. During this same period, a core group made up of public, private and labor sector officials has quietly worked to establish new patterns of labor relations. This core group is concerned with finding ways to help Guatemalans work together constructively in an effort to compete effectively in an increasingly competitive domestic and international marketplace. And although support for this group appears to be building, there are still extremists in each of the sectors which retain polarized views and because of past experiences or ideology are unable or unwilling to support a progressive labor relations agenda. The challenge for the future is to build on the existing foundation and include all parties in a coordinated effort to improve the quality of life for workers and the competitiveness of Guatemalan businesses.

### **2. U.S. Climate for Support of USAID-Sponsored Labor Relations Projects**

In the past several years the United States Government, through the USAID, has implemented several efforts which impact on labor relations. The central focus of the USAID Trade and Investment Office in Guatemala has been on the economic expansion of the private sector in Guatemala, especially in the export of nontraditional manufactured and agricultural products. By supporting local institutions such as the Non-Traditional Exporters' Guild ("GEXPRONT"), USAID has been a catalyst in accelerating the transfer of technology, expanding employment in the non-traditional export sector, and restructuring policies to facilitate private sector

participation in the economy. A key focus of these efforts has been to facilitate Guatemala's entry into the international trade community and to prepare the private sector for the increased competition it will face in a liberalized domestic environment, and once the Generalized Agreement on Trade and Tariffs ("GATT") and free trade (regional or North American Free Trade Agreement ("NAFTA")) negotiations are completed. As a result of USAID's efforts, Guatemalan producers have begun to understand the operation of a market economy and are taking steps to compete. Although past and present programs implemented by USAID/Guatemala's Trade and Investment Office do not directly address labor relations, they have had a significant effect on the labor sector as they have created employment in new industries, exposed workers to an industrial working environment (including assembly line operations), and assisted in developing new, internationally competitive businesses.

In a separate project initiated under a PASA agreement with the U.S. DOL, USAID/Guatemala's Office of Democratic Initiatives has provided labor groups and MOL employees with training in mediation and negotiation. The program has been underway for several years with some positive results. In addition, USAID\Guatemala, in combination with USAID's Latin America Bureau ("LAC") in Washington, D.C., has funded support for democratic labor unions in Guatemala through the American Institute for Free Labor Development ("AIFLD"). AIFLD support to unions consists principally of training activities in areas such as collective bargaining, privatization, national and global political and economic conditions, and other basic union training. AIFLD also provides training for several union leaders each year at the George Meany Center for Labor Studies located outside of Washington, D.C. It appears that there has been little coordination between the several USAID-funded projects that affect labor relations and no attempt to correlate their activities to interface with each other.

In 1992, several significant developments occurred which diminished U.S. support for trade and investment projects and led to an increased concern for workers' rights and labor relations. As the U.S. economy weakened in mid-1992, then-candidates Bill Clinton and Ross Perot adopted the "America First" theme and pledged to solve the country's economic problems rather than concentrate on foreign policy. In September, the popular television program, "60 Minutes", aired a program which alleged that USAID's trade and investment programs in Central America were using U.S. taxpayer dollars to promote the economic growth of other countries at the expense of U.S. workers, and by exploiting local labor. The combined effect of these events was a general public outcry against using U.S. taxpayer monies to support USAID-sponsored trade and investment promotion programs.

A reexamination of policy followed and resulted in a rethinking of U.S. support for trade and investment programs. Public concerns were translated into legislative restrictions in Section 599 of P.L. 102-391, The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993, which in part directs that no money appropriated thereunder can be used to support programs which would result in U.S. workers losing their jobs and which impair

workers' rights. As a result, USAID, especially in Latin America, is focusing on ways to democratize economic growth so that the benefits of expanded trade and investment will accrue to workers, as well as to management.

3. U.S. Pressure to Improve Guatemala's Recognition of Internationally Recognized Workers' Rights

Guatemalan imports to the U.S. receive preferential tariff treatment under the Generalized System of Preferences ("GSP") and the Caribbean Basin Initiative ("CBI") legislation, providing some Guatemalan exports a competitive advantage in the U.S. market vis-a-vis products imported from non-qualifying countries. This treatment has been an essential condition of Guatemala's recent expansion of non-traditional exports. Guatemala's preferential status is subject to an annual review process conducted by the GSP Subcommittee (consisting of representatives of the Departments of Labor, Commerce, the USTR, etc.) to ensure continued compliance with the criteria for preferential treatment established by U.S. law.

Protection of "internationally recognized worker rights" is a condition of qualification for GSP status. As defined in the statute, those rights include:

- 1) the right of association;
- 2) the right to organize and collectively bargain;
- 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.

Parties opposing continued preferential status for Guatemala, or other countries, may present petitions to the USTR requesting a review of a country's labor practices. The GSP Subcommittee examines the petition, and if it finds sufficient cause, initiates a full review of the violation. The review is an extensive investigation to determine the extent of a country's violations and whether the violations are serious enough to merit revocation of a country's GSP status, or alternatively, impose conditions that must be met to preserve GSP status.

Commencing in 1986, and every year since, labor and human rights groups have filed petitions with the USTR complaining that Guatemala fails to protect internationally recognized worker rights as required by law. In 1992, the USTR accepted two petitions for review and is currently considering action against Guatemala. USTR's acceptance of the petitions has resulted in a flurry of activity in Guatemala, designed to remedy problems related to complaints in the petition. The most notable actions to date include: amendments to the Labor Code, adopted in November, 1992; expansion of the labor court system; increases in the budget of the Ministry of Labor in order to support an improved labor inspection program; and the negotiation and

formalization of a Tripartite Agreement by representatives of the government, the private sector and labor unions on March 8, 1993, pledging to cooperate to effect certain changes in support of improved labor relations. The dynamic in the country which has been created by the GSP Committee's review, i.e., bringing labor, management, and government together to concertedly address problems related to labor relations provides a stronger foundation on which to build a plan for improving labor relations, notwithstanding any action the GSP Committee may take.

#### 4. The Present Opportunity and Challenge

The current environment provides a significant window of opportunity for USAID to have a highly positive impact on labor relations in Guatemala. Concurrently, USAID/Guatemala is positioned to move forward with a significant labor relations component to complement its trade and investment activities. The creation of a tripartite alliance to address labor issues provides a natural interface with USAID to move the process forward. In this environment, significant progress can be achieved toward developing a new environment for future labor relations in Guatemala based on rational analysis and dialogue, not the confrontation and violence of the past.

The challenge is to chart a sound course to support a new era of labor relations in the country. Development literature, while replete with models for improving national economic growth, seldom discusses how growth can be achieved while improving the well-being of labor, or conversely, of statist measures taken to improve the well-being of labor without coming at the expense of the national economy. The problematic task is to determine how to create economic development which ensures commensurate benefits to the economy, in general, and labor, in particular. This analysis is undertaken with that objective in mind.

## **II. THE INSTITUTIONAL AND LEGAL STRUCTURE OF LABOR RELATIONS IN GUATEMALA**

### **A. Types of Worker Organizations**

This section of the report describes the principal worker organizations currently operating in the country. For the purpose of analysis, this section includes all types of organizations that organize workers for any purpose and includes organized labor (unions, federations, confederations) solidarity associations and informal worker organizations. The team recognizes that under rulings by the International Labor Organization ("ILO") only unions are recognized as "labor organizations" in the sense that they are the only bodies authorized to represent workers for the purpose of collective bargaining. The other groups have been included here because (1) they are legally authorized to operate in the country, (2) they are current players in the universe of labor relations, and (3) from all indications they will continue to play a role in

the future. As such, it is appropriate to include and discuss them here.

In initiating a discussion of worker organizations, it is worth noting that by any calculation only a very small percentage of the total Guatemalan work force is organized. Projecting from the MOL's latest statistics (1991), there are approximately 2.9 million economically active workers in Guatemala. Of that number, it is estimated that approximately seven percent (7%) or 203,000 belong to unions (the MOL puts the percentage as low as 2.9%). The Solidarity Union, an umbrella organization for solidarity associations, claims an affiliated membership of approximately 100,000 workers or 3.5% of the labor force. No figures are available for non-affiliated solidarity associations or other informal worker organizations, but several large independent groups do exist which combined could reasonably include another 100,000 workers. Under this optimistic scenario, the total number of workers affiliated with some type of worker organization is less than 15% of the economically active population. This carries significant implications when programming activities that will have the greatest impact on improving labor relations in the country.

1. Organized Labor (Unions and Affiliated Organizations)

Organized labor in Guatemala counts a total membership of over 200,000. The most influential labor organization at the national level is the confederation, an umbrella organization which represents unions and federations in national policy discussions and provides support for organizational activities. Five confederations are currently active in Guatemala. The second tier of organized labor is the federation, a smaller umbrella organization generally made up of unions in a particular sector. There are 32 labor federations currently registered with the MOL. The union is the smallest and most basic labor organization. Guatemala has over 850 registered unions. The relationship and interaction between these several organizations is complex and fluid as will be seen from the discussion below.

a. Confederations

There are five labor confederations in Guatemala, representing a significant percentage of the total unionized work force. As they relate to labor relations, the confederations vary significantly in their relationship with management. On one hand, CUSG has a relatively long history of working closely with management, while UNSITRAGUA prefers to maintain ideological independence and takes a more confrontational position. The four major confederations are discussed below.

i. Confederacion de Unidad Sindical de Guatemala ("CUSG")

CUSG is the largest and only legally recognized labor confederation in Guatemala. It claims eight affiliated federations (with six more in the process of being organized) and a total

membership of approximately 150,000. It includes members in agriculture, services, and industry, including the maquila sector. One affiliate is one of two recognized unions in the maquila industry, located at Camisas Modernas, S. A., owned by Phillips-Van Heusen.

