



# Can National Competitiveness Strategies



## Include **Decent Work?**

A comparative study of the  
garment export industries  
in Nicaragua and Honduras

Maquila Solidarity Network  
Independent Monitoring Team of Honduras  
Professionals for Corporate Social Auditing  
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# Introduction

WITH THE DEMISE OF THE GLOBAL import quota system under the Multi-Fibre Arrangement (MFA) in January 2005,<sup>1</sup> followed by the global economic crisis beginning in 2008, we have witnessed dramatic shifts in investment and sourcing patterns as well as intensified price competition in the garment and textile industry, both at the international and regional levels.

In this global environment of trade liberalization and economic crisis, apparel companies – both international brand buyers and multinational manufacturers – feel compelled to give greater weight to the issue of price than to their two-decade-old commitments to corporate social responsibility (CSR). As Mark Anner, Coordinator of the Penn State Project for Global Worker Rights, argues, the “push for greater competitiveness” seems to be overriding the “pull for higher labour standards compliance.”<sup>2</sup>

Price competition is not just an issue for companies in the sector, but also for garment producing countries and garment workers. In this difficult global economic context, garment-producing countries are compelled to develop national competitiveness strategies that will attract and maintain foreign investment as well as product orders from international brands.

Unfortunately, workers and their trade union organizations, as well as women’s and other civil society groups that offer workers training, advice and support, are too often left out of discussions

and debates about national competitiveness strategies. As a result, the current and potential impacts of these strategies on workers, their families and their communities are given little attention. New government policies, laws and regulations that flow from these competitiveness strategies are often introduced without consulting those who will be most directly affected by them. Alternative strategies that attempt to balance the need to be globally competitive with the needs and aspirations of workers are seldom allowed on the table.

Having witnessed the impacts of increased competition between Central America and Asia and among Central American countries for investment and orders, the Maquila Solidarity Network (MSN), the Honduran Independent Monitoring Team (EMIH) and Professionals for Corporate Social Auditing (PASE) felt it was important to explore this question of whether industry upgrading and national competitiveness strategies are compatible with decent work and respect for labour standards. MSN has worked for almost twenty years with counterparts in Nicaragua, Honduras and other Central American countries to promote decent work and greater respect for workers’ rights in garment export factories. EMIH has a long history of promoting respect for labour and human rights and a culture of compliance with national and international laws and codes of conduct in the maquiladoras and other export sectors. PASE is a Nicaraguan non-governmental



organization (NGO) dedicated to the promotion of decent social conditions in Nicaragua through independent monitoring, training, mediation and capacity building programs on compliance with codes of conduct and national labour laws.

Our three organizations decided to collaborate on a joint research project comparing the national competitiveness strategies of the governments and garment industries in Honduras and Nicaragua and, in the context of those competitiveness strategies, the major workplace issues identified by workers, civil society spokespeople and labour rights experts in the two countries. While Nicaragua, the lowest wage country in the region (with the exception of Haiti), has experienced a dramatic growth in its garment export industry over the last couple of years, the Honduras industry has also fared relatively well, and is currently the fifth largest exporter of apparel to the USA (by volume). Comparing Honduras and Nicaragua is particularly interesting not only because the two countries clearly see themselves as competing for foreign investment, but also because there are some indications that they may be pursuing somewhat different competitiveness strategies.

In a recent paper presented at the 2011 Better Work Conference,<sup>3</sup> Jennifer Bair and Gary Gereffi observed that “Nicaragua offers a unique opportunity for working with industry stakeholders, including foreign buyers, to understand whether and how decent work fits into the pursuit of industry and firm upgrading.”<sup>4</sup> However, they also noted that their interviews with investors in Nicaragua’s maquiladora apparel sector revealed a great deal of scepticism about the value of participating in the country’s International Labour Organization (ILO) Better Work program, which is promoting a socially-responsible competitiveness strategy that attempts to link industry and firm upgrading with social upgrading.<sup>5</sup>

Meanwhile in Honduras, apparel manufacturers have been lobbying for changes to national laws

and regulations in order to enhance their ability to compete with countries in Asia and the DR-CAFTA region, particularly Nicaragua. In 2011, the industry launched an intensive media campaign alleging that any significant increase in the minimum wage for the maquila sector would result in huge job losses as companies moved production from Honduras to Nicaragua and other lower-waged countries in the region. Ultimately, a three-year tripartite agreement for the maquila sector was achieved that establishes, among other things, annual percentage increases in the minimum wage for the next three-year period, but whether this agreement is a harbinger of constructive social dialogue is still unclear.

### Our Research

Working together, MSN, EMIH and PASE set out to better understand the competitiveness strategies being pursued in Honduras and Nicaragua, as well as how international brands and manufacturers operating in the region perceive the factors contributing to their sourcing and investment decisions in the region. Most importantly, we set out to document how workers, their trade unions, and civil society organizations advocating for their rights view those strategies and other related developments in their countries, and to identify the priority issues, concerns and needs of maquila garment workers in the current context. We paid particular attention to the specific concerns and problems of women workers who make up the majority of the garment workforce in the region and who bear the primary responsibility to support and care for their families.

Interviews were carried out with leading labour and human rights advocates in Nicaragua and Honduras – from trade union, women’s, human and labour rights organizations – as well as labour rights experts. In Honduras, EMIH also conducted interviews and focus group discussions with maquila workers. In Nicaragua, we drew

upon extensive worker interviews carried out by the Movement of Working and Unemployed Women – Maria Elena Cuadra (MEC), as well as worker testimonies at the 2012 MEC Colloquium.<sup>6</sup> MSN took responsibility for research on the international and regional contexts, interviews with international brand buyers and manufacturers and with the ILO Better Work Nicaragua program, as well as coordination and publishing of this report.

### This Report

This report brings together the findings of our joint research and analysis. A longer version of the Honduras chapter of this report, based on the investigation carried out by EMIH, will be published separately.

Chapter 1 of the report begins with an overview of the international context with a particular focus on the factors that are influencing international sourcing and investment decisions. We compare the competitive advantages of Central America versus Asia in producing apparel for the US market, the competitive advantages of Honduras versus Nicaragua, and the mythologies concerning competitiveness that are being promoted by interested parties in those countries. Finally, we profile and compare the competitiveness strategies being pursued by Honduras and Nicaragua, as well as their approach to social upgrading including worker training and social compliance.

Drawing on the research and analysis carried out by EMIH in Honduras, Chapter 2 takes a closer look at the competitiveness strategy that has been adopted by the government and maquila industry in Honduras, and the consequences of that strategy for workers in the garment and textile maquila sector, and particularly for women workers. We also profile the issues and problems facing workers, and look at the impacts and potential impacts of recent changes in government policy and regulation on workers.

Lastly, we look at the recent tripartite agreement, establishing minimum wages for the next three-year period, and discuss whether and to what degree it represents a return to constructive social dialogue.

Drawing on PASE's research and analysis, Chapter 3 examines Nicaragua's competitiveness strategy in more detail in order to determine whether and to what degree Nicaragua is reconciling pressures and demands to be globally competitive and to provide decent work. We give particular emphasis to Nicaragua's experiences with social dialogue, including tripartite agreements and the ILO/IFC Better Work program. We also draw upon MEC's research and analysis and testimonies of MEC members, as well as interviews with labour leaders and other labour rights experts, to identify the major workplace problems and issues that continue to face garment workers in Nicaragua, and explore on how those issues and problems might be overcome.

In both Chapters 2 and 3, we look at the particular issues facing women workers, as well as the specific impact on women of changes taking place in the industry and in government policy and regulation. We also compare and contrast the issues and problems identified by local key informants and workers with those identified and prioritized by international brands and manufacturers. In the concluding chapter, we discuss and compare competitiveness strategies in the two countries, the workplace problems and issues facing workers in their respective countries, recently approved and proposed changes to relevant laws and regulations, the status and concrete benefits of social dialogue, and the challenges facing governments and social movements.

We hope that the findings and conclusions of this joint research project contribute to discussions and debates taking place at the national, regional and international levels on how to resolve the tension between the need to be globally competitive

and the demand for justice and equity in the workplace. Most importantly, we hope that this study will help ensure that workers' concerns, aspirations and proposals are taken into consideration in the development of national competitiveness strategies that attempt to find a balance between competitiveness and equity for workers.

**Maquila Solidarity Network (MSN)**

**Honduran Independent Monitoring Team (EMIH)**

**Professionals for Corporate Social Auditing (PASE)**

## Notes

- 1 The Multi-Fibre Arrangement (MFA) was established in 1974 to regulate global trade in textile and apparel products. Under the MFA, Canada, the US, and the European Union (EU) could set limits, called quotas, on the amount of foreign-made apparel and textiles they would allow into their countries from any specific producing country. Since 1974, import quotas have been applied to 73 countries in the global South, mostly in Asia. In 1995, the Agreement on Textiles and Clothing (ATC) came into effect, under which quotas were phased out in four stages over a ten-year period and eliminated on January 1, 2005. While many countries were impacted by the phase-out of the Multi-Fibre Arrangement and the inauguration of quota-free trade in textile and apparel products in 2005, the implications were particularly critical in countries heavily dependent on the garment sector for export revenue and employment creation.
- 2 Anner, Mark. "Economic Competitiveness, Worker Rights, and CSR in the Honduran and Vietnamese Apparel Export Sectors," paper prepared for presentation at the Labor and Employment Relations Association 64th Annual Meeting, Chicago, January 6-8, 2012 (modified January 16, 2012).
- 3 "Workers, Businesses and Government: Understanding Labor Compliance in Global Supply Chains," Washington, DC, October 26-28, 2011.
- 4 Jennifer Bair and Gary Gereffi, "Better Work in Central America: Assessing the Opportunities for Social Upgrading in Nicaragua's Apparel Sector," prepared for "Workers, Businesses and Government: Understanding Labour Compliance in Global Supply Chains," October 26-28, 2011, International Finance Corporation, Washington DC.
- 5 *Ibid* p. 2. Gereffi and Bair define social upgrading as "increasing job security and wages, improving working conditions, strengthening labor rights, and developing skills."
- 6 See Chapter 3 for information on the 2012 MEC Colloquium.



# Glossary

**4x4**

A work schedule in which workers work 11 or 12 hours a day, four days in a row, followed by four days off.

**Basics**

Mass-produced knit garments like T-shirts and underwear that are not fashion-dependent.

