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A VOICE FOR WORKERS

**Expanding U.S. Capacity
to Promote
International Labor
Standards and Enforce
Trade Agreements**

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INTRODUCTION

The United States has a strong interest in how workers are treated in other countries. When workers are paid higher wages abroad, they cannot so steeply undercut U.S. workers at home. Raising labor standards in developing countries is also a key to reducing poverty and expanding the global middle class—which benefits the United States by fostering more democracy and political stability as well as larger export markets for American-made products. In addition, the United States has entered into numerous new trade agreements since 1993 that commit both the U.S. and its trading partners to uphold core international labor standards.

For all these reasons, the United States government needs a robust capacity for promoting labor standards and enforcing the worker rights provisions of trade agreements. That need has long been recognized by the U.S. Congress and by different administrations, and historically the lead agency in this area has been the Bureau of International Labor Affairs (ILAB) at the U.S. Department of Labor. Other agencies, such as the U.S. Agency for International Development (USAID), the State Department’s Bureau of Democracy, Human Rights and Labor, and the Office of the United States Trade Representative (USTR) have also played different roles.

Over the past eight years, even as the U.S. signed a number of new bilateral trade pacts, the U.S. government actually decreased its capacity for promoting strong labor standards and enforcing the labor provisions of trade agreements. The Bush Administration sought to slash funding for ILAB and, though it wasn’t entirely successful in this effort, it still managed to significantly downsize the agency.

The new administration and Congress should move quickly to revitalize ILAB as part of a major new effort to promote higher labor standards around the world and enforce worker rights provisions in existing trade agreements. This brief provides background on labor standards and recent U.S. trade agreements, examines the new opportunities that exist to raise labor standards, looks at the historic role of ILAB, and offers recommendations for ensuring that the U.S. has the capacity to be a global leader in guaranteeing worker rights.

PROMOTING HIGHER LABOR STANDARDS: AN EXPANDING AGENDA

Raising labor standards has long been a stated goal of the international community, dating back to the founding of the International Labor Organization (ILO) in 1919. But recent years have seen a growing focus in this area as globalization has accelerated. In 1998, the ILO issued the “Declaration on Fundamental Principles and Rights at Work.” The Declaration outlines standards in four “core” areas:

- Freedom of association and recognition of the right to collective bargaining;
- Elimination of all forms of forced or compulsory labor;
- Effective abolition of child labor; and,
- Equal opportunity and elimination of discrimination in employment.

In addition to more international attention on enforcing these four core labor rights, there has also been a growing focus on improving labor standards with respect to minimum wages, hours of work and occupational safety

and health. Most countries already have laws that protect workers in these areas, yet those laws often go unenforced—either because of a lack of political will, or because nations lack the capacity to effectively monitor workplace conditions and take action in the face of violations.

While the United States has yet to ratify some of the ILO conventions underpinning core international labor standards, it has repeatedly affirmed the importance of these standards and the U.S. State Department includes workers rights in its annual review of human rights around the world. The U.S. has also embraced a strong link between trade agreements and labor standards as evidenced by recent bilateral trade agreements. Meanwhile, many U.S. corporations have pledged to uphold voluntary standards governing labor practices in their supply chain and opinion polls find that the U.S. public cares strongly about this issue. A 2007 poll found that 93 percent of surveyed Americans believed that trade agreements should “include minimum standards for working conditions.”¹

ENFORCING TRADE AGREEMENTS: A GROWING NEED

The United States has signed 12 bilateral trade agreements since the late 1990s, nine of which have been ratified by Congress. Each of these pacts commits both parties to uphold core international labor standards. In addition, the 1993 North American Free Trade Agreement (NAFTA) commits the U.S., Mexico and Canada to uphold an ambitious set of labor standards, although these obligations are included in a side agreement, not in the main body of the agreement. All trade agreements signed by the United States since 1993 ask signatories to uphold domestic labor laws.

This proliferation of bilateral trade agreements has created a much greater demand for U.S. governmental capacity to monitor labor rights abroad, enforce the labor provisions of trade agreements, and provide technical assistance to help developing countries—particularly U.S. trading partners—monitor and regulate the workplace. These needs have escalated even as the capacity to carry out such work has diminished.

“All trade agreements signed by the United States since 1993 ask signatories to uphold domestic labor laws...[but] labor rights are often violated in countries that have entered into bilateral trade agreements with the United States.”