CUSG is affiliated with the Organizacion Regional Interamericana de Trabajo ("ORIT") and with the International Confederation of Free Trade Unions ("ICFTU"). It works very closely with AIFLD and has received assistance, primarily for courses and forums on such topics as collective bargaining, privatization, national and global political and economic conditions, "ABC sindical", etc. These courses are organized by and for CUSG members although some forums employ outside specialists and are open to the public. AIFLD also supports CUSG by paying the salaries of CUSG's officers.

CUSG is generally viewed as a moderate organization because of the relationship it has established with the private sector over the past several years. In 1989, it collaborated with the Comité Coordinador de Asociaciones Comerciales, Agrícolas, Industriales y Financieras ("CACIF"), a representative of private sector groups, in a plan to reform the Guatemala Social Security Institute ("IGSS"). The two have also collaborated on specific problems and were both signatories of the Tripartite Agreement, pledging cooperation on the improvement of labor relations.

Although CUSG has worked together with other confederations and federations, some tensions exist between it and UNSITRAGUA. These appear to be ideologically and personality based. CUSG was collaborating with other labor organizations and with the United States/Guatemala Labor Education Project ("GLEP") on the GSP review issue when it signed the Tripartite Accord. At some point, CUSG and other signatories broke with (or left) UNSITRAGUA and signed the accord. UNSITRAGUA did not sign.

CUSG's secretary general, Juan Francisco Alfaro, is a congressional deputy under UCN party, though neither he nor the labor confederation (which identifies itself as social-democratic) are affiliated with any party.

ii. Coordinadora General de Trabajadores de Guatemala ("CGTG")

The CGTG is a Christian Democratic trade union confederation, affiliated with the CLAT, the Central Latinoamericano de Trabajadores (it is not, however, affiliated with any of the Guatemalan political parties). With six affiliated federations the CGTG appears to be the second largest confederation in Guatemala. It has organized in a broad range of sectors, including the maquila (where it is currently seeking to resolve a conflict in Este-Oeste, a Korean maquiladora). CGTG signed the recent Tripartite Accord and appears to have talked to the CACIF in the past to help resolve specific conflicts. Because of its international affiliation, AIFLD assistance for CGTG has been minimal.

iii. Union Sindical de Trabajadores de Guatemala ("UNSI TRAGUA")

UNSI TRAGUA is the smaller of the three main labor centrales in Guatemala with a membership of 53 affiliated unions with around 35,000 members. It is considered somewhat more radical than the other two, although all of the centrales share substantial common concerns and demands. Mistrust between the private sector (CACIF) and UNSI TRAGUA is quite strong and, in UNSI TRAGUA's view, led to their being excluded from the Tripartite Agreement.

UNSI TRAGUA organizes in a wide range of sectors, and its membership includes the only other legally recognized union in the maquila industry at INEXPORT (three other unions are in the process of formation in the maquila sector with UNSI TRAGUA's support - Confecciones Unidas, CORTEX, AGROPORT). UNSI TRAGUA appears to be active beyond the labor arena, in the peace negotiations and human rights. It forms part of a broader coalition of popular organizations with interests in these areas and works well with GLEP. It was impossible for us to determine in these interviews how democratic or representative UNSI TRAGUA or other labor organizations are. However, US/GLEP representatives informed us of their view that UNSI TRAGUA is probably more democratic than CUSG, and that they have a woman from the maquila union on their governing board.

iv. Central de Trabajadores del Campo ("CTC")

The team did not meet with this group, but their name was mentioned often. The CTC is affiliated with the Social Democratic Party, the party of the current Labor Minister, Dr. Mario Solorzano. Although the CTC does not appear to be that large, they did sign the Tripartite Agreement, providing them with what some thought was a disproportionate participation for their size and influence. Most agreed that their current visibility is directly related to their political links to the Minister.

Although CTC is principally an agricultural based union, CUSG claims to have a greater number of agricultural workers than the CTC. We were told that CTC is beginning to expand into other sectors, including the maquila sector.

b. Independent Federations

In addition to the confederations discussed above, there are several federations which are unaffiliated with the centrales and operate independently. The following appear to be the most important.

- i. Federacion de Sindicatos de Trabajadores Alimenticias y Similares ("FESTRAS")

FESTRAS is a small federation of ten unions (approximately 1,800 members) organizing in the processed food and beverage sector. It is a significant player, however, in that its unions are some of the largest and highest profile in the country (including Coca-Cola and the Cerveceria). FESTRAS did not sign the Tripartite Accord, but it is unclear whether it had a desire to participate.

- ii. Federacion Sindical de Empleados Bancarios y de Seguros de Guatemala ("FESEBS")

FESEBS contains 14 unions in public, private, and mixed financial institutions with a total membership of 4,200. They have been regarded by other labor groups as relatively conservative, but recently have become more militant in response to cutbacks in personnel as a result of restructuring in the public sector institutions and alleged management violations of their collective bargaining agreements. The reductions in force have left FESEBS with fewer affiliates (from a peak of 22 in 1985-87). FESEBS signed the Tripartite Accord, and the federation's leader, David Tzay, appears to have played an important role in getting the various labor groups together in that process. It is unclear whether this role as a catalyst extends beyond that process.

- iii. Federacion Nacional de Sindicatos de Trabajadores del Estado de Guatemala ("FENASTEG")

FENASTEG is a federation of public sector employee unions. The team was unable to meet with the group, but they appear to be a key player because of their role in the privatization process. Another issue which has recently caused some reaction from FENASTEG is the recent issuance of a legislation definition of the Constitutional restrictions on public employees' right to strike (since withdrawn). They appear to be closely aligned, politically and ideologically, to UNSITRAGUA. They did not participate in the discussions of nor did they sign the Tripartite Accord.

- c. Independent Unions (unaffiliated with one of the above-listed centrales)
  - i. Sindicato de Trabajadores del Instituto Nacional de Electrificacion ("STINDE")

The team did not interview STINDE, but they were mentioned often as a key player among the public sector unions.

2. Other Worker Associations

In addition to the organized labor organizations listed in section 1, there are a number of non-traditional labor associations in Guatemala, which are discussed in this section.

a. Solidarity Associations

The Solidarity movement in Guatemala began in 1983 with the organization of two solidarity associations (560 members) with help from Costa Rican organizers. Since that time, the movement has grown steadily in size and popularity to include more than 100,000 members in more than 400 associations.

It is difficult to determine the exact size of the solidarity movement because associations are registered as non-profit associations pursuant to Article 15 of the Civil Code, and no special register is kept to distinguish them from other associations. These individual associations may, or may not, belong to the Union Solidarista Guatemalteca ("USG"), a voluntary organization founded in 1985 to promote solidarity associations and provide assistance to the member associations. Current figures indicate that USG has around 390 affiliates. The team knows of several large associations, however, that have no affiliation with USG and heard stories of other employers who used the nonprofit association law to organize employees in a "solidarity-like" organization. From our observation, it appears that a significant number of such organizations exist.

The USG focuses on trying to maintain certain standards within the solidarista movement. Its principal goals are to:

- 1) Better worker-employer relations and productivity which benefits employees and the employer;
- 2) Stimulate the formation of capital investments, creating new jobs while simultaneously giving workers a true and significant vested interest to defend free enterprise as owners of productive private property; and
- 3) Educate workers on the operations and functions of a free market economy.

The USG has recently initiated a training center to provide education and support to members. The center provides practical training in areas related to the solidarity movement as well as more general themes such as human resources, economics, finance, and management. The team was unable to obtain more detailed materials on the courses or to determine how effective the center is as a training facility.

A solidarity employee association is a voluntary, civil non-profit association. It is always organized as a cooperative activity between labor and management. Once an organization is established, it is presented to all the employees of the company and, theoretically, each individual worker decides whether to participate in the plan.

The typical plan provided by the USG requires a 5% contribution each from the employer and the employee. The employer's contribution will ultimately be used to satisfy the employer's obligation for severance pay (8%), but will be used as capital in the association until that obligation accrues (when an employee leaves the company, unless dismissed for cause). All interest or return on investment on the entire 10% accrues to the employee.

Monies contributed by the employer and employees to the association are managed by a board of directors democratically elected by all employees and management (one person, one vote). In order to disperse funds, the board, in addition to its vote, must have the consensus of a controller appointed by management and one by labor. Typically, the association relies on the administrative staff of the employer until it is large enough to hire administrators and accountants to run the operations. Each association may determine how it will use the money in its account, but typically the funds are used for loans to employees, to provide services to employees or to establish other businesses.