**Brand**

A company that designs and markets apparel products but usually outsources manufacturing to third parties.

**Economy of Care**

A term that encompasses the various aspects of unpaid reproductive labour – cleaning and cooking, child care, education, social and psychological support, all of which is carried out by women in their homes.

**Cumulation**

A provision of DR-CAFTA which allows manufacturers to use a certain quantity of yarn and fabric from Mexico or Canada to make woven garments in Central America for duty-free export to the US.

**Free Trade Zones (Also export processing zones)**

Free trade zones in Latin America and the Caribbean and export processing zones in Asia are geographic areas in which companies are allowed to import duty-free component parts for assembly and then re-export finished products. Governments usually provide special incentives for companies to invest in these zones, including low wages, no unions, minimal taxes and lax environmental regulations.

**Full package**

A supplier's ability to carry out or organize a series of steps in the production process, including: design, fabric purchase, cutting, sewing, trimming, packaging and distribution.

**Harnesses**

Parts and accessories for automobiles, which may include a collection of colour-coded wires that connects all of a vehicle's electrical components.

**High road**

In common parlance, the most positive, diplomatic, or ethical course. In this context, a competitiveness strategy based on upgrading productivity, training for workers and management personnel, social protections, and labour standards compliance.

**Infrastructure**

Roads, ports, electric power, and communications systems that support industrial activity.

**Knits**

Fabrics constructed by interlocking a series of loops by hand or machine. Common apparel items made with knit fabrics include T-shirts, socks, stockings and sweaters ("knitwear").

**Lead time**

The amount of time required for materials acquisition, design, production, and shipping before product can be delivered to store shelves.

**Lean manufacturing**

Broadly speaking, a management philosophy that focuses on continuous improvement and elimination of waste. In apparel factories, "lean" manufacturing processes commonly involve team production and flexible work organization.

**Low road**

In common parlance, behaviour or practice that is deceitful or immoral. In this context, the "low road" is used to denote a competitiveness strategy based on low wages, lax enforcement of labour and environmental standards and weak social protections.

**Maquila/maquiladora**

The word “maquiladora,” or maquila for short, comes from an old Spanish word for milling. Maquiladoras are assembly-for-export factories, first established along the Mexico/US border in the mid-1960s. Today maquilas are found throughout Mexico and Central America. They are generally located in free trade zones or industrial parks, and are often associated with low wages, poor working conditions and labour rights violations.

**Manufacturer**

A company that owns, manages and operates factories, producing either for its own brand or as a contractor for other brands. Many manufacturers also subcontract labour-intensive parts of the production process, such as sewing, to smaller workshops and homeworkers.

**Piece rate**

Under the piece rate system, garment workers are paid for the number of items they produce rather than on the basis of an hourly or weekly wage.

**Production bonus**

The amount of money that a worker earns when he/she meets a pre-determined production target, which can be established for individuals or for work teams.

**Production target**

A production target is the number of pieces a worker or a team of workers is expected to complete in a particular time period.

**Social wage**

The services and direct payments provided by the state that subsidize worker incomes, including health services, child-care, unemployment benefits, and subsidized housing.

**Tariff Preference Levels (TPLs)**

A special provision of DR-CAFTA that allows companies to export a certain quantity of apparel duty-free to the US, even though they use fabric made outside the DR-CAFTA region.

**Twill**

Twill fabrics are woven with a diagonal pattern of ribs that is formed when threads are woven under and over two or multiple threads. Denim is a twill fabric, and cotton twill is used for chino pants.

**Vertical integration**

When a company owns and operates all the manufacturing facilities for each step in the garment production process, including yarn and textile production, and sewing, cutting and finishing processes.

**Woven**

Woven fabrics are made on looms, which interweave fibers both horizontally (weft) and vertically (warp). Because woven fabrics can be cut and then shaped by sewing, they are the most commonly used fabrics in clothing construction.

**Yarn forward**

A provision of DR-CAFTA which means that all inputs in the manufacturing process beginning with the yarn stage must be made within the DR-CAFTA signatory countries.

# Acronyms

<b>AHM</b>	Honduran Maquila Association ( <i>Asociación Hondureña de Maquiladores</i> )
<b>ANDI</b>	National Industrial Association (Honduras) ( <i>Asociación Nacional de Industriales</i> )
<b>ANITEC</b>	Nicaraguan Association of the Textile Manufacturing Industry ( <i>Asociación Nicaragüense de la Industria Textil y la Confección</i> )
<b>CDM</b>	Women's Rights Centre (Honduras) ( <i>Centro de Derechos de Mujeres</i> )
<b>CGT</b>	General Workers' Confederation (Honduras) ( <i>Central General de Trabajadores</i> )
<b>CODEMUH</b>	Honduran Women's Collective ( <i>Colectiva de Mujeres Hondureñas</i> )
<b>COHEP</b>	Honduran National Business Council ( <i>Consejo Hondureño de la Empresa Privada</i> )
<b>COMUN</b>	Community Communication (Honduras) ( <i>Comunicación Comunitaria</i> )
<b>CNZF</b>	National Free Trade Zones Commission (Nicaragua) ( <i>Comisión Nacional de Zonas Francas</i> )
<b>CST</b>	Sandinista Workers' Central (Nicaragua) ( <i>Central Sandinista de Trabajadores</i> )
<b>CST-JBE</b>	Workers' Union Confederation — Jose Benito Escobar (Nicaragua) ( <i>Confederación Sindical de Trabajadores – José Benito Escobar</i> )
<b>CTPAT</b>	US Customs-Trade Partnership Against Terrorism
<b>CUS</b>	Unified Labour Central (Nicaragua) ( <i>Confederación de Unificación Sindical</i> )
<b>CUTH</b>	United Confederation of Honduran Workers ( <i>Confederación Unitaria de Trabajadores de Honduras</i> )
<b>DR-CAFTA</b>	Dominican Republic – Central America Free Trade Agreement
<b>EMIH</b>	Honduran Independent Monitoring Team ( <i>El Equipo de Monitoreo Independiente de Honduras</i> )
<b>ERIC</b>	Jesuit Reflection, Research and Communication Team (Honduras) ( <i>Equipo de Reflexión, Investigación y Comunicación</i> )
<b>IFC</b>	International Finance Corporation
<b>IHSS</b>	Honduran Social Security Institute ( <i>Instituto Hondureño de Seguridad Social</i> )
<b>INSS</b>	Nicaraguan Social Security Institute ( <i>Instituto Nicaragüense de Seguridad Social</i> )
<b>ILO</b>	International Labour Organization
<b>INATEC</b>	National Technological Institute (Nicaragua) ( <i>Instituto Nacional Tecnológico</i> )
<b>ISACC</b>	Labour Institute for Central America and the Caribbean ( <i>Instituto Sindical para América Central y el Caribe</i> )
<b>MEC</b>	Movement of Working and Unemployed Women – Maria Elena Cuadra (Nicaragua) ( <i>Movimiento de Mujeres Trabajadoras y Desempleadas — Maria Elena Cuadra</i> )
<b>MSN</b>	Maquila Solidarity Network (Canada)
<b>NGO</b>	Non-governmental organization
<b>PASE</b>	Professionals for Corporate Social Auditing (Nicaragua) ( <i>Profesionales para la Auditoría Social y Empresarial</i> )





# Chapter 1

## The Global and Regional Context

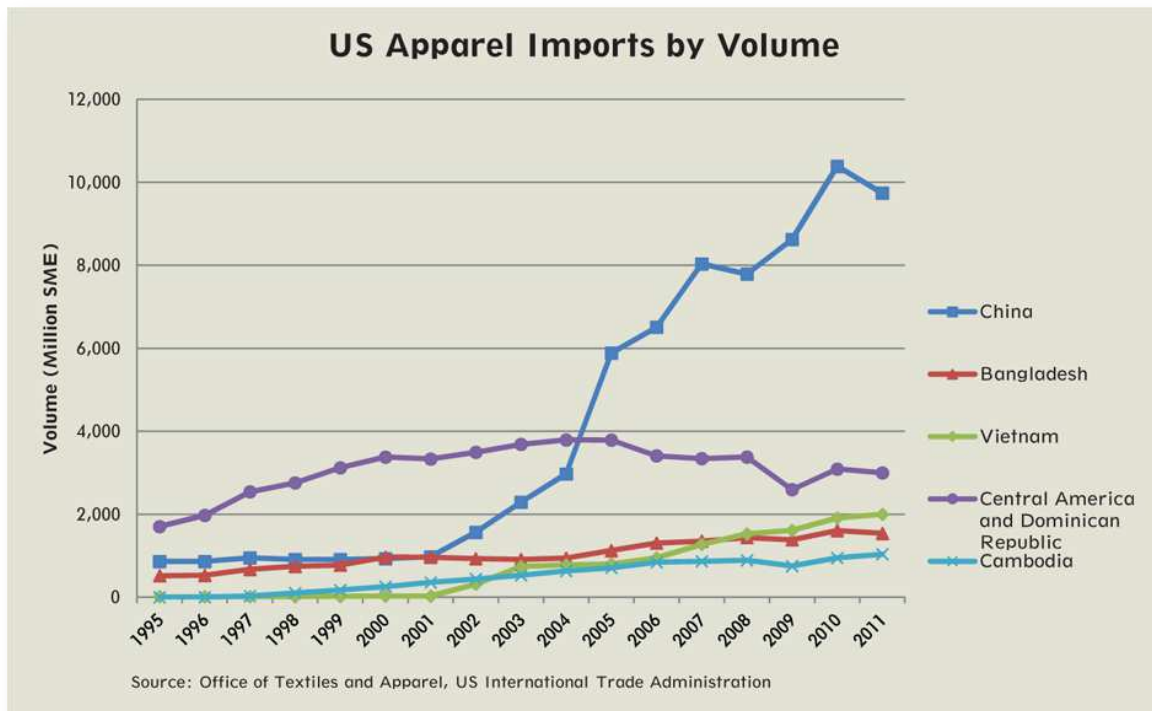
THE GLOBAL APPAREL INDUSTRY IS characterized by rapid shifts in investment and sourcing between countries and between factories, as changes in various economic and political factors make production in one country or one factory more profitable than in another. Much of today's global apparel industry is based on out-sourced production in which suppliers manufacture goods on a contract basis for international brands. Because the international brands and manufacturers have no long-term commitments or contractual obligations to maintain or increase orders

or investments with any particular country or supplier, the industry is footloose and highly competitive. The economic success of countries and national industries producing garments for export therefore depends largely on the sourcing and investment decisions being made by international buyers and manufacturers. Based in large part on the results of interviews MSN carried out with companies with production

For an overview of the Honduran and Nicaraguan export apparel and textile industries, see **Appendices One and Two**







in Nicaragua and/or Honduras,<sup>1</sup> this chapter examines the factors influencing their sourcing and investment decisions.