According to the U.S. State Department’s annual human rights surveys, as well as reports by nongovernmental human rights groups like Human Rights Watch, labor rights are often violated in countries that have entered into bilateral trade agreements with the United States. But the resources for bolstering domestic enforcement of labor laws, investigating violations of trade pact labor provisions, and adjudicating complaints are often lacking.

Although NAFTA and bilateral trade agreements have been rightly criticized for not including strong enough mechanisms to enforce labor provisions, these pacts still provide wide latitude for the Obama Administration to press for greater respect for worker rights. Also, it should be noted that the most recent trade pacts, such as with Peru, stipulate that violations of labor provisions are handled through the same enforcement procedure that governs the commercial provisions of the treaty—a major step forward.

In any case, much of the most important work to be done lies not in meting out punishment for violations of the labor provisions in trade agreements, but rather in helping signatories to these pacts build the governmental capacity to monitor and enforce labor laws, as well as raise awareness among workers about their legal rights and strengthen civil society organizations, like unions, that fight for workers. Recent trade pacts stipulate that the U.S. has an obligation to work cooperatively with its trading partners to build such capacity and also to monitor progress toward this goal. For example, Article 17.6 of the United States-Peru Trade Promotion Agreement establishes a “Labor Cooperation and Capacity Building Mechanism” that commits both parties to bilateral efforts to raise public awareness about labor rights; strengthen labor laws, inspections and enforcement; promote occupational health and safety; track labor statistics; and engage in a variety of other activities.

In theory, developing countries that integrate more deeply into the global economy should experience faster economic growth and workers in these countries should have more options and experience better labor conditions. But history shows that this progress is rarely automatic and that an ongoing regulatory push is needed to improve labor rights. By focusing greater resources on behalf of labor rights issues abroad, the United States can give countries the help they need to provide that push.

NEW OPPORTUNITIES FOR COOPERATION ON WORKER RIGHTS

Beyond the enforcement demands associated with recent bilateral trade agreements, the United States has many new opportunities to work with a range of actors to raise labor standards worldwide. This issue has attracted growing attention from both global and local NGOs, and from multi-national corporations. The preference of consumers for products made in a socially responsible fashion has grown sharply in recent years and NGOs have channeled these preferences into new pressure campaigns on corporations. In turn, many corporations have responded to such pressures by pledging to raise labor standards in their global supply chains.

For example, in October 2008, Wal-Mart announced a new plan to closely monitor its suppliers and move toward sourcing 95 percent of its goods from factories that receive the highest rating in audits of environmental and social conditions. That move came after reports by two NGOs in 2007 of worker abuses and child labor at 15 factories that produce goods for Wal-Mart and other retailers. Wal-Mart pledges that its higher standards for suppliers will stipulate that they comply with all labor laws, including paying local minimum wages, complying with rules about hours of work and overtime, ensuring health and safety of workers, and not using child or forced labor. (Wal-Mart’s new policy says nothing about collective bargaining and the right to form unions, which are typically protected under local labor laws.)² A range of other companies, like Nike, have also made pledges to ensure good working conditions in their supply chains—although a number of these efforts have been criticized by NGOs as not going nearly far enough.

“The United States government should expand efforts to encourage and assist corporate steps for worker rights.”

The United States government should expand efforts to encourage and assist corporate steps for worker rights. ILAB has substantial experience in collaborative efforts to monitor working conditions in specific countries and its technical expertise and research can be useful as corporations set up new labor oversight mechanisms. In addition to helping corporations live up to their promises, ILAB can help NGOs monitor labor conditions in the global supply chains of multi-national corporations and keep up the heat for reform. ILAB’s historic role in providing national governments with technical assistance in developing and enforcing workplace regulations will become more and more important in this context. Capitalizing on all these new opportunities will require substantially increased resources for the Bureau.

RAISING LABOR STANDARDS: THE HISTORIC U.S. ROLE

The United States has a deeply uneven track record of supporting labor rights abroad. At times, the United States has seen this as an important policy goal; at other times, the U.S. has actively sided with foreign governments that repress labor unions and resist efforts to raise labor standards. Likewise, the U.S. government's capacity for promoting labor rights has varied during different periods.