The team heard of cases where associations had invested money in small stores which sell consumer products at discount to their members. One association established a dental and medical office which provided services to the public generally, and to members and families at reduced rates. Some had set up businesses to provide services to the employer, providing employment opportunities to their families and neighbors. Almost all provided loans for employees to purchase home appliances or other household needs. One of the larger, more sophisticated associations had set up a "financiera" which loaned money to the employer's businesses. The USG provides investment information to its members and also administers investments for members. According to USG, solidarista associations raised US\$ 20 million in capital in 1992.

The solidarity movement, as represented by the USG, is based on the principle of broadening the base of capital ownership as an economic system and does not believe this excludes joint participation with labor unions. USG claims that the coexistence of solidarity associations and unions in the same business is consistent with the right of free association. Indeed, they point to approximately 25 companies which have both labor unions and a solidarity associations (including Banco del Cafe, Bandegua and the Hotel del Dorado.) Labor unions indicate that as a practical matter, solidarity associations are used as a defensive tool by management against union organizers. They point to cases where employees were coerced into participating in solidarity associations and claim that USG openly markets itself as a way to protect businesses against unions. Union representatives also point out that in cases where both solidarity and

unions exist, one eventually disappears.

Solidarista associations are prevented from engaging in collective bargaining by Guatemalan law (Both the AFL-CIO and ICFTU condemn solidarismo as anti-union). Article 2 of ILO Convention 98 calls for the authentic independence of workers' and employers' organizations. ICFTU filed a formal complaint at the 1989 ILO Committee on Freedom of Association alleging Costa Rican Government discrimination against unions in favor of Solidarismo. The ILO concluded that management use of solidarismo and solidarity involvement in trade union activities (such as collective bargaining) are violations of freedom of association. "The ILO referred to reports of employers threatening workers with dismissal in order to force them to shun unions and/or join Solidarista associations" (U.S. Department of labor, Bureau of International Labor Affairs, Foreign Labor Trends: Costa Rica, 1991, p, 7).

Evidence of legal favoritism also came under scrutiny, in particular, with regard to restrictions on a union's ability to engage in profitable financial activities, the number of members required to form an association vs. the number required to form a union, etc. The ILO announced that the Costa Rican government had promised to push for legal measures which would keep the activities of Solidarista associations and unions separate and protect against anti-union discrimination. There is some indication that the ILO decision has tempered Costa Rican government support for the movement and strengthened friction between the two branches of the Costa Rican solidarista movement.

In the past, Guatemalan unions complained that the laws favored solidarity associations both as to ease of formation and the breadth of activities. The amendments to the Labor Code in November, 1992, purport to address both issues by expediting formation of unions and authorizing them to participate in for profit activities. Under the current law, if implemented as written, unions should be able to provide the same services offered by solidarista associations.

b. Informal Labor Organizations

The team met with a number of individual businesses that had no formal labor organization, but where good relations appeared to exist between labor and management. These organizations had a variety of mechanisms for maintaining open communication and feedback. A company in the maquila sector had worker committees for every 50 workers which met weekly to discuss issues of concern. The chairmen of the committee would also meet weekly with management to pass on employee concerns. Matters discussed in the management/worker representative meeting include physical working conditions, negotiation of per piece charges, benefits, production techniques and other questions related to worker productivity and the efficient operation of the plant.

Another business in the maquila industry also had committees to give feedback to management

on matters related to the operation. An objective productivity scale was established and workers were paid based on their performance. A computerized printout of each employee's productivity was printed each pay day, and each employee had the opportunity to view his/her rating. Workers falling below the minimum acceptable standards were given two weeks in which to improve performance or be dismissed. The committees assisted in adjusting criteria and suggesting changes in piece prices.

## **B. Guatemalan Private Sector**

Many of the union complaints against management are directed at the export oriented private sector, especially the maquila industry. Under the scope of work, the team was directed to concentrate its efforts on businesses and associations in the nontraditional agriculture and industrial sector. Accordingly, this section of the report describes the economic characteristics of and the principal private sector players in these sectors.

### **1. Characteristics of the Export Sector**

In 1990, Guatemala exported approximately US\$ 1.16 billion in goods (approximately 15% of GDP). The principal exports have always been coffee and sugar (in 1990, 51% of total exports) followed by bananas, cotton, cardamon, meat and oil (approximately 20%). Nontraditional exports accounted for the remaining 29% of Guatemala's exports. Manufactured goods and agricultural products account for most nontraditional exports, 55% and 36% respectively in 1992. Of manufactured goods, clothing accounted for 45% of the total in 1992.

The non-traditional export sector has experienced phenomenal growth over the past several years. From 1986 to 1992, nontraditional exports increased from US\$ 109 million to \$448 million. Apparel manufacturing was the fastest growth industry in the sector, but growth did slow from 33% in 1990/1991 to 28% in 1991/1992. Apparel manufacturing is done almost exclusively through maquila operations. According to Ministry of the Economy statistics, the number of registered maquila firms grew from 198 in 1990 to 506 in 1992. These firms employed 109,136 in 1992, up from 40,588 in 1990. During that same period, the value of exports from the sector nearly tripled, to approximately US\$ 120 million.

Among all countries of destination, the largest proportion of Guatemala's exports are directed at the United States (38.7% in 1990). In 1992, Guatemala was the seventh largest exporter among the Latin American and Caribbean countries exporting manufactured products to the U.S., up from 19th in 1985.

A substantial part of domestic and U.S. labor union complaints about worker's rights and labor practices is focused on the small, but rapidly growing nontraditional export sector, particularly

the maquila sector. The number of complaints regarding the nontraditional agriculture industry have been relatively few, perhaps because many of the vegetables produce are being grown by small farmers.

2. Private Sector Organizations and Businesses

a. Associations

Guatemala's private sector is highly organized through a network of chambers, guilds, associations, foundations and other support organizations. Two umbrella organizations, the *Comite Coordinador de Asociaciones Comerciales, Agricolas, Industriales y Financieras* ("CACIF") and the *Camara Empresarial de Guatemala* ("CAEM") provide national representation for the member groups. CACIF provides policy leadership and interface with the national government on policy and legislative issues while CAEM supports development and implementation activities to support members and affiliates.

CACIF's membership includes:

- Chamber of Commerce (with 35 associations differentiated by product lines)
- Chamber of Finance
- Chamber of Industry (with 57 associations)
- Chamber of Tourism
- Chamber of Agriculture (with 12 associations).

Each of the five chambers, plus the Sugar Association, has a representative on the boards of the CAEM and CACIF. Both CAEM and CACIF have permanent staff and offices to support ongoing initiatives.

CACIF has established a labor relations committee to support efforts to improve labor relations and productivity. In addition, the CAEM has prepared a concept paper for a National Institute for Conciliation whose objective would be to support negotiated settlements between labor and management in order to avoid the high cost of litigation.

CACIF and CUSG initiated a rapprochement between unions and management in the mid-1980s. This resulted in the first formal collaboration between unions and management in 1988 when the CACIF and CUSG signed a petition, published in the newspaper, demanding that IGSS be depoliticized. The two have continued to dialogue and address issues with lower visibility,

principally to avoid alienating extreme elements on both sides. The existing relationship between the two contributed to the signing of the Tripartite Agreement on March 8, 1993. CACIF signed the document as the representative of the Guatemalan private sector.

Two other important actors related to nontraditional production in the private sector are the Guild of Non-Traditional Exports (GEXPRONT) and the Clothing and Textiles Producers Association (VESTEX), both are members of the Chamber of Industry. GEXPRONT had its roots in the Guatemalan Association of Exporters which began in 1980, but was formally created in 1982 for the purpose of promoting non-traditional exports. GEXPRONT provides marketing and product development training and information to its members to support their export-directed efforts. GEXPRONT has not addressed programs related to labor relations in the past but is planning to initiate future programs focusing on productivity, competitiveness, and other related topics.

VESTEX represents the maquiladoras of the apparel industry as well as the clothing and textile manufacturers producing for the domestic market. Part of its function is to allocate Guatemala's quota among producers in the country.

b. Export-Oriented Businesses

The team visited two maquila sewing operations and wood products plant to have a first-hand experience with management/labor relations at the production level.

The attitudes of management in the maquila operations were very similar. Neither had unions or solidarity associations. Both had informal committees to maintain open communication and resolve disputes between labor and management. Both used productivity incentives and provided a number of benefits, including compensation for transportation and free access to an onsite or nearby medical clinic. Their biggest problems were training and worker retention.

The wood manufacturing company had organized a solidarity association to which approximately half of the employees belonged. According to the supervisor, participation was limited by the inability of some employees to live on their salary if 5% were to be deducted. Management was very aggressive about building a team concept among the employees and was willing to share work to make the business productive, sharing profits when they were high and asking for help from the employees when things got tough. He was most anxious to have training for his supervisors in basic business and operational skills. He had sent some to the state-sponsored Instituto Tecnico de Capacitacion y Productividad ("INTECAP"), operated by the Ministry of Labor, but was very disappointed with the training and has not sent any since. Instead, he has sent them to basic human relations and management and supervision courses sponsored by the Opus Dey arm of the Catholic church and a local training institute.

**C. Ministry of Labor**

1. Organization

The MOL is the cabinet level-agency in the Guatemalan government charged with three functions: 1) Provide direction and administration of labor policy for the country; 2) Promote understanding and enforcement of the laws affecting labor, in particular those related to relations between workers and employers; and 3) Coordinate, enforce and improve the social welfare.

