

USAID-El Salvador Regional Program
Strengthening Labor Justice CAFTA-DR
FY07 Third Quarter Report
April-June 2007

Introduction

On March 5, 2007, the United States Agency for International Development (USAID) and Management Sciences for Development (MSD) signed a 27-month, US\$7,289,673 contract for the implementation of the USAID Strengthening Labor Justice Task Order in support of the CAFTA-DR Treaty.

This Task Order is in fulfillment of Regional E-CAM, SO 2 of the Economic Growth Office, Economic Freedom: Open, Diversified, Expanding Economic USAID to successfully implement the requirements of the CAFTA-DR treaty (see Section C-1, Project Background). In order to encourage and assist CAFTA-DR member countries to ameliorate deficiencies, the Strengthening Labor Justice Task Order is focused on providing assistance to judicial institutions and the other relevant CAFTA-DR government and private sector entities in support of achieving the objectives envisioned under SO2's Intermediate Result 1 (IR1): Adoption of laws, policies and regulations that promote trade and investment.

Under Chapter 16 of the Central American Free Trade Association Treaty (CAFTA-DR), all member countries (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua) unanimously agreed to take immediate steps to increase their capacity, enforcement and compliance obligations as required by the Treaty. Although studies conducted by Inter-American Development Bank (IADB) and the International Labor Organization (ILO) indicate that the constitutions and the labor laws of these countries comply with fundamental ILO and CAFTA-DR obligations, serious deficiencies exist in the implementation and enforcement of their respective labor laws.

The Strengthening Labor Justice Task Order seeks to assist the Judiciary and other relevant CAFTA-DR government and private sector institutions through implementation of a three-part program: Component One: Electronic Judiciary Management Systems; Component Two: Raising Professional Standards in the Labor Judiciary; and Component Three: Procedural Streamlining.

These three Components of the Strengthening Labor Justice Task Order are in direct response to the Report issued by the Vice Ministers responsible for trade and labor in the CAFTA-DR countries in April 2005 ("The White Paper") which, while acknowledging that the member countries' labor laws are in compliance with the ILO labor standards and the CAFTA-DR requirements, found that there was a need for strengthening compliance and enhancing capacity in, among other things, the Judiciary of the CAFTA-DR countries.

In the third quarter of FY07, MSD began setting up operations, including obtaining office space, equipment and staffing the Regional Offices for the Project, for the central office in San Salvador. Additionally, MSD conducted a series of meetings with USAID personnel, in San Salvador as well as in the other CAFTA-DR countries (Refer to annex trip reports).

Initial IAP meetings involving members of the Judiciary and the Ministries of Labor have been held both in El Salvador and the Dominican Republic. These meetings proved to be very productive.

In-depth assessments relating to Components 1, 2 and 3 have been carried out in San Salvador, as well as Component 1 in the Dominican Republic. Reports detailing the

outcomes of these assessments activities and recommendations are expected during the next Quarter.

Component One: Electronic Judiciary Management Systems Strategic Objective

During the 3rd quarter of FY 2007, Component One under the USAID/El Salvador Regional Program Strengthening Labor Justice CAFTA-DR project MSD successfully accomplished the following project activities;

3rd Quarter Deliverables

Activity	Planned Completion	Status	Notes
Conducted diagnostics of electronic information systems currently in place in the ES courts	4 th Quarter	Pending	Joel Cartwright (Triamer) is scheduled to come back to ES 4 th Quarter to start the process of implementing the CMS here in ES

Activities

Beginning on June 11 through June 22, 2007, MSD sub-grantee, Triamer, CAFTA-DR conducted a comprehensive diagnostic assessment of the El Salvadorian Supreme Court’s electronic information system in San Salvador and the court of first Instance and the Appellate courts in San Miguel.

Properties of Current System

The Triamer Team visited the Supreme Court and reviewed a system that the Supreme Court personnel were developing. The current system, while limited by its technology to a basic case management and tracking system, has significant potential as it was developed in tandem with a system re-engineering of existing manual processes. This re-engineering effort appears to have resulted in improvements in ease of access, time saving, accuracy, and document management.

The system is currently undergoing pilot testing, with four processes programmed, and a fifth under development. The system is being developed on a modular basis to support management of civil, family and commercial cases. The design appears that it will also support modification of Civil and Commercial sector modules in response to pending legislation that will modify these statutes. Further, the architecture is being designed to

provide an MIS (Management Information System) reporting capacity for Supreme Court administration. The system has a user friendly “semaphore” decision support system for top management employing binary color-coded options, an example of appropriate, site-specific technology embedded in the system design. Finally, the Local Area Network (LAN) based architecture of the system can support a distributed LAN/Wide Area Network (WAN) integrating judicial jurisdictions nation-wide.