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In 1919, U.S. Secretary of Labor William Wilson presided over the first meeting of the International Labor Organization (ILO). However, the U.S. Senate subsequently rejected U.S. membership in both the League of Nations and the ILO as the U.S. entered a period of iso-

lationism. It was not until 1934 that the United States formally joined the ILO. The Department of Labor was selected as the liaison agency to the ILO and the American delegation played a prominent role in the organization. Secretary of Labor Frances Perkins was elected president of the ILO Conference in 1941, and former Secretary of Labor David A. Morse served as the director of the ILO from 1949 to 1969.

As the United States assumed a more prominent role in the global arena, and as knowledge about foreign labor affairs became more important, the Department of Labor increasingly expanded its international activities. In 1947, DOL established an Office of International Labor Affairs with “a small, high-level staff to formulate the policies of the Department on international labor affairs.”³³ The office supplied advisers to international bodies dealing with labor problems and provided delegates to the ILO meetings. In addition, the office worked with government organizations on foreign affairs involving labor issues.

Over time, the office came to place more emphasis on promoting labor rights abroad. In the 1950s, the Department of Labor augmented its international presence as part of U.S. Cold War policy. During this period, the Office of International Labor Affairs set forth to contribute to the rise of global labor standards as part of a strategy to reduce poverty in developing countries. This was seen as not only helping to stem the spread of communism, but also fostering new markets for U.S. exports and ensuring that “America's high labor standards are protected from international trade competition based upon unreasonably low labor standards abroad.”³⁴ Hosting foreign visitors in the U.S. to teach them about U.S. labor practices—at a time when one-third of American workers were unionized—was one major approach to this work.

In 1959, the Office of International Labor Affairs was officially designated as the new Bureau of International Labor Affairs (ILAB) under the direction of an Assistant Secretary. At this point, promoting labor rights abroad became a more central focus of the office, partly driven by concerns over rising imports into the United States as Europe and Asia recovered from World War II.³⁵ In 1964, the Department of Labor initiated the International Technical Assistance Corps (DOLITAC), which was made up of U.S. experts who served abroad helping foreign countries solve labor and manpower problems. In addition, the International Manpower Institute of ILAB brought professionals from developing countries to the United States for training. Around this same time, in 1962, President Kennedy signed the Trade Expansion Act which authorized Trade Adjustment Assistance to be administered by the Department of Labor, specifically through ILAB.

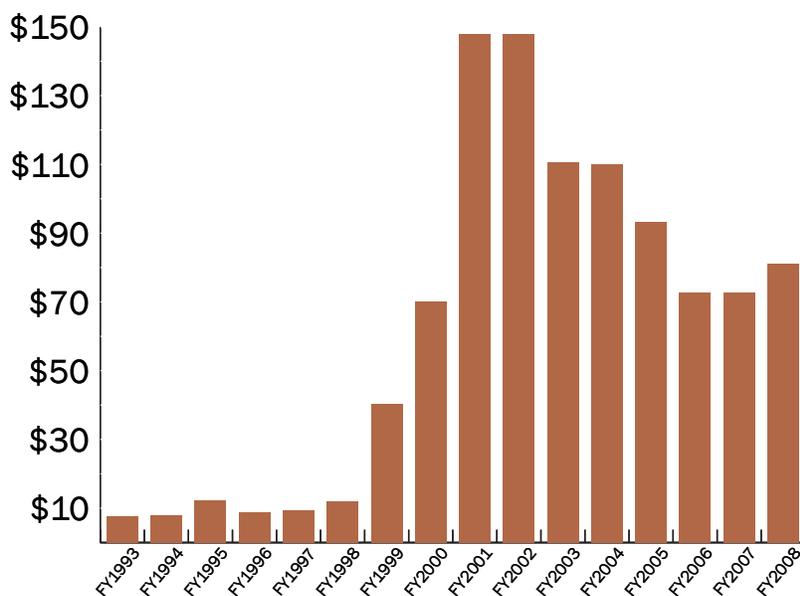
Over subsequent years, ILAB reduced its focus on promoting workers rights abroad. In 1983, during the Reagan Administration, ILAB's mission statement did not even mention strengthening labor rights worldwide. How-

ever, the focus on labor rights returned under President Bill Clinton and Labor Secretary Robert Reich. Under the Clinton Administration, ILAB experienced a dramatic expansion of its mandate, as well as its budget, which jumped by over 1,000 percent from 1995 to 2001 (see Figure 1). Promoting labor rights abroad, especially those concerning child labor, became the primary focus of ILAB as DOL called for “Putting a Human Face on Globalization.” “Raising labor standards and improving worldwide enforcement of labor laws is vital to this effort,” read a DOL statement to Congress in 2000. “Achieving expanded opportunity and security for American workers has become increasingly dependent on how effectively the U.S. addresses the international challenges of economic globalization.”⁶