The Minister is assisted by two Vice-Ministers. The first Vice-Minister oversees general operations of the MOL and the second is a woman charged with oversight of the National Woman's Office. These three are supported by a technical counsel provided by the UNDP and professional specialists.

There are four departments in the MOL -- one administrative and three substantive:

- Department of General Labor. Responsible for employer/employee relations (collective agreements etc.), salaries, protection of workers, employment, and employment training programs.
- Labor Inspection Department. Responsible for managing the labor registry, inspection programs (including regional programs), approval of company employment policies, and prosecution of violations of the Labor Code.
- Department of Social Welfare. Responsible for programs to improve safety in the work place, protect the health of workers and implement pilot projects for the social welfare of rural communities.
- Department of Recreation (not discussed here)

The Ministry employs approximately 620 people nationwide. Of that total, 329 employees directly support development and enforcement of labor policies. The rest work in recreation facilities. The Ministry's budget for 1993 is approximately US\$ 3 million.

2. Modernization of the MOL

Since March, 1991, the MOL has supported the GOG efforts to move the country forward through an alliance of business, labor and government. The MOL recognizes its share the need to improve its operations and has as its principal focus to modernize the MOL by (1) establishing better national coverage and, (2) transforming the MOL's own offices into modern and

productive operations. The modernization includes improving information, auditing and accounting systems so that the MOL can operate efficiently. Probably the most important aspect of modernization is upgrading the labor inspection office by providing it with improved technology and training to effectively enforce the law.

### 3. Division of Labor Inspection

Because it is the key to enforcement of the Labor Code, the Division of Labor Inspection is the central focus of the MOL's modernization program. Based on the team's interviews with the Labor Inspector and other officials of the MOL, there is considerable need to improve the functioning of the labor inspection program. That improvement could involve a number of activities including studies on how the inspection process could possibly be restructured to eliminate conflicts of interest inherent in the existing system, personnel and management training, and technical assistance to maximize use of limited resources.

The Division of Labor Inspection is charged with supervision of businesses to ensure compliance with the Labor Code. The Division is divided into three divisions: Inspections, Prosecution and Reconciliation. Currently, the Division has a total of 25 inspectors which operate in Puerto Barrios, Escuintla, and Quetzaltenango, in addition to the capital. Inspectors are assigned to one of two divisions: inspection and reconciliation. Currently, ten inspectors work in reconciliation and fifteen in inspection.

Inspectors assigned to reconciliation work exclusively to resolve (i.e., settle, reconcile or otherwise liquidate) cases related to worker complaints filed with the MOL. According to MOL sources, an average of 150 cases, the majority of which relate to improper dismissals, are filed daily at the MOL. Once a complaint is filed, the labor inspector interviews the worker to determine the facts from his/her point of view. The inspector then approaches the employer with the information and attempts to resolve the matter through negotiation and settlement. That failing, the inspector turns the case over to the prosecution department so that the case can be formally prepared and filed in the labor courts.

On-site inspectors are responsible for all cases related to compliance with labor laws (minimum age, minimum wage, health and safety, etc.) and with all matters related to the formation and operation of unions (violation of collective agreements, formation of unions, etc.). Inspections are initiated generally when a complaint is filed with the MOL (according to the Labor Inspector, very few random inspections are carried out due to the lack of personnel). If the inspector finds that violations have occurred and the employer has not or is unwilling to correct the violation, the case is sent to prosecution where it is prepared and filed in the labor courts. The MOL, as an agency, has no authority to impose sanctions or fines on businesses which fail to comply with the law. Thus, the inspectors face the task of enforcing laws without any real authority to coerce employers. Sanctions and penalties are the province of the labor courts and

may only be imposed if the violator is found guilty after a trial.

The Labor Inspector recognizes that inspectors have a poor reputation with business and labor and are viewed as inept and corrupt. The Inspector attributes the poor performance of inspectors to a shortage of resources as evidenced by low salaries (Q 660 per month), unprofessional attitude (lack of dignity), and lack of supporting technology. As mentioned previously, there is a total of twenty five inspectors for the entire country. Only limited secretarial and administrative help using manual typewriters are available to support the work of inspectors. The office in Guatemala recently purchased its first electric typewriter and still does not have its own photocopy machine. As a result, all complaints and other documents that must be prepared in duplicate have to be typed with carbon paper or typed twice. Attending to complaints in a timely manner is also a problem as none of the vehicles which belong to the Division are operational, requiring inspectors to use public transportation to inspection sites. This often limits the number of inspections that can be made in a day and extends the process unduly.

A basic system is in place which attempts to protect against corrupt inspectors. The system requires inspectors to submit daily reports of the work performed to a supervisor. The supervisor reviews the reports and looks for irregularities in the reports. If a potential problem is identified, she notifies the assistant director who initiates further investigation into the matter, and if a problem is confirmed, (unspecified) discipline of the employee. This system appears adequate to detect and prevent only the most extreme abuses and can easily be circumvented by experienced inspectors.

In recent months, the GOG, MOL and USAID have collaborated to initiate increased support for the Division. The position of labor inspector has been reclassified as a professional position and new hires will be required to have completed seven semesters of law school. The basic monthly salary has been increased from Q 660 to Q 1220 and 37 additional labor inspectors are in the process of being hired. USAID/Guatemala is negotiating the transfer of a word processing system to the Division and three vehicles are being purchased to facilitate travel to inspection sites and improve efficiency. The actions being taken are all positive steps toward improved performance by labor inspection office. The challenge for the MOL is to ensure that inspectors respond to the changes with an improved level of performance.

#### **D. Labor Courts**

The Guatemalan labor court system is the institution charged with resolving disputes related to labor laws and imposing sanctions for their violation. Although many complaints are filed with the MOL in the first instance, the court is the final arbiter and enforcer of labor rights in Guatemala. As the result of changes made in recent months, the labor court system includes:

- 177 Justice of the Peace Courts ("JOP") (located in municipalities throughout the country with a jurisdiction limited to cases involving less than Q 3,000)
- 21 Courts of General Jurisdiction ("CGJ") (in each of the Departamentos),
- Seven Labor and Social Welfare Courts ("LSWC") (five in the capitol and one each in Escuintla and Quetzaltenango) with jurisdiction to receive labor-related cases from anywhere in the country. Three additional LSWCs have been approved and scheduled to be operational in Guatemala City by mid-year.
- Two Courts of Labor Appeals ("COLA") (Salas Uno and Dos) located in Guatemala City. The Supreme Court is also considering expanding the number of COLAs from two to four to accommodate the anticipated increase in cases from the new LSWC courts. Even without the new LSWC courts appeals to Sala Uno have increased from 222 in 1989 to a projected 600+ for 1993.

The labor court system operates under the direction of the Supreme Court of Justice of Guatemala. Cases can be filed in the labor court system by individuals, legal persons and/or the Ministry of Labor. Most cases filed at the labor courts originate as complaints to the Ministry of Labor. When a complaint is filed with the MOL, inspectors investigate the case and assist the parties to reach a settlement. If no settlement can be reached, the case is transferred to the prosecuting arm of the MOL which prepares the case and files it with the court. The case passes through the labor court system where a final disposition of the matter is made. The procedure for docketing cases with the labor court varies by the type action. Cases filed by or on behalf of individuals may be filed with any judge in the labor court system at that person's option. Cases involving disputes between unions and employers may be filed with any LSWC, but are subsequently transmitted to the Supreme Court which assigns the case to a specific LSWC.

In the LSWC court, a case, unless settled, generally has three hearings: a preliminary hearing, the principal hearing, and a final hearing. This process may take anywhere from several months to several years, and delays in the process have been a key focus of petitions filed with the GSP Subcommittee at the USTR. Those within the labor court system opine that the delays are caused by a number of factors including a volume of cases which exceeds the capacity of the courts, abuse of procedural mechanisms by complainants and defendants, and lack of professional support staff (judges are entitled to three professional staff which are typically law students with little or no labor law experience). Labor lawyers agree but also cite cases of judicial foot-dragging as a problem.

Upon completion of the trial, the court, which is the only governmental body in Guatemala authorized to impose fines and sentences for violation of the Labor Code, renders its decision

and imposes a penalty. Under the December, 1992, revisions to the labor code, the penalties which may be imposed by the labor courts range from Q 20 to Q 5,000 in fines and up to 30 days in jail. By law, the labor courts are to report their decisions to the MOL which can then initiate inspections to ensure that compliance is forthcoming. In fact, communication or coordination between the MOL and the labor courts is almost nonexistent, creating an enforcement gap which some GSP petitioners allege permits employers to avoid sanction even after a judgement has been entered against them.

**E. Laws and Regulations Affecting Labor Relations**

Labor law in Guatemala is defined by local laws, such as the Constitution, the Labor Code, and other specialized laws, and international agreements to which Guatemala has acceded, such as the International Labor Organization ("ILO") Conventions. Under the Guatemalan Constitution, standards established in international or regional agreements or treaties executed by the GOG are incorporated automatically into the national laws of the country. Thus the legal framework governing Guatemalan labor matters incorporates both local laws and international standards, even though the latter may not be reflected in the text of the Labor Code or other local law.