## Central America in the Global Context

The Central American apparel and textile sector is primarily an export-oriented industry that is physically located in export processing zones and industrial parks. While some apparel production in Central America is for domestic markets, for trade within Central America, and for other foreign destinations, including Canada, the vast majority of apparel products made in Central America is destined for US consumers. Central America's success as an apparel-producing region, therefore, has been overwhelmingly dependent on two factors: proximity to the US market and favourable trade arrangements with the US government.

The region's apparel industry experienced major growth beginning in the 1990s, as an increasing number of international brands sought low-cost destinations to outsource manufacturing of their products. Although sales of clothing produced in Central America continued to grow through 2004, the region was hit with a dramatic decline starting in 2005 when import quotas were eliminated with the demise of the Multi-Fibre Arrangement (MFA). A second, even more dramatic shock hit Central America in late 2008 with the arrival of the global economic crisis, which slowed orders to factories worldwide and caused widespread job losses. Although apparel imports to the US from Central America increased in 2009 and 2010, they have still not returned to 2005 levels.

### Central America vs. Asia

Production of apparel products in most Asian countries grew rapidly post-MFA, largely at the expense of other regions, including Central America, and Asian dominance of the apparel manu-

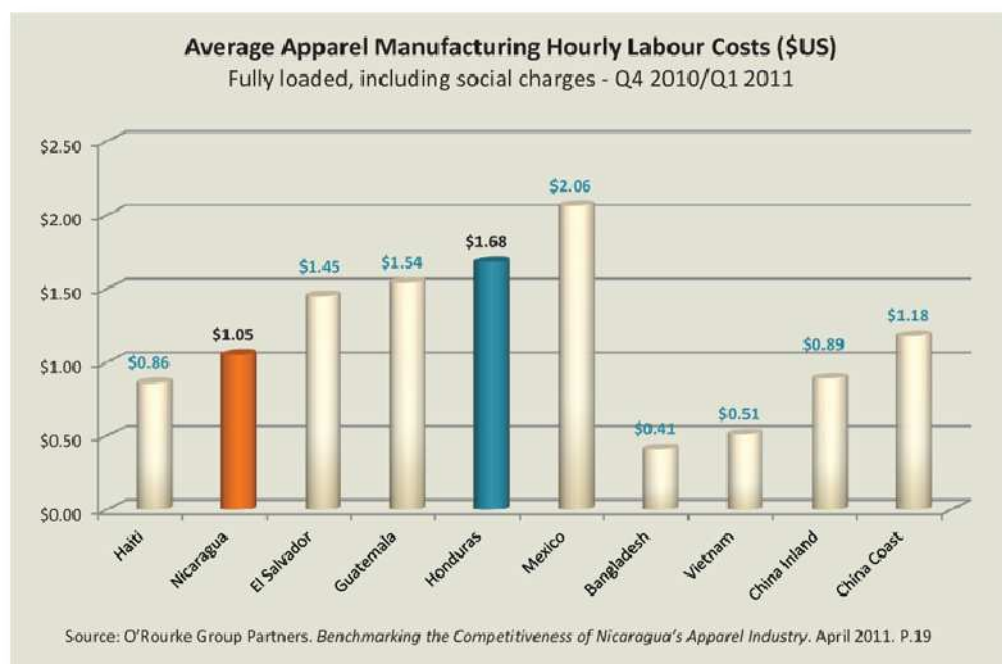
facturing sector has continued to this day. A September 2011 report from the online industry publication *Just Style* forecasts that Asia will continue to produce two-thirds of the world's apparel over the next five years.<sup>2</sup>

Within Asia, production has been primarily concentrated in China following that country's entry to the World Trade Organization (WTO) in 2001, which provided China increased market access to the US and Europe. China's main advantages over Central America were (and for the most part still are) low-cost labour, technical skills, strong infrastructure, industry diversity and clustering,<sup>3</sup> access to a variety of high-quality fabrics, and a controlled exchange rate.

However these advantages are not absolute. Labour costs, for example, have risen significantly in some manufacturing centres of China over the past couple of years. Official minimum wage rates in the primary Guangdong manufacturing hub of Shenzhen, for example, were raised by 20% in April 2011.<sup>4</sup> Prices for products made in Chinese supplier factories increased in the range of 15-20% over the first six months of 2011.<sup>5</sup> In-

ternational brands responded by increasing sourcing from other low-wage Asian competitors like Vietnam, Bangladesh and Cambodia, as well as from lower cost areas in the interior of China. Bangladesh, for example, reported a year-to-year increase in the value of its garment exports of 43.6% between July 2010 and July 2011 (and a 50.2% growth in the value of its garment exports to Canada for the same period),<sup>6</sup> although the value and volume of the country's overall garment exports are still well below those of China.<sup>7</sup>

Increases in workers' wages and in the legal minimum wage have been achieved in most key Asian apparel-producing countries in the past two years at least partially as a response to massive worker protests (Bangladesh<sup>8</sup>), sector-wide strikes (Cambodia<sup>9</sup>), and spontaneous walk-outs (China<sup>10</sup> and Vietnam<sup>11</sup>). The myth of the passive Asian worker willing to toil endless hours for poverty wages is being dispelled by the workers themselves. However, despite these wage gains in Bangladesh, Vietnam, Cambodia and China, labour costs in those countries are still lower than in Central America.



## How Do Buyers and Investors Assess the Competitive Advantages of Central America vs. Asia?

Apparel brands and manufacturers interviewed by MSN that have production in both regions were fairly unanimous on the relative advantages of Asia and Central America. “If you just looked at wages, you’d put everything in Asia,” one company told MSN. “In some countries [in Asia], however, there are customs laws, tie-ups, transportation issues, and inventory carrying time, all of which add to the total cost of doing business. The bottom line is that we would not be in Central America if it was not cost competitive.”

### Price

Not surprisingly, price was named by the brands interviewed as one of the most significant advantages Asia has over Central America, though some qualified this by noting that this was true

“for some products, but not for all products.” While price is clearly an issue, labour costs are only one aspect of product price, and an accurate comparison of the competitive advantages of the two regions must also take into consideration non-labour costs. A 2011 study prepared for the Nicaraguan investment promotion agency PRONicaragua, for example, compared the cost of a basic five-pocket denim jean produced in China, Vietnam, Bangladesh, Honduras, Nicaragua, Mexico or Haiti. While the labour costs per garment were significantly cheaper in Asia than in Central America, the added costs for freight, insurance, duties, agent fees, and buyer finance costs made the same garment less expensive to manufacture in Central America than in Asia.<sup>12</sup>

### DR-CAFTA Provisions

The Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) was ratified in El Salvador, Nicaragua, Honduras, and Guatemala in 2006 and in the Dominican Republic and Costa Rica in 2007. The agreement provides duty-free access to the US market for apparel produced in Central America using fabric either made in the region, made in the US, or, in some instances, made in Mexico or Canada.

The agreement includes a “yarn-forward” provision which means that all inputs in the manufacturing process beginning with the yarn stage must be made in the region. However, the yarn-forward provision adds a significant administrative burden to qualify for DR-CAFTA’s duty-free access. One company told MSN, “There are literally 2-3 inches of paperwork required for every entry. You have to account for every elastic, every trim ... It’s like asking where every nut and bolt on a washing machine came from.”

Another provision, the “cumulation” provision, allows for the use of yarn and fabric from Mexico or Canada for woven garments made in Central America for export to the US. Only one of the companies MSN interviewed said they were making use of the cumulation provision to import fabric from Mexico. However, firms in some Central American countries appear to be making more use of the provision in recent years, particularly for denim fabric. In 2010, only 9.61% of the available cumulation limits were used.<sup>13</sup> In 2011, use of the available cumulation limits had more than doubled to 21.5%. In the same year, 81% of the total denim limits were used.<sup>14</sup> Fifty percent of US imports of garments made with Mexican fabrics under the cumulation provision came from Nicaragua and 37% from Guatemala.<sup>15</sup>

### Duty-free Access

Foremost among the non-labour costs pointed to by the companies interviewed was duty paid for entry to the United States. Central America's key advantage, cited by all those interviewed, is the duty-free access provided under the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA). The ability to ship finished products duty-free to the US, and to carry out different steps in the production process in multiple locations within the region, was seen as the major advantage of DR-CAFTA countries.

### Proximity / Speed to Market

Proximity and/or speed to market were cited by every company interviewed as the most significant competitive advantage for Central America over Asia. "The time on water to the US for Central America is about three to five days, while it is 20-22 days on average for Asia," one company noted.

Lead time for garments ordered from Central America can average 52 to 60 days, compared to 90 to 140 days for garments ordered from China.<sup>16</sup> This is not only a time advantage for Central America, but, as mentioned above, it becomes a price advantage as well once inventory holding times and financing costs are added in. Speed to market also impacts the types of products being produced in each region. One company, for example, described how they use Mexico and Central America for replenishment on large orders of basic apparel products, which can be pre-made and held by the supplier for quick delivery when inventories are sold.

### Quality and Variety of Fabric

Despite the advantages of CAFTA, most companies interviewed noted that Asia continues to have an advantage over Central America regarding access to a variety of high quality fabrics and the ability to produce a range of styles using a variety of fabrics.

### DR-CAFTA:

#### A source for basics

In 2011, the DR-CAFTA region had a 12.6% share of total apparel imports to the US. However, it had a more dominant market share in certain categories. For example, DR-CAFTA countries accounted for 46% of US cotton hosiery (i.e. socks) imports, 47.5% of men's and boys' knit shirts, 37.3% of men's and boys' cotton shirts (e.g. T-shirts, pullovers), and 35% of cotton underwear.<sup>17</sup>

One company noted: "There are some products that are made in Asia that Central America can't make due to the fabric that's available, and sometimes due to needle capacity – some of the fine embellishment work, for example ... There's also a level of customer service in Asia that you don't see in Central America ... There's more back and forth with Central America to get them to understand what we want ... Central America can do it; it's just going to take time."