The biggest development during the Clinton years, one that still shapes ILAB’s mission, was the launch of a major campaign to reduce child labor. To undertake this goal, the bureau forged a close relationship with the ILO and its International Programme on the Elimination of Child Labour (IPEC). Between 1995 and 2006, ILAB dedicated approximately \$330 million of its appropriation budget to fund different child labor projects under ILO/IPEC.⁷ Much of this money was spent in the form of grants to the ILO. Through these efforts, U.S. resources were deployed as never before to the front lines of the effort to uphold core international labor standards in countries around the world.

Another critical development during the 1990s was that ILAB took the lead role in administering the side agreement to NAFTA, the North American Agreement on Labor Cooperation (NAACL). Here, for the first time, ILAB played a hands-on role in working to enforce the linkage between trade and labor standards. This involved not just monitoring labor conditions and investigating complaints, but also being the U.S. lead on a range of cooperative activities with Mexico and Canada aimed at improving conditions for workers along a variety of fronts. To many critics, like Garret D. Brown, efforts to uphold key labor rights through NAACL have been a failure due to “inherent weaknesses of the agreement, a lack of political will to implement either the letter or the spirit of the agreement, and the economic disincentives for Mexico in enforcement of labor rights that would ‘discourage foreign investment.’”⁸ Still, starting in the 1990s, ILAB’s mission evolved significantly as it became a point player on enforcing labor rights in trade agreements. That role continued into the Bush years, as a flurry of new trade agreements were signed, but ILAB was never given the resources needed to properly fulfill its increased responsibilities.

Figure 1: ILAB Budget Appropriation from 1993 to 2008 (in Millions)



Source: The Office of Management and Budget, <http://www.whitehouse.gov/omb/budget/fy2008/budget.html>

THE BUSH YEARS: ILAB UNDER ASSAULT

While ILAB experienced exponential growth under the Clinton Administration, it received the opposite treatment under the subsequent Bush Administration. The latter administration repeatedly tried to slash funding to ILAB in every budget it submitted to Congress. The bureau only retained significant funding levels because of the support of Congress, which recognized ILAB's vital role in enforcing workers rights and labor standards around the globe. Yet even with Congress's vigorous defense of ILAB, its budget declined by nearly half during the Bush years.

“Even with Congress’s vigorous defense of ILAB, its budget declined by nearly half during the Bush years...[and] cuts hampered...efforts to combat child labor, which were widely seen as successful.”

These budget cuts came during the same period that the Bush Administration negotiated 11 new trade agreements. These agreements gave progressively more attention to labor standards as time went on, with enforcement mechanisms growing more elaborate and the United States pledging more cooperation and technical assistance to help other countries

meet those standards. All the while, the U.S. capacity to meet such pledges declined. In 2003, the administration's proposed budget called for the elimination of the ILAB Technical Cooperation Programs, despite the fact that, at the time, ILAB had commitments with 49 countries to provide technical assistance. The Bush Administration's 2004 budget requested no new funding at all for programs that combat child labor, despite the continuing success of those programs. While much of this money was restored, budget cuts hampered ILAB's efforts to combat child labor, which were widely seen as successful.

The Bush Administration argued that such drastic budget cuts were necessary, in the words of Labor Secretary Elaine Chao, to bring ILAB “back to its core responsibilities of providing technical assistance, of reviewing core labor standards, of providing research. It was not intended to go in the direction that it has.”⁹ But members of Congress were persistently mystified by the cuts. “The United States of America represents 70 percent of the ILO's budget in terms of going after child labor,” Representative Patrick Kennedy noted in 2007. “I just cannot understand for the life of me how, in a time of global trade, we can be cutting these accounts. If we are going to pass trade agreements, we ought to be upping these accounts to make sure that it does not become a race to the bottom which is the fear of global trade. . . . I just cannot otherwise explain how these cuts have been made at a time when the needs are even greater than before.”