The Guatemalan Constitution establishes the "minimal social rights" to which all Guatemalan workers are entitled. These include:

- (1) the freedom to choose one's work
- (2) the right to fair remuneration
- (3) the right to a minimum wage
- (4) the right to a fixed workday (day shift - 8 hours per day/44 hours per week, night shift - 6 hours/36 hours, and mixed shift - 7 hours/42 hours)
- (5) right to a vacation, holiday and annual leave
- (6) right to an annual bonus
- (7) protection of minors (under fourteen years of age)
- (8) preference for Guatemalan workers over foreign workers
- (9) dismissal rights

(10) the right to join trade unions.

The Constitution also states that worker standards established in international or regional agreements or treaties executed by the Government shall constitute minimal rights to which Guatemalan workers are entitled.

1. Right of Association

Guatemala's constitution guarantees workers the right to associate freely and to organize and bargain collectively. Those rights are reiterated more specifically in the Labor Code which precludes derogation of the right by contract or law. Workers have traditionally organized as unions, and more recently, as solidarity associations. Recent changes to the Labor Code state clearly that the right to associate freely for the purpose of collective bargaining is reserved solely for unions.

a. Unions

Unions are worker-based organizations which have historically been organized for the purpose of engaging in collective bargaining on behalf of workers. The procedures for obtaining legal recognition of a union are contained in Title VI of the Labor Code and were strongly criticized in petitions submitted to GSP Subcommittee in 1992 as being too complex. In addition, the MOL was criticized for unduly delaying the process of union approval. There is evidence that the approval process has at times required several years. It is also alleged that employers use the delays created by the extended process to engage in campaigns to discourage organization. These alleged tactics include everything from direct threats against organizers to payoffs to employees who agree not to join the union.

The Ministry of Labor acknowledges the problem of delays in the approval process and selected the organization and freedom of unions as a major area for policy reform in 1991. During that year, the Ministry claims to have considerably reduced the time required to approve applications to organize unions. In late 1992, amendments to the Labor Code were adopted, some of which were designed to facilitate the organization of unions and protect workers engaged in the process. Article 209, as amended, protects workers from being fired while a union is in the process of formation (from the time the filing is made with the MOL until 60 days after approval is granted). Article 217 has been amended to permit the Minister of Labor (formerly the signature of the President of the Republic was required) to approve the application to form a union and requires him to do so within 20 days of receiving a properly completed application. The amended Code protects members of a union's executive committee from dismissal (Article 223) and modifies the procedures for approval (Articles 218 and 220).

In an apparent effort to permit freer competition between with solidarity associations, the Code

was amended to permit unions to engage in for profit activities. Union members are also free to participate in politics.

The ILO Committee of Experts on Convention No. 87, the Freedom of Association and Protection of the Right to Organize Convention, had found in the past that at least eleven separate provisions of the then-existing Labor Code were inconsistent with Convention No. 87. Those inconsistencies related to excessive government interference in the supervision of the formation and operation of unions, the prohibition against foreign workers participating as trade union leaders, and the excessive delays in registering unions. It is unclear whether the recent changes to the Labor Code will affect the previous findings.

In supplements to their earlier petitions, labor groups assert that the changes to the Code, though positive steps, will be meaningful only if they are effectively implemented by the government. Although it is too early to tell, it appears that some improvement in the approval process may result from the amendments to the Code.

b. Solidarity Associations

Solidarity associations are formed as non-profit associations pursuant to Article 15 of the Civil Code, the general law governing the formation of non-profit organizations. To establish a solidarity association, the applicant must submit a notarized copy of its constitution and by-laws to the Ministry of Government which examines the documents to ensure that they conform to all formalities required by law. When all is in order, the Public Minister prepares the necessary Acuerdo Gubernativo and forwards it and the application to the President of the Republic for his consideration and signature. The signed document is then published in the Diario Oficial after which time the association can be recorded in the Registro Civil.

As non-profit organizations, solidarity associations may provide services to their members (medical, dental, etc.) and hold shares in other for profit corporations.

2. Minimum Age Requirements

The Guatemalan Labor Code provides that persons under the age of 14 cannot enter into employment contracts, but does not preclude persons under that age from working. A person under age 14 may obtain legal employment, provided an employment agreement is signed by his/her parent or guardian and approval is obtained from the Ministry of Labor. The law contains no definitive minimum age below which a person may not work. The Ministry of Labor indicates that it only grants work approvals for persons 12 years and older. However, the Ministry of Labor appears to have no criteria, other than prudential considerations, for determining whether to grant approval for persons under 14 years old. The fines imposed by the Labor Code for employers who hire underage persons were recently raised to Q 200. The

fine may be doubled for repeat offenders.

The general standard established in the ILO Minimum Age Convention No. 138 is that the minimum age for admission to employment shall not be less than the age of completion of compulsory schooling or 14 years. However, special exceptions are made for developing countries whose economy and administrative facilities are insufficiently developed to fully implement the Convention. In such countries, children between 12 and 14 may be permitted to work in family and small-scale holdings producing for local consumption.

Petitions filed with the GSP Subcommittee in 1992 allege that many companies in Guatemala are using child labor (i.e., children under 14) in the maquila and other industries. These petitions allege that the majority of these underage workers do not have contracts signed by guardians or authorization from the Ministry of Labor. The Ministry has protection of underage workers as a focus in its current work plan but it is unclear how effective it is at enforcing the law.

### 3. Health and Safety

Health and safety in the workplace are governed by the Labor Code and Health and Safety Regulations. The vagueness of the existing law is characterized by Article 197 of the Labor Code which requires every employer to take the necessary precautions to preserve the life and health of its workers. The Labor Code itself has only nine articles dealing with health and safety of workers.

The MOL through the General Labor Inspector and the Department of Social Welfare, together with the Guatemalan Institute of Social Security ("IGSS") are charged with improving health and safety in the workplace. The Department of Social Welfare has two inspectors which visit the workplace and provide employers with suggestions for improving the health and safety of the work environment, in accordance with standards developed jointly with IGSS. Labor inspectors may cite a company for failure to comply with the standards, but as a practical matter that is seldom done. The Ministry of Labor, in its 1991 study of the maquila industry, found such problems as lack of eating facilities for workers and inadequate ventilation.

Guatemala has not ratified the most significant ILO Conventions related to health and safety: No. 155 (Occupational Health and Safety), 148 (Working Environment), No. 115 (Radiation), 136 (Benzene) and 139 (Occupational Cancer). The few Conventions which Guatemala has ratified have never been completely incorporated into local Guatemalan law.

The MOL is taking some steps to facilitate the improved health and safety of workers. Currently, the MOL has a project to draft a new set of health and safety regulations that are modern, specific and can be effectively enforced. In addition, they have planned joint training with Labor Inspectors, Social Welfare Inspectors and IGSS to provide uniform instruction on

the standards and their application.

4. Compensation

Under Guatemalan law, there are several layers of employee compensation. First, workers are guaranteed a minimum monthly wage, currently Q 528.00 in urban areas. In addition, workers are entitled to an annual Christmas "bonus" equal to one month's wages. Under this system, the employer effectively pays an annual salary, to the employee and/or to his economic compensation account, equal to 14 months' wages. If a worker is terminated and the termination is determined to be unjust, the employer must pay an additional month's wages for every year of service rendered to the company.

Recent modifications to the Labor Code provide additional compensation and benefits to workers.

- 1) Paid days off for certain events: 3 days for spouse death, 5 days for marriage, 2 days (men) for birth of child, jury duty.
- 2) Six unpaid days for union directors to participate in union business.
- 3) Pay for seventh day.
- 4) 15 days of paid vacation per year

### III. CONSTRAINTS TO IMPROVED LABOR RELATIONS

#### A. Introduction

There is no question that significant constraints to improved labor relations exist in Guatemala. The problem of concisely identifying and characterizing a constraint is difficult, if not impossible, however, without defining an ideal state of labor relations. For example, unions may identify the low level of unionization as a constraint to improved labor relations in Guatemala. However, that problem which the union views as an obstacle to improved labor relations is only a constraint if the ideal state of labor relations requires a higher level of unionization than currently exists.

The objective of this report is to identify and prioritize those activities that will improve labor relations in the context of USAID/Guatemala's current trade and investment program (which focuses on economic expansion through developing internationally competitive production in the nontraditional agriculture and industrial sectors). Consequently, **for the purpose of this analysis, the ideal state of labor relations is defined as labor and management interacting rationally and constructively to reach mutually established productivity and competitiveness goals and to improve the quality of life for the worker. Any impediment to this ideal is considered to be a constraint to improved labor relations.** This definition places the principal burden for improving labor relations on the business community and its organizations. Organized labor and other worker organizations have the burden to interact in a constructive, positive way, in view of the circumstances of their members. The governmental role envisioned by this scenario is unintrusive and catalytic, providing leadership and vision and maintaining a level playing field for management and labor to work out their differences. The discussion of constraints that follows is made within the context of this definition.

#### B. General Constraints

##### I. Differences in Perception

The principal obstacle to improved labor relations is the difference in perceptions that exists among labor groups, the private sector, and the MOL. There is no common framework within which labor relations are being addressed. In order for any improvement to occur, business, labor and government must begin to look at what types of labor-management relations are necessary given the competitive realities of the emerging international marketplace. If the three groups can grasp the reality of the problem, they can begin to address ways in which they can work unitedly to ensure that Guatemalan remains competitive and that workers share in the benefits. Without establishing a baseline, efforts to improve labor relations will have sporadic and uncertain results.