All companies interviewed recognized Central America for its developed capacity as a high-volume basics manufacturer that also has a textile infrastructure and at least some suppliers that are vertically integrated. While the region's textile production was viewed as an advantage for basics manufacturers, it was noted that textile options are more limited for companies not producing basics. "There aren't that many regional fabrics [in Central America] that are appropriate to our product mix," one company said. "In certain cases, we do require more complexity than the region can do, but it tends to be more on the fabric side." On the positive side, one company noted: "There has been significant investment [in textile mills] in El Salvador from Brazil and the US to expand the fabric source base ... There will be more of a competitive advantage in Central America as fabric becomes more accessible in the region."

## Infrastructure

When asked to compare infrastructure in Central America and Asia, the companies interviewed expressed differing opinions. Most companies were relatively satisfied with the transportation infrastructure in Central America and did not rate this as a deciding factor on whether to source from Asia or Central America. “The roads through these countries are pretty good, the borders between countries pretty open in terms of transport between countries, and there is relatively good security on the roads,” said one company. However, two companies called the transportation system in Central America poor, one of them referring to the highway system to the existing ports in the region “almost non-existent.” A few companies also pointed to the high cost of electricity in Nicaragua and/or Honduras as a competitive disadvantage. One company said that reliability concerning the electrical system in Honduras “seems to be getting better every year,” but cost is still an issue.

Not surprisingly, it was noted that it is impossible to compare Central America with Asia as a whole, since the latter region encompasses such diverse countries as China, with its advanced road and port systems, and Bangladesh with much weaker infrastructure. As one company said, “In general, the infrastructure in Central America is very

good as compared to countries like Vietnam or Bangladesh.”

## Labour Regulations and Labour Relations Climate

Most companies interviewed said that while labour laws and regulations are a factor they pay attention to, these are not a determining factor in sourcing decisions, although a few of the compliance staff for leading brands did credit stronger labour laws and enforcement with making their jobs easier. “I see a lot of disconnection between labour regulations and their enforcement,” one said. “Where labour laws are enforced, it gives us more leverage as brands to request that the factory complies [with the company’s labour standards].” Another company said that the labour relations climate is better in Central America than in some Asian countries, making a comparison with Bangladesh where there is continuing instability. However another noted that they are seeing some small movement forward on labour issues in some Asian countries and gave two examples: “China is now stepping up to the plate on its labour code and Vietnam’s government is showing some forbearance in how it deals with worker protests and increased wages.”



## Nicaragua and Honduras in the Central American Context

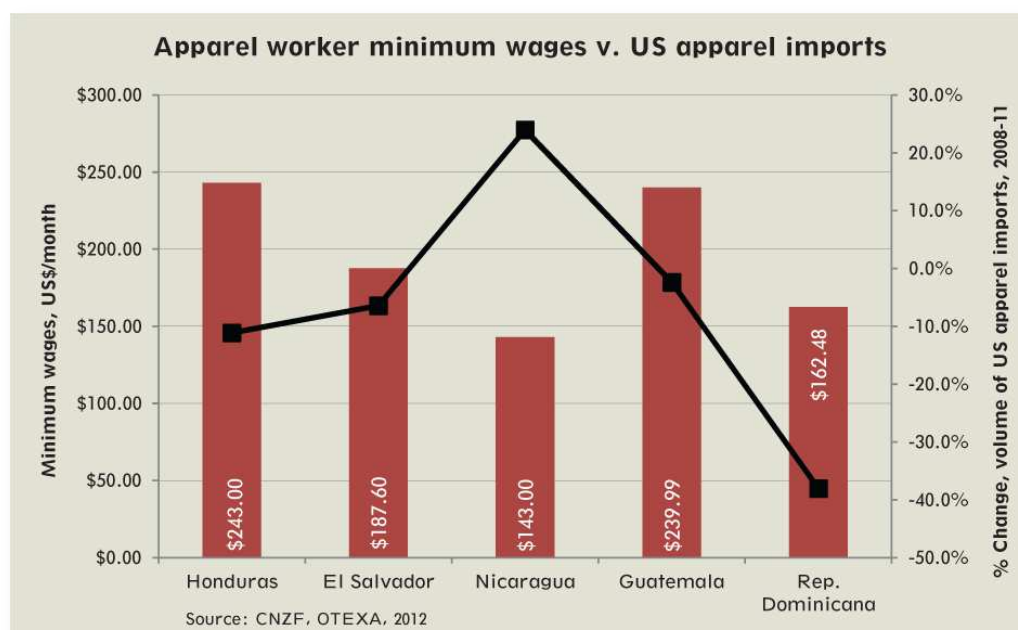
Within the DR-CAFTA region, there are substantial competitive pressures among apparel-producing countries. Honduras is the largest exporter of apparel to the US in the DR-CAFTA region, although Nicaragua and El Salvador have been increasing their exports in recent years. As we can see from the chart below, there were increases in the total volume of apparel imports to the US for all three countries between 2009 and

2011, though there were small decreases in total apparel imports from both Honduras and El Salvador between 2010 and 2011, while the volume of apparel exports from Nicaragua continued to increase in the same year. The second chart below compares current minimum wage levels for the maquila sector in the region and the change in the volume of US imports from each country since 2008.

**Volume of apparel imports to the US from DR-CAFTA countries**

Country	totals in million Square Metre Equivalents (SME)				% Change 2010-11
	2008	2009	2010	2011	
Honduras	1,331.118	1,005.794	1,271.900	1,182.791	-7.01%
El Salvador	835.967	646.918	819.839	782.192	-4.59%
Nicaragua	330.395	307.451	362.389	409.524	13.01%
Guatemala	341.127	290.932	312.138	332.883	6.65%
Dominican Rep	359.566	239.632	236.023	222.668	-5.66%
Costa Rica	181.265	102.510	86.116	66.624	-22.63%
<b>TOTAL</b>	<b>3,379.438</b>	<b>2,593.237</b>	<b>3,088.405</b>	<b>2,996.682</b>	

Source: Office of Textiles and Apparel, US International Trade Administration



### Is production shifting from Honduras to Nicaragua?

The need to be competitive with Nicaragua has been used by the business sector in Honduras as justification for downgrading social protections and limiting wage increases. There appears to have been very little discussion in Honduras of alternative competitiveness strategies based on upgrading of skills, infrastructure and capacity.

Dire predictions from Honduran apparel industry leaders are a regular occurrence in the national media, but often the figures they use are suspect. In March 2011, for example, Daniel Facussé, President of the Honduran Maquiladora Association (AHM), told the press that in the previous 20 months 16 maquilas had moved from Honduras to Nicaragua to take advantage of lower wages.<sup>18</sup> In September 2011, Jesus Canahuati, one of the AHM's Directors, told the media that 21 Honduran textile and apparel companies had moved their operations to Nicaragua in the previous six months.<sup>19</sup> In December of 2011 – notably just prior to the beginning of annual minimum wage negotiations – Daniel Facussé announced that more maquilas had moved to Nicaragua (although now claiming that the total number for 2011 was 16) to take advantage of prices he claimed were 38-50% lower than those in Honduras.<sup>20</sup> “In the case of companies that are currently operating in our country what’s happening is that bit by bit they will transfer their operations to Nicaragua,” Facussé said.<sup>21</sup> Facussé also claimed – falsely, as it turns out – that adidas and Nike were leaving Honduras for Nicaragua. Both adidas and Nike denied Facussé’s claims.<sup>22</sup>

Whether and to what degree maquilas are closing in Honduras and re-opening in Nicaragua is unclear. In its annual report for 2010, the Honduran Central Bank reports that 12 companies in the maquila sector as a whole closed in 2010, only six of which were apparel and textile manufacturers, while 14 new companies began opera-

tions in the same period.<sup>23</sup> Although there were undoubtedly additional closures in 2011, the number of closures does not appear to be as large as what has been suggested by the AHM.

The civil society leaders interviewed by EMIH were generally sceptical of statements made by maquila industry representatives in the media concerning the alleged danger that the Honduran apparel export industry could suffer a significant loss of jobs and investment because of a lack of competitiveness. While acknowledging the tendency for companies to move their operations to locations that provide the most advantageous conditions for their investments, they believed that the factory owners were exaggerating the threat in order to gain concessions from the Honduran government and to create fear of job loss among Honduran workers. They pointed to the cyclical nature of the industry that has existed since the 1990s and the structural factors that mitigate the risk that the industry will move elsewhere, such as the proximity to the US market, the facilities for transporting goods to that market, and the quality of the Honduran labour force.

According to Yadira Mineros of the Honduran Women’s Rights Centre (CDM), maquila owners in her country have always manipulated the figures on how many factories have closed and moved to other countries. “They say that almost 20% have left in the past year [2011],” said Mineros. “I believe those figures are inflated in order to discourage people from raising criticisms about working conditions, in order to generate fear. ‘Do you want jobs, or do you want us to leave?’ they ask the workers. But they stay in Honduras because it has a trained and experienced workforce.”

Most companies interviewed by MSN did not see significant movement in investment or sourcing from Honduras to Nicaragua. All brands interviewed denied shifting their own sourcing between the two countries. In some cases, they noted that some of their suppliers in Honduras had expanded

their operations to Nicaragua, but did not believe that there had been any loss of production facilities in Honduras as a result. At least two Honduran suppliers (New Holland and Centex) have moved some production processes or products to Nicaragua. One of the companies MSN interviewed noted that it has expanded the number of its own production facilities in Honduras in recent years.