Supreme Court Analysis

Time constraints precluded a complete analysis and detailed evaluation of each of the system modules. Nevertheless, a key process, submission of petitions for second level appeals cases to be heard, was documented and reviewed. In essence, a person at a stand-alone computer records receipt of petitions and preparation of a case file control sheet, supporting the existing manual system. The remainder of the process is manual, with dispatch and receipt of the file entered on the control sheet. This arrangement precludes effective case or data management and leads to bottlenecks, unequal workload distribution, and ineffective management control. Conversely, the pilot system supports effective workload distribution and management control during all phases of the processing cycle. Specifically, in the new system the case petitions are immediately entered into the system, and cases are assigned based on adjudicator workload distribution. Further, the system tracks cases at each step of the adjudication process through final plaintiff notification. Indications are that a significant improvement in case adjudication throughput, accuracy and management information will be achieved through implementation of the pilot system.

A Personal Computer (PC)-based server supports the system’s client/server, LINUX/SQL based environment. The basic design of the system supports its scalability and provides a platform for migrating system modules potentially responsive to the labor case tracking requirements of other Central American nations.

San Miguel Analysis

The Triamer Team also visited the Courts of First Instance and Appellate Courts in San Miguel. The Team’s review of computer support for the San Miguel labor court reveals a logical and useful employment of a stand-alone computer for recording and tracking cases. Essentially, a computer-based case file is generated and tracked on a PC. Cases adjudicated are primarily, contested discharge cases, especially the discharge of pregnant women. In this regard, it should be noted that while under El Salvador labor laws it is unlawful to discriminate against pregnant women in regards to employment, in reality, this is a common practice. The appellate court lacks computer support. In addition to labor cases, the Appellate Court also hears commercial, traffic and other case categories.

The preliminary assessment proved to be successful. This preliminary assessment allowed the CAFTA-DR project to determine the current capacities of the Courts information systems. The diagnostic assessment provided CAFTA-DR with the necessary information to devise methodologies on how to efficiently link and support judiciary institutions and how to improve the efficiency of processing court cases and accessing information.

Main Target Results Achieved

- Preliminary diagnostic of Supreme Court in El Salvador conducted
- Preliminary diagnostic of Courts of First Instance and Appellate Courts in San Miguel conducted
- Configuration for Case management system developed

Issues Encountered & Lessons Learned

The diagnostic assessment determined that the Labor Court Tracking and Management is provisional, operates parallel to the Supreme Court IT department and has not been institutionalized. Execution of the system without resolving the aforementioned issues could result in the implementation of parallel networks with possible conflicts and duplications in the areas of processes, protocols, network standards and associated issues. In addition, it is still unclear as to whether the applicability of the El Salvador solution is universal to other countries. This issue will need to be addressed once surveys of other designated countries have been conducted.

Future Deliverables for Next Quarter

Activity	Planned Completion	Status	Notes
Completion of assessment and Assessment Report prepared and shared with USAID and counterparts. Begin work on the installation of the case-management system.	4 th Qtr FY07	Trip back to ES already planned	Assessment Report to be reviewed and shared with USAID and counterparts
Installation of server in ES Supreme Court	Last Quarter FY07	Server in process of being retrieved from customs	It is expected that server will be installed during month of July

Component Two: Raising Professional Standards in the Labor Judiciary Strategic Objective

During the 3rd quarter of FY 2007, Component Two under the USAID/El Salvador Regional Program Strengthening Labor Justice CAFTA-DR project, CAFTA-DR successfully accomplished the following project activities:

3rd Quarter Deliverables

Activity	Planned Completion	Status	Notes
Assessment of Judicial system performed in ES by Dra Stanga	4 th Qtr FY07	Assessment report due 4 th Qtr FY07	Assessment Report to be completed and provided to AID/counterparts by 4 th QTR FY07
Assessment of Judicial System performed in DR by Dr Stanga	4 th Qtr FY07	Assessment report due 4 th Qtr FY07	Assessment Report to be completed and provided to AID/counterparts by 4 th QTR FY07

Activities

Beginning on May 14 through May 26, CAFTA-DR consultant, Silvana Stanga, conducted an in-depth assessment of the judicial system in El Salvador and from June 25 through June 29, in the Dominican Republic. In both countries, Dr. Stanga met with the following stakeholders: members of the Supreme Court, the Judicial School (*Escuela Judicial*), Ministry of Labor, academicians and other potential actors. In addition, CAFTA-DR consultant reviewed numerous documents relating to the labor courts and visited some of the lower-level labor courts.

El Salvador

MSD Legal and Judicial Training expert, Silvana Stanga, conducted information meetings with key local authorities which included law school deans, professors of the judicial school and Magistrates of the Judicial Council. In these meetings, MSD not only informed the local stakeholders of the main objectives of the CAFTA-DR project but encouraged the different faculties of law to participate in the design and implementation of a Judicial Masters program with an emphasis on Labor law. Such a Judicial program, will help faculties of law to strengthen their institutional capacity in graduate and post graduate studies.

Dominican Republic

Dr. Stanga conducted several meetings with local authorities. In these meetings, MSD was able to build solid relationships with key local authorities on issues of labor law and discussed the objectives of the CAFTA-DR project.

During the assessments, CAFTA-DR was able to gather information from the appropriate courts and other institutions of the justice sector on their work load, administration, operating procedures and other human resource management issues.

