

Remarks of
Ambassador Rob Portman
U.S. Trade Representative
Hispanic Alliance for Free Trade
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(As Prepared for Delivery)

Thank you, Ms. Alonzo, for that introduction, and for the work you're doing as a co-chair of this Alliance. In my month on the job, I have already heard a lot of great things about the Hispanic Alliance for Free Trade, so I am glad to have the opportunity to meet you in person.

As leaders of Hispanic businesses and community groups around our country, you know better than most that CAFTA-DR will not only create opportunities for Hispanic entrepreneurs in the United States, it will strengthen the bonds of friendship and commerce with our neighbors to the South. It is a pleasure to welcome you to the White House. Bienvenidos.

As you know, you arrive here in Washington on the eve of important Congressional action on the Central American-Dominican Republic Free Trade Agreement. Next week, Congress will begin the process of committee consideration of legislation to implement this landmark agreement.

CAFTA-DR is strongly in the economic and security interests of the United States. With more than \$32 billion in two-way trade, these six countries combined represent a substantial market for our products. The vast majority of the region's products already enjoy duty-free access in the United States. What CAFTA-DR will do is open their markets to our workers, farmers and service providers. It will assist our Hemisphere in the global competition with China, especially in areas like textiles and apparel. And it will strengthen young democracies that have stood with the United States in the push to expand freedom in our neighborhood.

You have probably heard, as have I, that one of the main reasons some Members of Congress are reluctant to support CAFTA-DR is because of their concerns over labor rights. This is hard to understand because CAFTA-DR is the best trade agreement ever negotiated by the United States on labor rights.

The labor provisions in CAFTA-DR are more practical and effective than existing U.S. trade laws, far stronger than NAFTA, and stronger than earlier agreements like the Jordan FTA.

CAFTA-DR's strategy on labor rights is designed to identify problems and find solutions. And it is designed to be a flexible and evolving strategy. And today, I am pleased to announce my willingness to work with Congress on a bipartisan plan to go even beyond the ground-breaking provisions in this agreement, to put in place a long-term strategy to improve labor rights enforcement in Central America and the Dominican Republic.

Before I lay out that plan, it is important to first understand what the problem is that we're trying to solve.

The International Labor Organization (ILO), at the request of the Central American governments, conducted a thorough study of the labor situation in the region last year.

The ILO found that the labor laws on the books in Central America are now generally in line with ILO core labor standards. In fact, El Salvador has ratified six of the eight detailed ILO conventions that comprise these standards, and the other countries have ratified all eight.

The ILO study demonstrated that the laws on the books are not the main issue. The major problem is that enforcement of those laws clearly needs improvement.

You can read the State Department's annual human rights report and quickly conclude that enforcement needs to be improved.

You can read a recent White Paper published by the Labor Ministers of Central America, who themselves acknowledge that enforcement needs to be improved.

And some prominent opponents of CAFTA-DR in Central America have reached the same conclusion.

For example, the Catholic Bishop of Guatemala, testifying before the House International Relations Committee, said "We have an excellent labor law in Guatemala, but it is not routinely complied with." And Gregorio Elias, a CAFTA opponent, dockworker, and union organizer in El Salvador, said recently in the Chicago Tribune, "Although the law is there, it is not well respected."

So let's be clear: there is a labor rights issue in Central America. According to the State Department, Central American governments, and labor rights campaigners in Central America, the issue is the enforcement of existing labor laws.

So if that is the problem, the next question is: what's the best strategy to fix the problem?

CAFTA-DR recognizes that a failure to enforce labor laws can be the result of two things: a lack of resources, or a lack of political will. CAFTA-DR addresses both of these:

To the extent that the problem is lack of resources, CAFTA-DR provides unprecedented resources to build the capacity of Central American governments to enforce their laws. The agreement establishes a new and ongoing Committee on Trade Capacity-Building to identify needs and match those needs with resources. Congress has already appropriated \$20 million for this year for labor and environment capacity-building for Central America, up to \$17 million of which the Administration plans to direct toward labor law enforcement. These are significant resources in these relatively small countries, which could be used to strengthen labor ministries, improve labor court systems, and crack down on discrimination in the workplace.

If the problem is a lack of political will, CAFTA-DR has real teeth in the form of tough and practical enforcement provisions. If a country fails to enforce its labor laws, CAFTA-DR provides for heavy fines, up to \$15 million per year, per occurrence.

And, importantly, these monies would be re-directed toward actually solving the labor problem, and the United States would always have the final say over how those funds are used.

A \$15 million fine isn't small in this region. In fact, it is more than the annual labor ministry budget of every one of the CAFTA-DR countries. And if the fine isn't paid, we can impose trade sanctions in an equivalent amount.

Taken together with the modern dispute resolution process in the agreement, I believe these provisions make CAFTA-DR the best trade agreement on labor ever signed by the United States. It is light-years ahead of NAFTA. And I believe it is much better than the alternatives put forward by CAFTA-DR's opponents.

CAFTA-DR's opponents misunderstand both the problem and the solution. They ignore what labor rights campaigners in the region say about the problem of enforcement. Instead, they seem to be stuck in the law library, parsing the texts of labor codes.