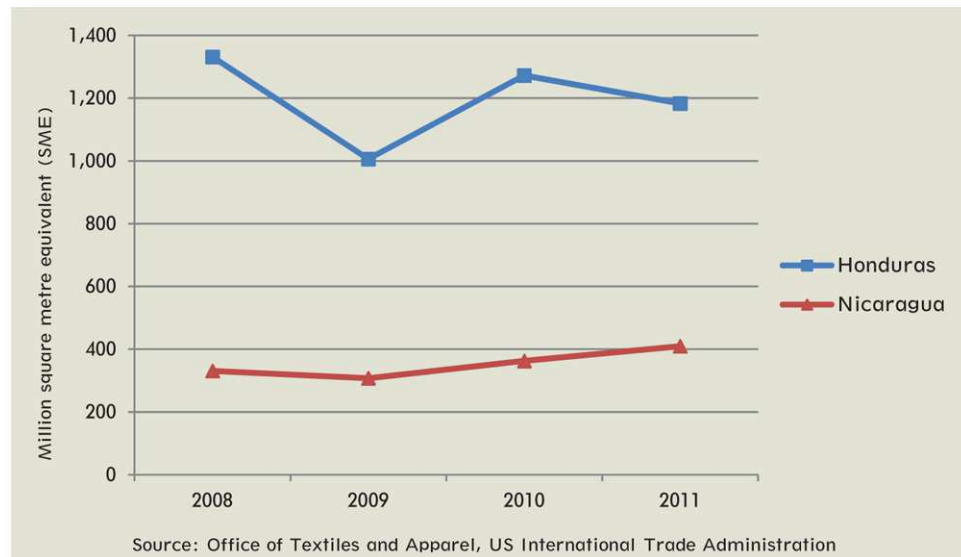
Jennifer Bair, a professor at the University of Colorado, carried out preliminary interviews with Honduran maquila owners, and was unable to find evidence of a major shift in apparel and/or textile production from Honduras to Nicaragua, although she noted that some sewing jobs may have moved to Nicaragua. “They’re sewing in

Nicaragua with fabric made in Honduras,” she said. “The Nicaraguan government is hoping those companies will move their textile manufacturing to Nicaragua, but so far there’s no indication that’s going to happen.”<sup>24</sup>

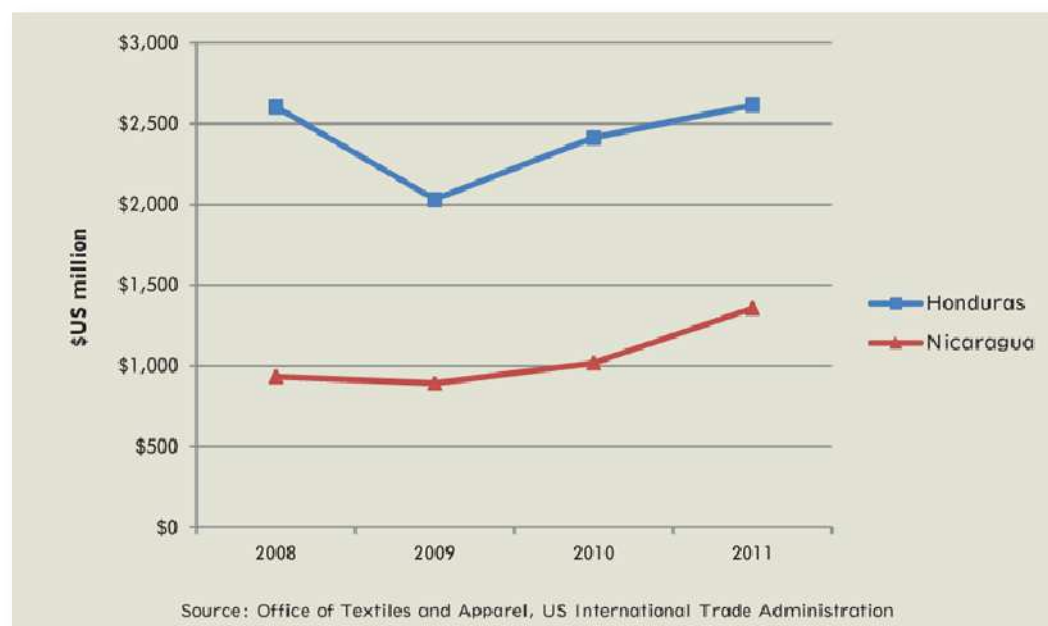
#### What Does the Export Data Reveal?

The evidence of a shift from Honduras to Nicaragua in terms of trade volumes is mixed. The volume of general apparel exports from Honduras to the US did fall in 2011, and the volume of apparel exports from Nicaragua to the US did increase. However, the value of Honduran apparel exports to the US rose in 2011, even as the volume of exports decreased. Nicaragua saw a similar increase in the value of its exports.<sup>25</sup>

**Volume of Apparel Exports to the US**  
(Million Square Metre Equivalents - SME)



## Value of Apparel Exports to the US



Overall, Nicaragua's exports are showing strong increases, although Honduras still exports almost three times as much apparel to the US as Nicaragua.<sup>26</sup> A more accurate picture of the competition between the two countries is possible when comparing specific products. The majority of the apparel exported to the US from both countries is in three product categories:

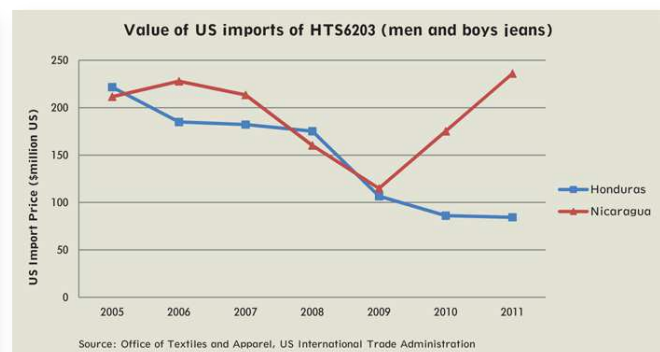
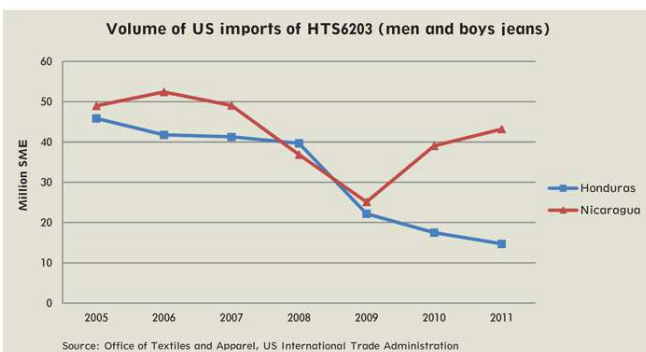
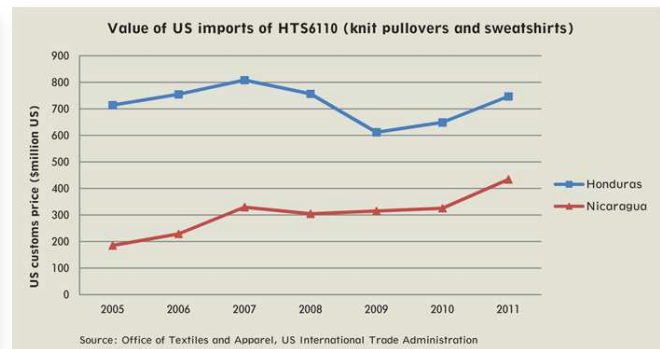
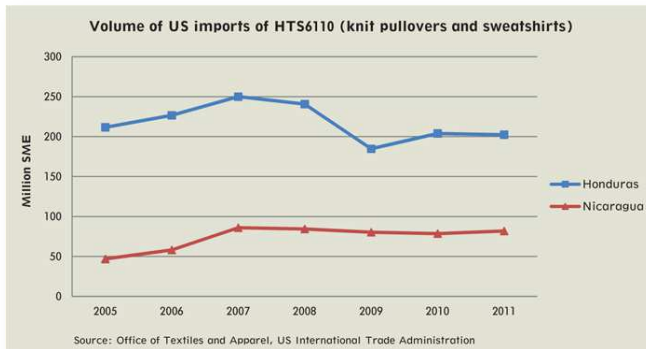
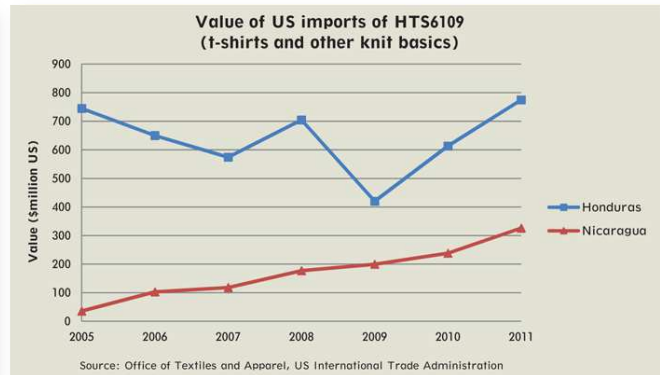
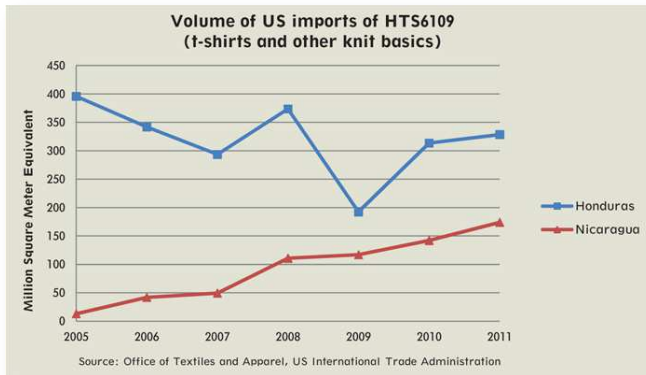
**HTS6109:** T-shirts, singlets, tank tops and similar garments, knitted or crocheted (*this category is primarily T-shirts*)

**HTS 6110:** Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted (*the majority of this category is cotton pullovers and sweatshirts*)

**HTS6203:** Men's or boy's suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches, etc. (no swimwear), not knitted or crocheted (*the majority of this category, at least for Nicaragua, is men's jeans*)

These three categories account for approximately 65% of Honduras' apparel exports to the US and 72% of Nicaragua's apparel exports to the US.<sup>27</sup> The graphs on the following pages show how Nicaraguan and Honduran apparel exports compare to each other. What the data suggest is that, at least in the top two knit categories, while Nicaragua is capturing an increasing share of US imports, Honduras is also increasing its exports to the US. In the top woven category, however, the volume of Honduran exports is decreasing, while the volume of Nicaragua's exports is sharply increasing. This category, which includes jeans and twill pants, is one in which Nicaragua's ability to use Asian fabrics while retaining duty-free access to the United States represents a significant competitive advantage over other Central American countries (see page 20).

## Volume of imports





Although the three categories noted above represent the most prominent types of apparel being exported by the two countries, there are others. Notably, Nicaragua has recently been increasing its production of high-end uniforms, sportswear and lingerie, however these still represent a relatively small portion of the country's total exports. Women's lingerie, for example, accounted for just 2.6% of apparel exports in 2011, although the volume of exports of women's lingerie had grown 22% from 2010.<sup>28</sup> New investments like the US\$24 million expansion by US-owned firm Cupid Nicaragua<sup>29</sup> indicate that this category is likely to expand.