THE ROLE OF OTHER U.S. AGENCIES IN PROMOTING WORKER RIGHTS

In addition to the Department of Labor, other U.S. agencies also work to raise labor standards around the world. In particular, U.S. Agency for International Development has played an important role in providing the funds and technical assistance that countries need to better monitor and enforce domestic laws. The agency has also long been involved in trying to strengthen labor unions in various countries as part of its goal of bolstering civil society and democracy. For example, USAID has been involved in helping Central American countries comply with terms of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), which calls upon signatories to create new mechanisms for enforcing labor laws. The work of USAID has included projects to strengthen labor justice in Central America through reforms to the court systems; training union representatives in collective bargaining; and bolstering the ability of labor ministries in Central America to use information technology.

The State Department has also long been involved in promoting workers rights, which the United States considers to be a core feature of human rights. The State Department annually draws attention to worker rights abuses in a wide range of countries through its Country Reports on Human Rights. The State Department's Office of International Labor and Corporate Social Responsibility also works with a wide range of actors, including corporations, NGOs, labor unions and governments to promote stronger labor rights and social responsibility. Since 2000, the State Department has spent \$18 million to combat sweatshop labor.

The Office of the U.S. Trade Representative also plays a role in promoting worker rights through its responsibility to enforce the provisions of trade agreements. However, that role has not been very significant and USTR has no dedicated staff in this area, generally leaving these issues to ILAB.

NEW CAPACITY TO PROMOTE LABOR STANDARDS: POLICY RECOMMENDATIONS

The election of Barack Obama has the potential to open up a new era for U.S. efforts to promote higher labor standards abroad. Many in the administration, as well as Congress, understand that greater protections for workers—both abroad and in the United States—are essential to share the fruits of globalization as broadly as possible, nurture development and sustain support for an open global economy. The challenge now is to back up this outlook with resources. The U.S. Department of Labor remains the logical focal point for U.S. international efforts on worker rights given ILAB's historic role in global labor issues, its technical expertise and its location in a cabinet department with a mandate to protect workers. While the State Department and USAID, as well as USTR, also have important roles to play given the specific skills of these parts of the government, the Obama Administration should try to centralize promotion of worker rights in ILAB to the maximum extent possible, in order to avoid confusion and duplication of efforts.

Increasing the U.S. capacity to promote workers rights requires a number of steps over the next few years. The following recommendations focus on steps centered in ILAB but have implications for work at other agencies, particularly USAID.

Update ILAB's Mission and Structure

As noted above, ILAB has gone through a number of incarnations—from helping countries modernize their workforce management policies to a more explicit focus on promoting worker rights. Now is the ideal time for ILAB to revisit its mission and structure once more. The bureau should make clear that its central mission is to raise labor standards worldwide, help enforce the labor provisions of trade agreements, and provide assistance to a range of public, private and nonprofit actors working to achieve these goals. A revised structure for the bureau should reflect this mission. Thus, for example, ILAB should have an office dedicated to promoting collective bargaining rights and stronger labor unions, priorities which now receive inadequate attention. As well, the bureau might consider adding an office dedicated to enforcing the core labor right of equal opportunity and non-discrimination and cultivating real expertise in this area, especially around issues of gender equity. ILAB might also create a new office that is specifically focused on working with NGOs and corporations to encourage the efforts of these actors to monitor and improve labor conditions in global supply chains.

Balance a Focus on Child Labor With Other Priorities

Most of ILAB's growth since 1993 has been due to the expansion of its work on reducing child labor. This campaign has been crucially important and it has helped reduce the number of children who are working worldwide. However, while this work should be continued, the focus on child labor should not monopolize ILAB's operations and consume so much of its budget. ILAB should develop a more balanced agenda and scale up efforts to promote the other core international standards, particularly equality of opportunity and the right to collective bargaining. The bureau's structure and budget should reflect this balanced agenda.

Devote More Resources to Enforcing Trade Agreements

Nowhere does the United States have more influence in terms of promoting worker rights than in the countries with which we have signed trade agreements. These agreements, particularly the most recent ones with strong enforcement mechanisms, have far-reaching potential to help workers—at least on paper. For example, in Central America, a range of activities are underway to strengthen labor rights that would not have occurred without CAFTA-DR and U.S. funding to enforce the labor provisions of that agreement. Millions of dollars have been spent in these countries to create worker rights centers, raise awareness among workers of their legal rights, and strengthen government agencies that enforce these rights. This is crucially important work that hints at the enormous promise of leveraging trade agreements to raise labor standards. But such work needs to be better funded and undertaken in *all* the nations with which the United States has trade agreements. The United States has trade agreements in effect with 14 countries, as well as three other agreements pending before Congress. These commitments generate a tremendous amount of day-to-day work in terms of collaborating with local NGOs, government agencies, the ILO and private companies to monitor labor conditions and provide technical assistance. ILAB, working at times with USAID, needs greater capacity and funds to both undertake this work—which is mainly done by re-granting to NGOs or private consultants—and also engage in ongoing efforts to assist other countries that are not party to bilateral trade agreements.