2. Historical Relationships

Given the history of violence between labor and management in Guatemala, overcoming historical perceptions and relationships is a major challenge. The team spoke with people on both sides who had survived attempts on their lives and who had friends and/or family who had not. The challenge of overcoming these obstacles will require time, persistence, patience and must be done incrementally, so as not to isolate or offend, creating more division than currently exists. The recommendation would be to start with core groups from each sector who are willing to move forward together and to work with those on the fringes who are not yet able or willing to cooperate more fully in the process.

C. **Constraints Identified by Organized Labor**

The constraints listed in this section were identified by representatives of organized labor and by the project team. Solidarity associations and informal labor groups were generally concerned with training issues such as improved management, financial analysis, and human relations training and viewed those as the principal obstacles to improved labor relations. Their views paralleled those of management and are discussed in that section.

1. Employer "attitudes" regarding labor law and union organization

Labor groups cited general employer disregard for labor legislation and the work of government inspectors. Employers' attitudes regarding relations with labor were described as "feudal" and "intransigent". Strong anti-union attitudes and lack of respect for the collective bargaining process were seen as widespread, although labor organizations cited instances of "good" labor relations in several plants. Unions claim that employers in nontraditional exports and agricultural exports are the worst violators.

Unionists also expressed concern that, although leaders of business associations may express an interest in dialogue with labor and in improved relations, vigilance over smaller employers and plant management is also necessary. Employer associations need to exercise some kind of "moral suasion" with members who violate laws and worker rights. In general, the absence of employer interest in improving labor relations, combined with the Ministry's inability to enforce compliance with legislation, were viewed as the key obstacles to improvement of labor-management relations.

Labor groups stated that some of the worst violations of labor law and workers' rights occur in the maquila industry. They cited common violations of laws concerning child labor, overtime, employers' social security obligations, minimum wage, and the right to organize. Workers trying

to organize a union are commonly fired, they claim. They also pointed to the facility with which maquila plants may relocate under a new "razon social" under current laws. Interview with Labor Ministry's Inspection office confirmed that many violations ("malos tratos") take place in the maquila industry; workers are forced to work extra hours, the minimum wage is not paid, workers are docked a day's wages if they need to go to the IGSS, etc. These violations appeared to most egregious with Korean maquilas and in the free zones.

## 2. Lack of Enforcement of the Existing Labor Code

Labor unions uniformly cited lack of enforcement of the Labor Code as a major problem, made more important by the existing attitudes of management. Most felt that until laws are enforced, a foundation for improved labor relations will not exist. There were a number of opinions as to why the labor laws are not currently being enforced, but the most important factor for most was the lack of political will on the part of the GOG which is reflected in a lack of resources at the Ministry of Labor and the Labor Courts.

Labor groups cited the political weakness of the Labor Minister as a factor in the ineffectiveness of the ministry in enforcing labor law and resolving labor conflict. The Labor Ministry is widely viewed as ineffectual and lacking in resources, the support of the President, and the respect of the private sector. Ministry officials and inspectors commonly urge workers to forgo pursuit of legitimate claims against employers and accept settlements that are less than what the worker is entitled to by law. This is seen as an indication of the Ministry's lack of neutrality and favoring of the private sector, rather than a reasonable way of resolving a matter to preserve scarce resources.

Specific complaints related to enforcement or compliance by the Ministry of Labor include:

- a. Slowness of union registration process; obstacles to union organization and formation

In spite of recent changes to the Labor Code designed to expedite the process of forming a union, labor groups were pessimistic that such changes would bring results. They cited specific cases where unions requesting recognition have not received responses within the new twenty-day limit, illustrating once again that the law means nothing if it is not enforced. Unionists also expressed concern over a requirement added in the November amendments that workers requesting approval for a union present proof of employment. Labor groups view this requirement as an attempt by management to identify workers attempting to organize a union so they can be dismissed (even though it is unlawful to dismiss a worker for union activity).

b. Ineffectiveness and corruption of inspectors

Labor groups blamed the ineffectiveness of inspectors on a lack of resources i.e., vehicles, adequate salaries, lack of training and lack of authority (to access the work place and impose sanctions). The problem of corruption appears related to the lack of training, insufficient pay and the transparency of the system (some opined that the law should require a workers' representative to accompany management and MOL as part of any inspection).

c. Inadequate minimum wage and lack of enforcement of legal minimum

Labor groups complained that the minimum wage is often treated as a maximum limit, and claimed that many employers paid below the minimum wage, while claiming to pay the legal minimum. They also claimed that the minimum wage is insufficient to cover basic needs. One labor leader claimed that the average daily wage was Q 9 for a 16 hour day. Another stated that the average wage was Q 10 and that the income required to provide the basic needs of a Guatemalan family is Q 45 per day.

In another interview, an employers' group stated that many workers are willing to work below the minimum wage. This seems to be the case in the rural agricultural sector where the alternative earnings potential is low. We were told that employers in the vegetable producing sectors do pay the minimum wage and that in some sectors (e.g., Coffee) this is constraining employers somewhat. However, in the maquila apparel factories the team visited the average wage was represented to be Q 25 per day when the minimum wage is Q 14 for that sector. Hence, it is hazardous to make a blanket statement about compliance with the level of the minimum wages, given the number of different wages which apply and the distinct dynamics of different sectors and geographic regions. Perhaps a joint study by an international specialist and the MOL could be made to determine an "appropriate" minimum wage in different sectors (working with the World Bank's efforts to establish a level for the "canasta basica") and the employment (and inflationary) effects of setting the wage improperly. The findings of this study could be disseminated to and discussed with the Tripartite group.

d. Slowness of labor courts/conflict resolution process

One problem of special concern to labor is the timely enforcement of rights and protections contained in the Labor Code. In particular, labor groups mentioned the failure of the courts to reinstate workers who have been unjustly fired, as called for by Article 209. Labor groups also urge speedier resolution of cases where workers are unjustly dismissed for union-related activity, so as to dissuade employers from using this tactic to prevent unions from forming in their plants. The delays are principally attributed to the lack of personnel at the Ministry of Labor and the overcrowded court system.

3. The Existence of Solidarity Associations

Labor organizations did not specifically mention "solidarismo" as a constraint to improved labor relations until the team raised the issue. None of the labor representatives spoken to believed that solidarity associations and unions could co-exist peacefully within a particular workplace, and they provided examples of cases where the two conflicted until one or the other disappeared. While one labor leader admitted that in theory solidarista associations and unions might be able to co-exist, since they had different functions, all agreed that in practice solidarismo has largely been employed as an anti-union tactic. Solidarista associations are commonly initiated shortly after efforts to form a union have begun, and labor leaders claim that workers are often pressured into joining solidarista associations as a condition of employment.

Although solidarismo remains a highly controversial issue for labor organizations, it is unclear whether unions are seeking to be placed on an equal footing with solidarista associations or to eliminate solidarismo as a competitor for the hearts and pocketbooks of workers.

4. Mistrust of private sector and U.S. Government Assistance

The mistrust that exists between sectors of the private sector and the labor movement is rooted in the country's recent political history and in the fact that the outcome of the peace negotiations remains unclear. Although leaders of both CGTG and USG have had some experience talking with business associations, such as CACIF, UNSITRAGUA is isolated from these talks by both their labor peers and businessmen. This mistrust is only likely to be alleviated over time, with good faith efforts on both sides to improve dialogue (perhaps with help of a mediator), and gradual efforts at inclusion.

Mistrust of U.S. government assistance may mean that training and educational assistance for some of the centrales should be routed through some "neutral" third party if possible.

5. Lack of resources

Union and federations appear to have few self-generated resources and must rely on external assistance (AIFLD, and other international labor groups). There is no automatic dues check-off, making it more difficult for unions to collect from their membership.

6. Lack of information/training

Labor groups expressed a need for greater information and understanding of current political and economic changes affecting the region, especially privatization, regional integration, trade and investment, new forms of workplace organization and worker participation (CUSG has had some of these, but other organizations have not). Labor groups expressed a desire to be kept informed

about company/workplace changes that may affect them, and an interest in finding ways to participate in the changes.

**D. Constraints Identified by Management**

In our discussions with managers of CACIF, GEXPRONT, VESTFX, Gremial de Agricultores and owners of five non-traditional export sector firms, we received a strong message that business would like to assist and facilitate improvements in labor relations. All viewed the recent Tripartite Agreement as a firm step in the right direction. Indications that the private sector is committed to improving labor relations generally is evidenced by efforts made prior to the emergence of the GSP issue. As mentioned above, talks between CACIF and CUSG began in the early 1980s and resulted in unified call for important reforms to IGSS as early as 1988.

Generally, the private sector sees itself as the principal obstacle to improved labor relations and the following constraints indicate a strong preference for development of training to help business improve its understanding of competitiveness, productivity and management skills. This training can be applied by identifying new models for developing interrelationships between management and labor.