Honduras, for its part, has specialized in the production of cotton socks, mostly by manufacturers like Canadian-owned Gildan Activewear. Although socks are not the country's largest export by volume, Honduras is the largest single supplier of cotton socks to the United States, providing 58% more pairs of cotton socks to the US in 2011 than China, its closest competitor. The volume of Honduras' sock exports to the US market increased by more than 90% between 2007 and 2010. However the country is now facing competition in the region, not from Nicaragua, but from El Salvador, which increased its sock exports from almost nothing in 2007 to approximately 61% of the volume from Honduras at the end of 2011. The volume of sock exports from Honduras decreased by 15.7% in 2011.<sup>30</sup>

### Tariff Preference Levels

Both Honduras and Nicaragua benefit from duty-free access to the US market under the DR-CAFTA agreement (see page 12). However, firms in Nicaragua have an extra advantage: they are able to make use of a special provision known as Tariff Preference Levels (TPLs) that allow them to export duty-free up to 100 million SMEs (square metre equivalents) of apparel made from fabric that does not meet DR-CAFTA's rules of

origin.<sup>31</sup> The TPLs were granted because of Nicaragua's status as a Least Developed Country (LDC) and because its apparel and textile industry, at the time of signing, was the smallest in the DR-CAFTA region.<sup>32</sup> The vast majority of the non-qualifying fabrics used in Nicaragua's TPL exports are made in Asia.

All companies sourcing from Nicaragua that were interviewed by MSN mentioned the TPL provision of DR-CAFTA as an advantage Nicaragua has over Honduras and other Central American countries. At least two companies said they wouldn't be in Nicaragua if it weren't for the duty-free access the TPL provision provides, which they were concerned is due to expire in 2014. The quality, variety and low cost of fabrics available from Asia makes the TPL provision particularly important for Nicaragua's industry and, as noted earlier, the availability of TPLs in Nicaragua has helped to grow the country's woven cotton pants industry in particular.

### Competitiveness Strategies Promoted by Nicaragua and Honduras

Both Honduras and Nicaragua have been actively promoting foreign investment in their maquila industries, and their garment export industries in particular. The language used and benefits described provide insights into the competitiveness strategy being undertaken by each government.

Eager to put its military coup origins behind it, the Honduran government hosted a "Honduras is Open for Business" conference in May 2011. Delegates from 55 countries attended the event to learn more about the advantages of investing in Honduras, which, according to the government, included its access to the US market, transportation infrastructure including its port and customs facilities, its labour productivity and trained workforce, legal guarantees and tax incentives, low logistics costs, and the country's new hourly employment program (see page 41).<sup>33</sup>

The top four reasons Nicaragua's investment promotion agency PRONicaragua provides for investing in its maquila industry are:

- “Strategic location and preferential access to key markets” (notably DR-CAFTA and the TPLs with the United States);
- “Qualified labour force” (its training institute and young workforce);

- “The most competitive cost structure in the region” (lowest wages and benefits, and numerous tax incentives and exemptions); and
- “Favourable business climate” (including physical security and legal guarantees).<sup>34</sup>

For both countries market access, speed to market, tax advantages, legal guarantees and labour productivity are front and centre in investment promotion materials.

#### Some competitive factors promoted by Honduras and Nicaragua

Factor	Honduras	Nicaragua
Access to US Market	<ul style="list-style-type: none"> <li>• Duty-free access under DR-CAFTA (with yarn-forward provision).</li> <li>• Cumulation with fabric from Mexico.</li> </ul>	<ul style="list-style-type: none"> <li>• Duty-free access under DR-CAFTA (with yarn-forward provision).</li> <li>• Cumulation with fabric from Mexico.</li> <li>• Additional access under Tariff Preference Levels for some products made with fabrics from outside of the region.</li> </ul>
Speed to US Market	Average freight time to Miami: 3 days.	Average freight time to Miami: 5 days (through Honduras).
Tax Advantages	<p>Inside the free trade zones:</p> <ul style="list-style-type: none"> <li>• Introduction of merchandise free of customs duties, charges, surcharges, internal revenues taxes and any other taxes directly or indirectly related to import and export customs operations.</li> <li>• Sales and products made within the free trade zones, as well as real estate and commercial and industrial establishments within a free trade zone are free of municipal taxes and contributions for the first 10 years of operation.</li> <li>• All profits from operations carried out within a free trade zone are income-tax free for the first 20 years of operation.</li> <li>• Right to 100% capital repatriation.<sup>35</sup></li> </ul>	<p>Inside the free trade zones:</p> <ul style="list-style-type: none"> <li>• 100% Income Tax exemption for the first ten years of operation.</li> <li>• 100% exemption on import taxes for machinery, equipment and intermediate goods as well as transportation or support services.</li> <li>• 100% Value Added Tax (VAT) exemption for the first 10 years of operation.</li> <li>• 100% capital gains and Property Tax exemption for the first 10 years of operation.</li> <li>• 100% exemption on dividends and free repatriation of capital.<sup>36</sup></li> </ul>
Labour productivity <sup>37</sup>	Average 75%	Average 65% <sup>38</sup>

Where there are substantial differences in the emphases of promotional materials published by the two countries are in the cost comparisons (e.g. wages and benefits, electricity), relative safety of the country (Nicaragua), and flexible labour laws (e.g. Honduras' hourly employment law). It is worth noting, however, that in some more recent promotional materials and public statements by industry and government spokespeople, Nicaragua is beginning to also profile the benefits of social dialogue and the country's improved labour relations climate as a competitive advantage (see Chapter 3).

### Other Competitive Advantages

Although it would be easy to assume that simple cost comparisons are the primary difference in competitive advantage for each country's export industry, there are numerous issues that impact prices – from direct costs like import duties, fabric, wages, and electricity to other issues with significant cost implications like speed to market, skill and productivity levels, social compliance, etc. Therefore the relative emphasis that a specific company places on any of these issues will influence its decision to source production from either Honduras or Nicaragua.

Some companies interviewed by MSN, for example, noted that Honduras has advantages over Nicaragua on productivity, experience and skills, which they attributed to the fact that it had been in the export manufacturing business longer. “Nicaragua can compete on labour costs,” one said, “whereas they might not have the advantage on infrastructure or experience that Honduras has.”

Given the significant difference in wage levels between Central America and Asia, attempting to compete with Asia based solely on low labour costs is not a viable option for Nicaragua, Honduras or other Central American countries. In addition to economic upgrading, a high road approach to competitiveness would require an investment in

training to upgrade the skills, knowledge and productivity of workers and management personnel, social benefits for workers, and labour standards compliance.

### Training Needs in Nicaragua and Honduras

Asked to identify improvements needed in skills, training and capacity of personnel in Honduras and Nicaragua, the international brands and manufacturers interviewed by MSN pointed to the need for training on both technical and human resource management skills, including training on labour rights issues. The training needs identified by various companies differed, but the following were the primary types of training mentioned:

**Needle skills:** Central America was described a region of basics that has not upgraded its skills. “Workers need to upgrade their needle skills to be able to do fine embellishments.”

**Social compliance:** The need for middle management to receive training on freedom of association and labour relations was identified, as well as training of management on buyer expectations, including compliance with codes of conduct.

**Human Resources (HR):** Training in conflict resolution, both for management and employees, was identified as an important need by a company sourcing from Honduras, which noted that it was doing its own training and doing some partnering with PROCINCO.<sup>39</sup> “Certainly HR training for the industry as a whole would be useful,” they said. Another company had a slightly different point of view, stating that Honduras suppliers have “pretty developed HR standards.” Two companies identified the need for much more training in Nicaragua on HR management.

**General education:** One company pointed to the need to improve the education system and overall educational level in Honduras, “so that the average person has more than a grade eight education.” They noted that some of their workers come in with a second grade education and don’t have basic skills in reading and writing, which makes training a lot more difficult. For that reason, they are providing an educational program for employees. “The more educated people are, the better able they are to compete.”

Companies also commented on the delivery of technical training within Honduras and Nicaragua. “Both countries have an agency for technical education that companies join, but [the training] is not up to date. You can see the challenges that workers are facing. There are new technologies and it’s been a challenge for textile facilities that require technical skills.”

Two companies with operations in Honduras said they are offering technical training to employees, one with the support of government grants and the second through a Honduran training institute. Another company said that some of its suppliers in Honduras do have strong training programs. “They do a good job and not just on technical skills ... They’re doing lean [manufacturing], IT, financial awareness, technical and life skills.” However, the same company identified the need for training for middle management on freedom of association and labour relations.

In their 2010 study of Nicaragua’s garment and textile industry, Gereffi and Bair found that while there was a “well-funded training institution in Nicaragua in INATEC [National Technological Institute],” most of the manufacturers they interviewed “make sporadic use, if any, of its training services, which are not felt to adequately address the needs of the industry.”<sup>40</sup>

A 2011 study<sup>41</sup> by the Nicaraguan union central CST-JBE, in which 790 young workers

were interviewed, 43% of whom worked in the maquila sector, found that although most of those interviewed expressed an interest in receiving occupational and/or technical training, there was a general lack of awareness of the training available to them. When asked what kind of union training they would like to receive, 50.3% answered “general training,” 21.2% said “training on the labour law,” and 10.6% said training on “how to improve organizing.”

The observations of the brands and manufacturers interviewed by MSN, and the young workers interviewed by the CST-JBE, would seem to suggest that employee training is an essential component of both firm upgrading and social compliance. Comprehensive training programs for management personnel and workers in Nicaragua and Honduras could include a focus on technical skills, human resource management skills, and labour rights issues, as well as buyer expectations concerning compliance with company codes of conduct and national labour laws.

It is worth noting that there have been a number of labour rights training initiatives in Central America, some of which have received funding from US government agencies related to DR-CAFTA. For instance, the CIMCAW<sup>42</sup> project provided labour rights training for management personnel and workers in both Nicaragua and Honduras. There have also been numerous training projects for workers in the sector carried out by local women’s and other civil society organizations, such as the Movement of Working and Unemployed Women — Maria Elena Cuadra (MEC) in Nicaragua and a number of women’s organizations in Honduras. Any new training initiatives that include training on labour rights could therefore build on these experiences.