This is odd, since many of these opponents supported trade agreements with countries like Jordan and Morocco, where labor laws are in important respects not as strong as Central America's:

For example, Jordanian workers need government approval to have a strike. Not true in Central America.

Foreign workers cannot belong to unions in Jordan. There are no such restrictions in Central America.

All unions in Jordan must belong to a state-sponsored union, and the Jordanian Government oversees all union elections. No such requirements in Central America.

In Morocco, children are allowed to work longer hours, and at lower ages in hazardous conditions, than in all six CAFTA-DR signatory countries.

Having misunderstood the problem, some CAFTA-DR opponents then want us to use the enforcement strategies of the past, which have been in our law for decades but which have not been very effective in producing major improvements in labor rights.

For example, some argue that we should use labor sanctions like those in the existing GSP law or the Caribbean Basin preference laws that apply in these countries.

But those provisions have been around for twenty years, and they haven't worked particularly well. In fact, no Administration – Republican or Democratic – has ever invoked labor sanctions in Central America under existing law. Why not?

For the simple reason that existing law provides only one option – an “all or nothing option” – on labor. The only choice is to revoke trade benefits through harsh sanctions. This would hurt the very workers we are trying to help, throwing them out of jobs as investors simply pick up and move to other countries.

Unlike CAFTA-DR, existing law offers no intermediate options: no dispute settlement, no fines, and no capacity-building assistance. It's a blunt instrument, which is why Presidents of both parties have generally chosen not to use this mechanism.

It's also important to note that the existing Caribbean and GSP programs have no provisions at all to protect the environment, whereas CAFTA-DR's dispute settlement provisions apply equally to environmental enforcement.

Others have suggested that the Jordan FTA offers a better solution on labor. But CAFTA-DR is far superior to the Jordan FTA on labor, in three key ways:

First, only CAFTA-DR has a binding, modern dispute settlement system for labor issues. The dispute system under the Jordan agreement is weaker and underdeveloped. For example, if Jordan wanted to, it could simply block the establishment of a dispute settlement panel on labor issues; CAFTA-DR countries can't throw up those kinds of roadblocks. And unlike CAFTA-DR, dispute settlement panels under the Jordan agreement don't issue binding reports.

Second, CAFTA-DR has stronger and more focused penalties for violating labor laws. The Jordan agreement contains no monetary fines at all, and the U.S. and Jordanian governments explicitly rejected trade sanctions to resolve disputes.

Third, CAFTA-DR requires fair and equitable proceedings for enforcement of labor rights. These procedural safeguards are intended to ensure that workers not only have rights, but have access to procedures to enforce those rights and seek remedies when they are violated. Jordan contains no such procedural safeguards.

The opponents of CAFTA-DR offer only strategies that are like a clumsy sledgehammer aimed in the wrong direction. By contrast, the CAFTA-DR is like a razor-sharp scalpel aimed at precisely the right problem.

But the CAFTA-DR strategy is also an evolving strategy, and I will be the first to say that the Administration doesn't have all the answers. I've met with many Members of Congress on both sides of the aisle who want to build a cooperative strategy to improve working conditions in the region. I want to work with interested Members of Congress to further expand our cooperative strategy on labor rights. How? Several ideas I've heard are worth exploring further:

First, we need a long-term, sustained commitment to labor capacity-building in Central America and the Dominican Republic. The \$20 million appropriated by Congress for this year is a good first step. I would like to work with Congress to ensure additional funding is available for a longer period of time.

Second, we need to follow-up on the recommendations of the Central American White Paper on labor enforcement. The CAFTA-DR governments have asked for assistance from the U.S. and from multilateral lending institutions like the Inter-American Development Bank and the World Bank in three priority areas: strengthening their Labor Ministries, improving their labor court systems, and cracking down on discrimination – especially gender discrimination – in the workplace. I would like to work with Congress to organize an international donor's conference before the end of July to address these needs.

Third, we need to explore an ongoing way to benchmark and verify the progress countries are making in improving the enforcement of their labor laws. The CAFTA-DR countries themselves requested this in their White Paper, and our Administration has had preliminary talks with Labor Ministries on the subject. I want to work with Members of Congress on both sides of the aisle on how best to achieve this.

I believe the Central American-Dominican Republic Free Trade Agreement is the best, most practical agreement on labor rights ever negotiated by the United States. It goes far beyond NAFTA, is superior to the existing Caribbean Basin trade preference law, and has more teeth than the Jordan FTA.

Our strategy for labor rights in Central America does not paper over labor problems in the region. But it focuses on the right problems, and lays out focused strategies to solve them. And with bipartisan cooperation from Congress, those strategies can grow and evolve over time to meet the needs of the region.

For those who care about labor rights, CAFTA-DR is the right kind of trade agreement, at the right time.

Thank you again for all you have done to help spread the message about the clear benefits of CAFTA-DR to the United States and to Central America. It is a win-win agreement and we must not let this opportunity pass – we must not let it fail. I look forward to working with all of you to ensure its passage by the Congress. Thank you and Godspeed.