1. Mistrust of Labor Unions

All of the employers we talked with think it is counterproductive to work with unions. Given the historical experience in Guatemala, they see unions as ideologically driven and destructive (i.e., not interested in constructively solving problems with management). Some of the employers and the leaders of CACIF believe that at least one union confederation (CUSG) has taken those steps which may lead to constructive relations between unions and management.

2. Problems with the Law regarding creation of Unions

The current law allows unions to be created with only three employees. Employers believe this makes it too easy to create union and that such a small number cannot be representative of the employees of the firm. One employer suggests using the laws established in the U.S. that require 50% plus 1 employee agreement in order for unions to be organized.

3. Lack of information about alternative forms of Labor-Management Relations

Several employers demonstrated interest in learning about alternative forms of labor-management relations which could improve conditions for workers and at the same time increase productivity. Some employers asked about profit sharing and worker management schemes as ways to improve worker conditions and productivity.

4. Lack of Middle-Management Skills

The employers noted that the lack of managerial skills was a major constraint in motivating workers and increasing productivity and efficiency in the workplace. Although it is clear that increasing productivity would improve worker prosperity, the IMCC team also noted that improving managers' skills would also improve labor relations directly as there were many anecdotes of labor violence brought on by "unreasonable" supervisors and managers.

5. Low Worker Productivity

Managers often complained about the lack of skills and general educational level of their workers. They claimed that the low wages paid to workers are justified by the low productivity of workers.

**E. Constraints Related to the Public Sector**

The MOL and the labor court system generally view themselves as not contributing to an improved climate for labor relations. Their excuse, however, is the lack of human and physical resources. If that changes with the assistance and expansions currently underway, both view their principal challenge as modernizing their systems.

The MOL places much of the responsibility for less than ideal labor relations on the shoulders of the private sector. In order for relations to improve, the Minister believes that employers will have to adopt new attitudes toward their workers. If that one change could be brought about the need to increase enforcement would be greatly reduced.

1. Administration of the Labor Court System

The Supreme Court needs to examine alternative administrative systems to maximize utilization of the expanded body of LSWCs in Guatemala City. The exact size and structure of an administrative office of the courts would depend upon the physical location of the additional courts, but should definitely include a central docketing system for assigning and tracking all labor cases. A case management system would permit the court administrator to spread the caseload evenly among the judges, and monitor and report the progress of cases in the system. This would inject an additional element of fairness into the process of case assignments and transparency to the judicial process which may act to speed resolution of pending cases.

2. Training of Personnel

The addition of the JOP and other new courts means that there will be a considerable number of additional judicial personnel participating in the administration of justice as it relates to labor law. The immediate concern is with the JOPs who by all accounts have little or no knowledge or training in the Labor Code. We were unable to uncover any plan directed at training these new participants in the labor court system. That training is essential to ensure that expanded system operates to address the problems for which it was created.

An additional concern regarding the quality of professional support personnel was raised by a judge and labor attorneys we interviewed. They indicated their views that the law students who act as professional staff for the judges in the LSWCs fail to provide sound professional support to the legal system. Because of their inexperience, they often make errors which require the judge's intervention to correct, leading to delays in judicial process.

The MOL also needs to undertake an intensive training program for labor inspectors to improve the quality (as well as quantity) of inspections. There is also a need to look at the possible institutional restructuring of the office to avoid inherent conflicts of interest.

#### **IV. PROGRAM RECOMMENDATIONS**

There are a variety of short-term and medium term activities that USAID could support, in conjunction with its current programs, that would address the constraints to improved labor relations described in the previous section and help to establish a climate and institutional structures that could support continuing improvements in the future.

##### **A. Short-medium term objectives**

In the near to medium term, a strategy designed to improve labor relations in Guatemala needs to focus on the following objectives:

- Help leaders from business, labor, and government to begin to develop a shared vision of Guatemala's role in an international economy, prospects for achieving significant economic growth, the relationships between economic growth and worker-welfare, and ways in which improved labor relations can contribute to growth prospects
- Promote an understanding among business leaders, labor representatives, and government officials of the costs and impacts of confrontational labor practices and policies on growth prospects and worker welfare
- Begin to educate business and labor leaders on the necessity of developing systems that ensure compliance with internationally accepted labor standards (as well as standards for the protection of intellectual property rights and environmental protection) as basic conditions of participating in the international economy.
- Identify measures that can be implemented in the short-term to improve incentives for businesses to install management systems and operating procedures that improve labor/management cooperation, protect workers' rights, increase worker productivity, and improve worker welfare.

##### **B. Initial program activities**

To achieve the above objectives, a number of different types of activities need to be pursued, including:

- Research and policy/regulatory analyses

- Seminars, workshops and general training
- Specialized technical assistance and training
- Demonstration projects

1. Research and policy analyses

A practical program of research and policy analysis could be developed to help generate the information base that would support the other elements of the labor relations improvement strategy (workshops, seminars, targeted training, and demonstration projects).

Examples of policy analyses that would support these objectives include:

- a. Preparing a comparative study of countries that have used a tripartite approach to design an economic growth plan that benefits management and labor (and collaterally the government). In particular, the study could examine the political processes that brought the parties together, the dynamics of the tripartite strategic planning process, the translation of that plan into a sound national policy, and the keys to effect implementation.
- b. Identifying and compiling case studies (3-5 cases) of successful productivity models which have been implemented by businesses in Guatemala and/or other countries, i.e., models which made the company competitive and improved the quality of life for its workers. The study could focus principally on models used by companies in export-oriented industries.
- c. Preparing analyses of the cost to the Guatemalan economy of misdirected policies, and enforcing labor rights and resolving labor disputes. The study could focus on a specific time period (one or more years) and examine the cost of strikes, labor complaints, litigation, company downtime as result of disputes, etc.

We would recommend that research and policy analysis efforts be carried out as a joint effort involving business, government, and labor representatives. One possible format would be to establish a Program Implementation Unit (PIU) that would bring together staff from representative business organizations (GEXPRONT or CAEM), government (the Ministries of Labor and the Economy) and labor. The PIU could be housed in office facilities attached to one of the participating organizations such as GEXPRONT, CAEM or the Ministry of Labor.

Short-term technical assistance to strengthen the capacity of the PIU to engage in productive

research and policy analyses efforts could be provided through a technical support contract with a U.S. contractor or consortium, or possibly through a PASA with the DOL. Mechanisms to generate participation by Guatemalan and regional research institutes would also be desirable.

2. Workshops, seminars, and general training

An important initial focus of the overall strategy to improve labor relations and worker welfare in Guatemala should be to begin building a shared national consensus regarding the importance of improved labor relations as a fundamental aspect of Guatemala's economic growth agenda. This should be a major priority during the initial 1-2 years of the USAID-sponsored program.

The research efforts described above should begin to build a base of information demonstrating the critical links between participation in the international market, expanded employment opportunities, requirements for increased worker productivity, training and human resource development needs, and improved worker welfare. In conjunction with the research and policy analyses agenda, a program of workshops, seminars, and general training should be developed that would engage leaders from the business community, government, and labor in a dialogue designed to promote a shared understanding and vision of, and commitment to pursue a progressive economic growth agenda that recognizes the importance of workers' welfare and shared benefits.

We would recommend that a useful strategy for building consensus among Guatemalan leaders and decision makers would be as follows:

- a. Organize an initial tripartite task force or working group, representing business, labor, and government, to help coordinate a 1-2 year program of workshops, conferences, and training seminars designed to formulate a leadership consensus regarding the importance of human resource development and worker benefits/incentives as part of a forward-looking economic growth strategy. This task force would be supported in its efforts by the PIU and contractor/PASA resources (hereafter referred to as the PIU team).
- b. Within six months, plan and conduct a national leadership conference to help define and plan the implementation of this new forward-looking economic growth strategy.
- c. Following the national leadership conference, the tripartite task force or working group (with support from the PIU team) should plan and conduct a series of regional workshops designed to elicit the participation and support of regional leaders from business, labor, and government in engaging in this educational, fact-finding and consensus building effort.

d. As follow-up to the national and regional leadership conferences, a series of workshops and training seminars should be developed to explore specific topics or constraints that are identified as priority concerns through the conferences or through the ongoing program of research and policy analysis conducted by the PIU team.

3. Specialized Technical Assistance and Training

- a. Development of firm-level management systems and operating procedures for improving management/labor cooperation

In addition to the general training, conferences, and seminars described above -- which would be geared to building consensus and addressing the issues described in the first three objectives listed above -- a set of specialized training and technical assistance activities needs to be developed that would demonstrate in very concrete terms the advantages to businesses in pursuing an active strategy to promote productivity, human resource development, employee incentives, and employee welfare at the firm level.

The key to the success of such training and technical assistance efforts would be their ability to demonstrate to business owners and managers their effects on increased profitability and growth of individual firms -- as well as their ability to demonstrate clearly the links between improved worker incentives and welfare and firm-level growth prospects.

We would propose that GEXPRONT take the lead in supporting the development of training and other business services that would be geared to assisting individual firms in implementing new in-plant programs, systems, and procedures. Such technical assistance and training services should focus on the following areas:

- Product development for export expansion
- Productivity training and human resource development programs to meet the requirements for international competition in specific industries
- Quality management systems to help firms meet international standards (including emerging standards such as ISO 9000)
- The development and management of employee incentive systems and benefit packages designed to retain key employees, reduce worker turnover, reduce retraining costs, improve productivity, etc.
- Training to familiarize business owners and managers with other types of

requirements that are facing increased scrutiny in international markets, including observing intellectual property rights conventions, meeting environmental standards, etc.