### Is social compliance a competitive advantage?

None of the companies interviewed by MSN indicated that a country's approach to or progress on social compliance would be the deciding factor in sourcing decisions. Nonetheless, social compliance is a factor that these and other apparel companies pay attention to, largely because national and international women's, labour and human rights movements have been successful in putting it on to the public agenda. As a result, the persistence of serious worker rights abuses in any particular workplace or country is now recognized as a reputational risk by most leading brand-conscious apparel companies.

While global trends in the garment and textile industry in a period of trade liberalization and economic crisis seem to indicate that a race to

the bottom is well under way on labour costs and workers' wages, there are encouraging counter trends, such as the emergence of worker protests and resulting salary increases in some of the low-wage Asian countries and efforts to include a social dimension in national competitiveness strategies including the development of Better Work programs in Nicaragua, Cambodia, Lesotho and other countries.

In the next two chapters, we examine the impacts and social consequences of the competitiveness strategies being adopted by government and business for garment workers in Honduras and Nicaragua, and particularly for women workers, and profile some of the competing proposals coming forward from business and civil society groups on government policies and regulations.



## Notes for Chapter 1

- 1 In late 2011, MSN interviewed 13 companies with production in Nicaragua and/or Honduras – four manufacturers that own their own factories, all of which also subcontract some production, and nine brands and retailers that don't own any production facilities. Most of these interviews included both sourcing and social compliance staff, though some were done only with a compliance staff person. Throughout this chapter we refer to those interviews and in some cases include quotes from specific company representatives, although these are not attributed to particular individuals or companies, which was the basis on which the interviews were carried out.
- 2 Woodward, Richard. "Uncertainty clouds apparel industry future," *Just Style*, September 6, 2011.
- 3 In the garment and textile sector, the term "clustering" refers to a collection of similar or related manufacturing facilities in one geographic location, which, because of the number and variety of services offered, has competitive advantage.
- 4 Runkel & Associates Inc. "China Raises Minimum Wage Up To 21%," *Business-in-Asia*. Available at: [www.business-in-asia.com/china\\_wages.html](http://www.business-in-asia.com/china_wages.html)
- 5 Bradsher, Keith. "As China's Workers Get a Raise, Companies Fret," *New York Times*, May 31, 2011. Available at: <http://www.nytimes.com/2011/06/01/business/global/01wages.html>
- 6 <http://www.bgmea.com.bd/home/pages/TradeInformation>
- 7 KPMG International. *Product Sourcing in Asia Pacific*, September 2011, pp. 8-9.
- 8 <http://www.itglwf.org/lang/en/Bangladesh.htm>
- 9 For information on the strike, visit: <http://www.cleanclothes.org/news/wage-increase-for-cambodian-garment-workers> For an update on a recent tribunal on wages in Cambodia, go to: <http://www.cleanclothes.org/media-inquiries/press-releases/press-release-tribunal-verdict-finds-cambodias-garment-workers-kept-in-poverty>
- 10 Pierson, David. "Chinese factories hit by strikes amid manufacturing slowdown," *LA Times*, November 28, 2011. Available at: [http://latimesblogs.latimes.com/money\\_co/2011/11/chinese-factories-hit-by-strikes-amid-manufacturing-slowdown.html](http://latimesblogs.latimes.com/money_co/2011/11/chinese-factories-hit-by-strikes-amid-manufacturing-slowdown.html)
- 11 Bland, Ben. "Vietnam's factories grapple with growing unrest," *Globe and Mail*, January 19, 2012. Available at: <http://www.theglobeandmail.com/report-on-business/international-news/global-exchange/vietnams-factories-grapple-with-growing-unrest/article2308454/>
- 12 O'Rourke Group Partners. *Benchmarking the Competitiveness of Nicaragua's Apparel Industry*. April 2011, p.13.
- 13 Office of Textiles and Apparel, US International Trade Administration. [http://otexa.ita.doc.gov/agoa-cbt-pa/98220511\\_2010.htm](http://otexa.ita.doc.gov/agoa-cbt-pa/98220511_2010.htm)
- 14 Office of Textiles and Apparel, US International Trade Administration. [http://otexa.ita.doc.gov/agoa-cbt-pa/98220511\\_2011.htm](http://otexa.ita.doc.gov/agoa-cbt-pa/98220511_2011.htm)
- 15 Office of Textiles and Apparel, US International Trade Administration. <http://otexa.ita.doc.gov/fta/catv0.htm>
- 16 O'Rourke Group Partners, p.4.
- 17 Office of Textiles and Apparel, US International Trade Administration. <http://otexa.ita.doc.gov/msrcty/a62.htm>
- 18 Alvarenga, Fany. "Maquilas en Honduras se van a Nicaragua," *La Prensa*, March 9, 2011. Available at: <http://archivo.laprensa.hn/Sintesis/Lo-ultimo/Ediciones/2011/03/09/Noticias/Maquilas-en-Honduras-se-van-a-Nicaragua>
- 19 "Empresarios hondureños 'mudan' sus inversiones a Nicaragua," *La Tribuna*, September 20, 2011. Available at: <http://old.latribuna.hn/2011/09/20/empresarios-hondurenos-%E2%80%99Cmudan%E2%80%99D-sus-inversiones-a-nicaragua/>
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- 21 *Ibid.*
- 22 "Nike has no plans to divest from its manufacturing partners in Honduras. Production in Honduras has increased consistently over the last 5 years and Nike intends to continue that same sourcing strategy. Nike is exploring the possibility of sourcing in Nicaragua with a small number of strategic partners to support business growth where required. Sourcing in Nicaragua will not impact Nike's current sourcing strategy in Honduras." Email from Lesley Kavanagh, Sustainable Manufacturing Director, The Americas and EMEA (Europe, Middle East and Africa), Nike, December 9, 2011. "[adidas is] not reducing planned production in Honduras to move volumes into Nicaragua. There are different product constructions for each country so it's not a simple 'reduce one and add into another'." Email from Gregg Nebel, Head of Social and Environmental Affairs, Americas Region, adidas Group, December 9, 2011.
- 23 Although the Bank does not specify the number of the new factories that were apparel or textile firms, it notes that the majority of the 14 were in textile and apparel and commercial marketing ("comercialización de mercancías"). Banco Central de Honduras. [http://www.bch.hn/download/maquila/informe\\_bienest2010.pdf](http://www.bch.hn/download/maquila/informe_bienest2010.pdf) p.11.
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- 25 In neither case is this increase in the value per unit explained by changes in the value of currency. In fact, the value of the Honduran Lempira to the US dollar decreased in 2011, meaning that it would require less US dollars to purchase something valued in Honduran Lem-

- piras. Instead, it likely reflects the impacts of a global increase in apparel prices in 2011 largely fed by increases in the price of cotton – a major input in the basic apparel categories most common to both countries.
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[http://dataweb.usitc.gov/scripts/cy\\_m3\\_run.asp?Fl=m&Phase=HTS2&cc=2190&cn=Nicaragua](http://dataweb.usitc.gov/scripts/cy_m3_run.asp?Fl=m&Phase=HTS2&cc=2190&cn=Nicaragua)
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  - 32 Squire, Sanders and Dempsey (US) LLP. *An Assessment of Avenues to Extend Nicaragua’s TPL*. September 1, 2011.
  - 33 Republic of Honduras: National Program for Investment Promotion. *Honduras is Open for Business: Investment Opportunities in Textile, Processing and Global Services*. April 2011.
  - 34 PRONicaragua. *Nicaragua: The Right Move!* 2011, p. 9.
  - 35 Republic of Honduras: National Program for Investment Promotion, p.18.
  - 36 PRONicaragua, p. 116.
  - 37 “Labour productivity,” in this comparison, is a percentage of international best practice for standard number of minutes taken to produce a particular garment. Labour productivity often varies widely from factory to factory within the countries studied, and is affected by several factors including factory engineering, type of manufacturing system, levels of automation, factory management, supervision, training, equipment maintenance, and working conditions.
  - 38 O’Rourke Group Partners, p.21.
  - 39 Comprehensive Training Program for Competitiveness of the Textile and Apparel Manufacturing Industry (PROCINCO), a program by the Honduran Maquila Association with the support of the National Institute for Professional Education and the Inter-American Development Bank.
  - 40 Gereffi, Gary and Bair, Jennifer. “Strengthening Nicaragua’s Position in the Textile-Apparel Value Chain: Upgrading in the Context of the CAFTA-DR Region,” December 20, 2010, p. 30.
  - 41 *Diagnostico de la Juventud, de Ambos Sexos, Sindicalizada o Simpatizantes de la CST-JBE*, August 2011.
  - 42 Funded by USAID, Continuous Improvement in the Central American Workplace (CIMCAW) was a joint initiative of Social Accountability International (SAI); the International Textile, Garment and Leather Workers’ Federation (ITGLWF); and a number of US brands, including Billabong, Coldwater Creek, Gap Inc., Limited Brands, Timberland and Wal-Mart. Between October 2004 and December 2008, the program offered labour rights training for both workers and management, as well as for other stakeholders. The final report is available at: [http://pdf.usaid.gov/pdf\\_docs/PDACM464.pdf](http://pdf.usaid.gov/pdf_docs/PDACM464.pdf)

# Chapter 2

## Honduras

IN THIS CHAPTER, WE EXAMINE THE consequences for workers of the competitiveness strategy being pursued by the government and garment and textile industry in Honduras and review recent changes in government policy and regulation, as well as the January 2012 tripartite agreement on the minimum wage in the maquila industry. The chapter is based in large part on research done by EMIH.<sup>1</sup> EMIH carried out interviews with close to 100 workers, as well as with Honduran union and women's movement leaders and labour rights experts.<sup>2</sup> The chapter also draws upon interviews carried out by MSN with international apparel brands and manufacturers sourcing from and/or investing in Honduras.

### Reducing Labour Costs and Increasing Flexibility

As we have seen in Chapter 1, Honduras' garment and textile industry continues to focus on production of basics for export to the US market.<sup>3</sup> Rather than investing in production of more complex apparel products and fabrics, the industry seems to be more interested in reducing labour costs, achieving more flexible employment relationships and work schedules, and securing additional benefits and tax exemptions for foreign investors.