Main Target Results Achieved

- Preliminary recommendations prepared on strengthening, designing and implementing meaningful and sustainable programs in El Salvador and the Dominican Republic relevant to CATA -DR.
- Acquired consensus from law schools to improve their institutional capacity in graduate and post graduate education in the area of labor law.

Issues Encountered & Lessons Learned

At present it is too premature to determine what potential design and implementation issues may arise in the respective programs in El Salvador and the Dominican Republic.

Future Deliverables for Next Quarter

Activity	Planned Completion	Status	Notes
Assessment Report for ES to be produced, reviewed and shared with AID and counterparts	4 th Qtr FY07	In Progress	Assessment report will be completed and evaluated for the purpose of designing and implementing Component 2 in ES
Assessment Report for DR to be produced, reviewed and shared with AID and counterparts	4 th Qtr FY07	In Progress	Assessment report will be completed and evaluated for the purpose of designing and implementing Component 2 in DR
In-depth assessment of the Judicial systems in CR, Hond, Guate and Nic to be carried out	4 th Qtr FY07	Assessments in CR, Hond, Guate and Nic in Progress	
Assessment Report for CR, Hond, Guate and Nic to be produced, reviewed and shared with AID and counterparts	4 th Qtr FY07	Assessments Reports in CR, Hond, Guate and Nic will be submitted after assessments	Assessment reports for CR, Hond, Guate and Nic will be completed and evaluated for the purpose of designing and implementing Component 2 in these countries

Component Three: Oral Proceedings Strategic Objective, Alternative Dispute Resolution (ADR) Strategic Objective and Small Claims Strategic Objective

During the 3rd quarter of FY 2007, Component Three under the USAID/El Salvador Regional Program Strengthening Labor Justice CAFTA-DR project CAFTA-DR successfully accomplished the following project activities.

3rd Quarter Deliverables

Activity	Planned Completion	Status	Notes
Licentiate Cesar Susanville and Dr. Tomas no conducted an in-depth assessment of the Judicial labor system in ES to study the state of morality (does not exist), as well as ADR practices currently used as well as procedures involving Small Claims.	Assessment Reports due 4 th Qtr FY07	Assessment Reports pending	

Activities

During the Period of June 6 through June 15, CAFTA-DR consultants Cesar Colanilla and Dr. Tomasino conducted a series of diagnostic assessments in El Salvador on: 1) Oral proceedings, orality, 2) Alternative Dispute Resolution (ADR) and 3) Small Claims.

Oral proceedings

The CAFTA-DR team conducted interviews with Supreme Court Justices and Judges, to assess the availability and process of oral proceedings; the team also met with local lawyers and academia to get their opinions on judicial proceedings and reviewed court files.

Alternative Dispute Resolution

Ms. Susanville and Dr. Tomasino assessed the labor courts, and other centers pertaining to their ADR methodology used in labor conflicts and how effective id ADR in the labor sector.

Small Claims

The CAFT-DR team evaluated the effectiveness and efficiency of labor courts to resolve small claims cases.

Main Target Results Achieved

- Preliminary recommendations developed on devising guidelines for oral proceedings in labor cases.
- Preliminary recommendations developed on improving ADR in regards to resolving labor conflicts.
- Preliminary recommendations developed on improving the effectiveness and efficiency of small claims cases.

Issues Encountered & Lessons Learned

Once the CAFTA-DR project starts implementing recommendation to improve oral proceedings, ADR and small claims the CAFTA-DR project will be in more of a position to outline any problems and lessons learned.

Future Deliverables for Next Quarter

Activity	Planned Completion	Status	Notes
Assessments to be conducted in the rest of the CAFTA-DR countries (DR, CR, Hond, Nic and Guate) to assess the state of the level of development of the Labor Judicial system regarding orality (only DR has orality functioning in labor courts), ADR and Small Claims	4 th Qtr FY07	In progress	These assessments are necessary in order to prepare thorough assesment reports.
Assessment Reports to be prepared and shared with AID and other counterparts	4 th Qtr FY07	In progress	These assessments reports will form the basis for future implementation programs in DR, CR, Hond, Nic and Guate.

Activity	Planned Completion	Status	Notes
regarding the assessments noted above.			

Monitoring and Evaluation

During June 11 to June 21, Monitoring and Evaluation Specialist, Alicia Pfund, traveled to El Salvador to devise the monitoring and evaluation plan. During this trip, Ms. Pfund met with the project technical staff to review the project indicators. In addition, Ms. Pfund met with project stakeholders and counterparts not only to inform them of the CAFTA-DR evaluation plan but to communicate to them the importance of their participation the development of the evaluation plan. The purpose of these initial meetings with the project counterparts and stakeholders is to prepare them for the upcoming project evaluation work shops which will take place in project year one and two. These upcoming workshops will allow the CAFTA-DR project to collect crucial information on verification means, the data base and year one and two targets.

List of Annexes

- Trip Report to Costa Rica - 5/10 - 5/11
- Trip Report to Honduras - 5/21 - 5/23
- Trip Report to Guatemala - 5/23 - 5/24
- Trip Report to Nicaragua - 5/31 – 6/2