Expand Support for Collective Bargaining

The right to form and operate unions is essential to a well-functioning market-based democracy and also crucial to economic development, in that unions help spread the fruits of prosperity and grow the middle class. But that right is routinely violated in countries around the world, including nations that have signed bilateral trade agreements with the United States that explicitly uphold this right. The U.S. government should place itself unequivocally on the side of workers in the struggle for collective bargaining rights and ILAB should be on the front lines of that commitment with expanded resources. This has begun to happen, but not on the scale required. For example, while the United States has funded 27 different projects aimed at helping to enforce the CAFTA-DR labor provisions, and a number of these seek to raise worker awareness of their legal rights, there is very little explicit focus on strengthening unions and collective bargaining rights. In February 2009, USAID announced a new project in Colombia that aims to strengthen labor unions and collective bargaining rights in that country. But this initiative, while it is a positive development, only came amid efforts to secure passage for a free trade agreement with Colombia, a country whose record on labor rights has been harshly criticized. In other countries with which the U.S. has signed bilateral trade agreements in recent years, there is no significant assistance for unions and collective bargaining rights despite evidence of abuses in these areas. USAID has long engaged in efforts to strengthen labor unions and collective bargaining as part of its broader mission to support democracy and civil society, most notably in former communist bloc countries. But while it is currently engaged in collaborative work with the AFL-CIO-backed Solidarity Center and is developing a five year plan for a new Global Labor Program, these efforts remain poorly funded relative to the needs that exist.

Devote New Resources to Discrimination Issues

Eliminating workplace discrimination and ensuring equality of opportunity is within the core of international labor standards. This is an area in which the United States should concentrate more attention and resources for two reasons. First, a growing body of research and practice has documented the link between development and the empowerment of women. In turn, full access to employment opportunities is critical if women are to gain more power, as well as access to equal pay and the family supports that enable work. Yet in many developing societies, key occupations remain segregated by gender and formal or informal barriers exist for women. Sexual harassment of female workers is also common in many workplace settings, including in countries that have signed trade agreements with the United States. As well, there are chronic disparities in developing countries between male and female pay, which is barred by ILO conventions, along with a lack of social support, like affordable childcare. The U.S. has given little attention to these issues so far. As ILAB rethinks its priority under a new administration, it should allocate new resources to this area and formulate a strategy to leverage U.S. trade agreements to promote equity for women workers in developing countries. These efforts should be coordinated with other development and human rights activities focused on gender equity. A focus on discrimination is also important for a second reason, which is that it provides a way to better integrate ethnic minorities into the economic life of developing countries and reduces the possibilities for conflict that occur when minorities find themselves locked out of key societal institutions. Such conflicts can not only spill over into other countries and create regional instability, but also set back development efforts by many years.

CONCLUSION

Higher labor standards are a key to development and equitable globalization and the United States should be at the forefront of global efforts to strengthen these standards. Over recent years, the United States has moved in this direction by forcefully committing itself to the linkage between trade and labor standards. Now the United States must create the governmental capacity it needs to promote higher labor standards and enforce trade agreements. The Obama Administration should outline a clear plan for building and using this capacity and Congress should appropriate the needed funds.

These efforts should be accompanied by a push to mobilize other resources worldwide to enforce labor standards. The United States should ask countries with which we have bilateral trade agreements to show that they are devoting adequate resources to enforcing domestic labor laws and, if that is not the case, to increase their investment. The United States should also work with other wealthy democracies to mobilize multi-lateral assistance behind the labor rights efforts that it is funding in places like Central America and Colombia, as well as to increase the resources needed to adequately fund initiatives at the International Labor Organization. Bolstering the U.S. capacity to promote higher labor standards should be seen as the first step, not the last, to deploying new resources on behalf of worker rights.

ENDNOTES

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