Training and technical assistance activities at the firm level should offer an integrated package of services, that would demonstrate clearly to owners and managers the relationships between growth, profitability, employees incentives and benefits, quality management, productivity, and other elements of a progressive management system.

Initially, USAID funding should support the development of a limited number of **demonstration projects** that would showcase the effects of such new systems and procedures on a selection of firms in various non-traditional export industries. Later, technical assistance and training services should be extended to a wider array of firms and industries under fee-for-service arrangements that could provide market tests of firm-level demand for productivity-enhancing training.

b. Training and technical assistance to support institutional strengthening

In addition to firm-level training and technical assistance activities focused on GEXPRONT members, USAID should consider providing training and technical assistance support to selected government and non-governmental organizations to increase their ability to support programs to improve labor relations and protect workers' rights and welfare.

For example, training and technical assistance support could be provided to the MOL in the following areas:

- relationships between export promotion activities and workers rights protection
- relationships between Guatemalan law and international workers' rights standards (from U.S. trade legislation, ILO Conventions, etc.)
- improving management of certification and inspection programs
- other specialized topics such as improving mediation, conciliation, and arbitration services; improving collection and analyses of labor statistics; productivity measurement; monitoring safety and health standards, etc.

For GEXPRONT, institutional strengthening activities could focus on development of business and training services that generate income and help support sustainable operations. The firm-level technical assistance and training services describe previously, for example, might provide a basis for GEXPRONT to expand its service capability -- perhaps in partnership with

specialized for-profit service suppliers -- as a way of increasing revenues and expanding member services.

4. Technical Assistance and Training Support to Labor Organizations

In addition to the activities described above that would require funding support from USAID/Guatemala, a concerted effort should be made to develop close coordination with ongoing programs of technical assistance and training support to labor organizations that is currently being provided through centrally-funded USAID programs with organizations such as AIFLD and other groups such as the Friedrich Ebert Foundation.

Such coordination might be accomplished through joint participation in the workshops, conferences, and seminars described above, as well as by participation by labor organizations in the PIU team described above.

**C. Funding Priorities**

During the initial 1-2 years, the primary emphasis of USAID-funded labor relations training and technical assistance efforts should be on (1) research and policy analyses; (2) training and workshops to help develop a national consensus among business, government, and labor leaders; and (3) demonstration projects that test the value of various types of firm-level training and TA packages for improving growth prospects, productivity, workers' incentives, and worker welfare.

After the initial 1-2 years, program-funded efforts should shift to more specialized training and technical assistance services designed to (1) assist firms in developing improved human resource development and management systems and procedures that enhance firm-level profitability and worker welfare, and (2) to support institutional development of selected organizations that are able to play an active role in improving labor relations and workers welfare. For institutional strengthening programs, priority should be given to organizations such as GEXPRONT, which have a capability to address the needs of non-traditional export industries, and to the MOL to help them improve their performance in providing key types of public sector services. To the extent possible, fee-for-service arrangements should be encouraged for both non-governmental and governmental organizations in order to improve prospects for developing sustainable services.

**APPENDIX A  
Interviews Conducted by  
IMCC Team**

**U.S. Government Officials:**

Peter Accolla, Regional Director and Technical Advisor, U.S. Department of Labor,  
International Labor Affairs Bureau  
Bambi Arrellano, ODDT, USAID/Guatemala  
Gerri Chester, Economic Attaché, U.S. Embassy Guatemala  
Tully Cornick, USAID/Guatemala  
Kim Delaney, USAID/Guatemala  
John Keane, Deputy Chief of Mission, Acting Ambassador, U.S. Embassy, Guatemala  
Don Knight, Labor Attaché, U.S. Embassy Guatemala  
Ken Schofield, Director, AID/LAC/Democratic Initiative  
Dr. Ronald Strycker, Acting Director, AID/LAC/TI

**Guatemalan Government Officials:**

Lic. Carlos Francisco Contreras, Vice Minister of Labor  
Lic. Espinosa, Labor Inspector  
Judge Castillo Parada, Court of Labor Appeals  
Lic. Fernando Riviera, UNDP advisor to the Ministry of Labor  
Dr. Marion Solorzano, Minister of Labor  
Ing. Eddy Sperisen, Vice Minister of Economy

**Unions/Labor Organizations:**

Juan Francisco Alfaro, Secretario General, and Hortencia del Cid, Confederacion de Unidad  
Sindical de Guatemala (CUSG)  
Rhett Doumitt, U.S./Guatemala Labor Education Project (US/GLEP)  
Roberto Dueñas, Coordinadora General de Trabajadores de Guatemala (CGTG)  
John Heberle, Director, Michael Donovan, Regional Director Latin America, American  
Institute for Free Labor Development (AIFLD), Washington, D.C.  
Clemente Hernandez and Joe Campos, AIFLD/Guatemala  
Byron Morales, Union Sindical de Trabajadores de Guatemala (UNSI TRAGUA)  
Carlos Piñeda, CUSG  
Jose Recinos, Union Solidarista Guatemalteca

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Rodolfo Robles, Federacion de Sindicatos de Trabajadores de Alimentos y Servicios (FESTRAS)

David Tzay, Federacion Sindical de Empleados Bancarios y de Seguros de Guatemala (FESEBS)

Private Sector:

Mario Archila and Leonel Aguilar, Labor Attorneys

Carlos Arias, VESTEX

Otto Becker, President, CAEM

Juan Sanchez Botran, President, Non-Traditional Product Exporters Guild (GEXPRONT), (CACIF)

Fanny de Estrada, Manager, Jorge Cruz, GEXPRONT

Gerry Lamberty, GEXPRONT

Luis Reyes Mayen, CACIF

Mike Patillo, Maquila Operator

Frederico Polan, CACIF

Jorge Springmuhl, Wood Products Exporter

**Appendix B  
Organizations and Programs  
Involved in Labor Training Activities**

**American Institute for Free Labor Development**

AIFLD has worked primarily (80% of its effort) with CUSG (assistance for education, advising in collective contracts and organizing; they also pay salaries of CUSG officers). They have also worked some with FESEBS, after it distanced itself from the CLAT, and with the CTC. They have sent some labor leaders to the United States for courses at the George Meany Labor College (approximately 10-15 Guatemalan unionists). Assistance has been provided at the federation and confederation level, although they acknowledged that assistance was needed at the union level, and that rivalries between labor organizations were not as strong at this level. They suggested courses for labor groups on regional integration and trade and on labor law would be useful; employers must be persuaded that productivity can improve through better relations with unions and greater worker participation. They advised working closely with all unions to determine their needs, rather than imposing specific types of assistance on them, and expressed caution over focusing on the Labor Ministry, due to its politicization. They expressed the opinion that this was a new period for Guatemalan labor relations, that it was a positive step that leaders of the three had come together, and that the more radical groups in the labor movement also recognized the need for dialogue.

**Fundacion Friedrich Ebert**

A German Social Democratic foundation, Friedrich Ebert has supported research and publications on labor issues throughout Latin America, and sponsored educational forums and conferences for labor groups. (I don't know what they are doing in Guatemala)

**International Labour Organization**

We were informed that ILO provides training assistance for workers, although we were unable to obtain any information regarding substance of its program.

**U.S./Guatemala Labor Education Project**

US/GLEP is based in Washington with an office in Guatemala. They support organizing efforts of Guatemalan workers, and have especially focused their efforts on U.S. plants (INEXPORT and Phillips-Van Heusen); in such cases they have organized corporate campaigns in the United States to call attention to anti-union actions. They appear to have a good working relationship with most labor groups, and they have worked with the entire spectrum of labor organizations on the GSP review process, in which they have played an instrumental role.

**U.S. Department of Labor**

The DOL has been involved in Guatemala for several years under funding provided through a

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PASA arrangement with A.I.D. administered through A.I.D.'s Office of Democratic Initiatives. Through this PASA with the DOL, USAID/Guatemala has provided labor unions and Ministry of Labor ("MOL") employees with essential skills in areas such as mediation and negotiation.

### Instituto de Capacitacion Tecnica

This is a technical school which is financed directly by employer as tax of 1% of his/her wage bill. It is directed by a board which is comprised of 3 members from the Ministry of Labor, 3 members from... and 6 members from CACIF. Although in theory it is created to meet private sector needs, in practice it appears to have many weaknesses. Poor training was cited among others.

### Centro de Desarrollo Gerencial (12 Calle "A" 2-69, Zona 1, Tel. 27 729)

This is a private center where one can get skills to motivate middle level managers to improve human relations. We know only that one of the employers we spoke with sent his personnel manager there.

### KINAL (6a Ave. 13-54, Zona 7, Tel 71 76 74)

An educational center for technical skills which is managed by the Opus Dei, of the Catholic Church. It is a center which is focused on the whole human development of supervisors, employers, workers and small scale employers to help them be more efficient in their work. Courses are offered in various skills (e.g., mechanics, electricians) and in management (finance, marketing, etc.). KINAL also offers a bachelor degree with courses offered early in the morning and late at night.