Any examination of Honduras' garment and textile industry and the government policies and regulations that support it must take into account

not only the global economic crisis, but also the national political crisis provoked by the June 2009 coup and the political repression and violence against journalists, teachers, human rights defenders and members of the popular resistance that continues in the so-called "post-coup" period.<sup>4</sup> In this highly polarized context, the ability of employers and their associations, in alliance with the government, to achieve changes in laws and regulations that undermine workers rights and the principles of decent work has increased substantially.<sup>5</sup> However, in the final months of 2011, the three major union centrals in the country began to work together to develop a joint plan of action for the maquila sector in order to achieve a resumption of traditional negotiations in the sector, specifically through the use of bipartite and tripartite commissions. The result of their efforts was the first tripartite agreement negotiated for the sector since the coup took place (see page 46).

For an overview of the Honduran export apparel and textile industry, see **Appendix One.**

### Competing Views of Competitiveness

Since the inception of the maquila industry in Honduras, employers have used the threat of imminent factory closures and capital flight to other locations that offer better conditions for investors

in order to leverage government policies and regulations that are favourable to their interests. As noted in Chapter 1, Nicaragua's lower wage levels and other investment "attractions" figure prominently in statements made by Honduran industry representative in the media.

Not surprisingly, civil society leaders and labour experts interviewed by EMIH had a different perspective on the issue of competitiveness in the maquila sector. Daniel Duron, General Secretary of the General Workers' Confederation (CGT), one of three confederations with a presence in the maquila sector, commented that when reflecting on the country's competitiveness, it was important to "pay attention to the type of employment we want to create." For Duron it is essential not to "fall into the trap" of seeing job creation as the only objective. "Governments [in the region] shouldn't be able to continue opening the door to foreign investment without making labour rights guarantees part of the deal." He maintains that employment creation on its own will not resolve the problem of poverty in the country.

Duron went on to say: "Countries in Central America are being pressured to compete with each other, but we have to be careful about this because competition [between the countries] is detrimental to all of us ... Discussions about competitive advantage have focused strictly on the issues of wages and the cost of public services, for instance electricity, and have avoided dealing with the underlying question of whether the fiscal incentives and tax holidays that have been offered to foreign investors are worth the price. For in-

stance, there hasn't been any transfer of technology that would generate value-added." In order to address this problem of competition between Central American countries, Duron advocates for a strategic alliance of the independent trade union movement at the regional level.

Labour lawyer Salvador Espinoza, who regularly represents maquila workers and unions in cases against employers, argues that comparing wage levels in Honduras with those in other countries doesn't take into account the non-wage benefits workers might also be receiving in those countries. "In other countries, workers receive benefits that compensate them for the value of their salaries, as is the case in Nicaragua where workers receive housing, health benefits, where labour conflicts are treated more seriously by the Ministry of Labour, and where the university has a legal team that accompanies workers to their hearings."

According to economist Ana Lucia Restrepo, in addition to the obvious fact that companies invest in Honduras because of the abundant supply of cheap labour, "the government doesn't require companies in the maquila sector to comply with national labour legislation or international conventions on labour, women's and health rights, even those that Honduras has ratified."<sup>6</sup> According to Restrepo, "while the maquila sector does generate significant employment in the short term, in the long term it does not contribute to development. In the end, women who work in the maquilas are disposed of when they get old and end up with no retirement benefits and damaged health."



PHOTO: JEREMY BLASI

## What are the Main Issues for Workers?

Women of the maquilas have a voice, one that needs to be heard. Their voices are being raised not only to denounce the abuses of their rights, but also to put forward proposals that will contribute to improving working conditions in the maquilas. Yes, women need jobs, but jobs that allow them to work and live in a dignified way. – **Ana Lucia Restrepo**

The workers, leaders of unions and women's organizations, and labour rights experts that were interviewed by EMIH drew attention to the negative consequences of a low-road competitiveness strategy that is primarily focused on reducing employer costs and worker protections. Those interviewed noted that employer efforts to lower labour costs and increase profit margins have typically included a combination of strategies: lobbying against minimum wage increases, intensifying the pace of work and raising production targets, flexibilizing work schedules and employment contracts, and introducing more intensive production models.

They pointed to a series of problems facing workers, including:

- Wages that aren't keeping up with the rising cost of living;
- Incentive-based pay (payment by the piece and/or for reaching high production targets);
- Changes in the production model and the resulting work intensification;
- Work schedules;
- Gender-based discrimination and women's double day;
- Verbal and physical abuse;
- Increasingly precarious and less stable employment;
- Impacts of production practices on workers' health and safety;
- Personal security issues;
- Limitations of the government social security program and company-supplied medical services;
- Lack of social protection and, in many cases, failure to provide severance pay and other



- statutory benefits when factories close; and
- Violations of freedom of association.

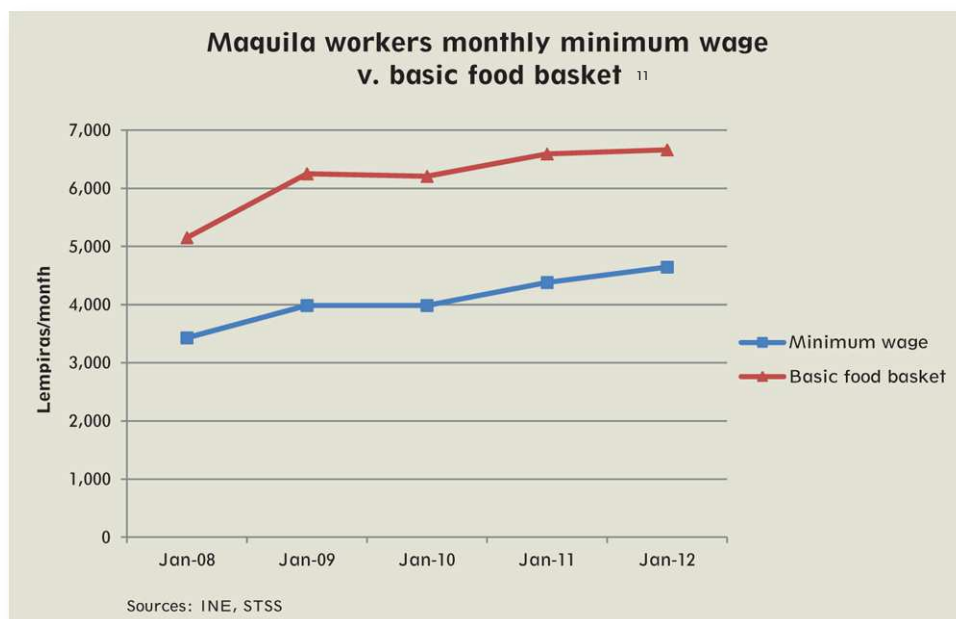
Although the causes vary, each of these problems has very serious impacts on the lives of workers, particularly women workers, and in many cases, illustrates how the Honduran government and industry prioritize low-road competitiveness over workers' well-being.

### i. Wages

It is clear from media reports and public statements made by industry spokespeople that maquila owners see wages as the central factor in the country's competitive position.<sup>7</sup> "Nicaragua has the lowest wages in Central America, half the level of wages in Honduras," said AHM President

Daniel Facusse in 2011. "Honduran maquilas pay the highest wages in the region."<sup>8</sup>

The minimum wage for maquila workers in Honduras is currently 4,845 Lempiras (US\$254)<sup>9</sup> per month, an increase of 6% from the previous year. The Secretary of Labour and Social Security (STSS) estimated that the average cost of the basic food basket for a family of five reached 6,660 Lps [US\$350] at the end of 2011.<sup>10</sup> While the STSS has not published a 2011 estimate of the cost of a full market basket (food plus clothing, transportation, rent, education, etc.), the National Statistical Institute (INE) estimated the value of the full basket at approximately twice the value of the basic food basket in 2010 and 2011 and more than three times the value of the minimum wage in the maquila sector.



With our wages we can only buy the bare essentials — rice, beans, sugar, flour, corn, lard, coffee, salt and soap. These are the things that every home needs. Some people are able to buy some additional things like milk, bread, chicken, etc., but there are others who don't even have enough for the first list. The low wages earned by workers mean that we cannot go anywhere with our family. We do not buy food from a large supermarket, we can't buy clothes.

**Maquila garment worker.**

According to Ana Lucia Restrepo, “at one time you needed two minimum wage salaries in the maquila sector to cover the cost of food and other basic goods for a family of five; now three people in the household have to earn the minimum wage in the maquila in order to cover the same expenses. There is no justice in that.”

To supplement their inadequate salaries, a number of the workers interviewed by EMIH said they take on additional jobs after hours, including selling phone cards, jewellery, ice cream, new and used clothing, or Avon products, washing and ironing people’s clothing, caring for children, and cleaning houses.

One company interviewed by MSN admitted that wages in Honduras “are totally inadequate to meet the standard of living” in the country. “Workers are voicing that more and more, but the factories are keeping the wages down. You would think that as an employer you would want to get the best workers and offer a better salary to do so, but that’s not what’s happening.” However, the same person also acknowledged that low wages weren’t a compliance issue for their company, because their code of conduct only requires suppliers to pay the legal minimum wage. In fact, most international companies MSN interviewed agreed that lower labour costs are a competitive advantage for Nicaragua over Honduras.

### ii. Incentive-based Pay

The implications of being paid by the piece and/or for meeting production targets was a major concern for the workers and civil society leaders interviewed by EMIH. In many cases where workers are paid by the piece or for reaching production targets, they don’t know the exact number of pieces they worked on over a one-week period and don’t trust the numbers that appear on their pay slips.

According to Ana Lucia Restrepo, “the fact that workers are paid by the piece or for reaching targets rather than for the hours they work doesn’t mean the system is fairer, because the piece rate and production target are calculated on the basis of an extremely high level of productivity.” She

*They say that maquila workers earn more than others because we are paid for our production. But if we do the math, we aren’t getting paid much more than the minimum wage. The law says that we should earn 1,096 Lps per week. But even when I work really hard to meet the production target, hoping that I can earn a lot more than other workers, what I earn at the end of the week is 1,289 Lps. That is just 193 Lps above the minimum wage. And that is what I earn after all of the effort I put in. So where is our profit?*

**Maquila garment worker**

claims that in most cases the total amount workers receive, even when they reach their targets, isn’t much more than the minimum wage. She notes that a human being is not capable of performing at this level of productivity year after year.

In some factories, supervisors’ employment con-

tracts state that they will not be paid for extra hours of work given that they have a fixed salary and are considered management personnel. This motivates supervisors to put pressure on production line workers to meet targets during their regular working hours. Under this system, it is not surprising that the workers report being mistreated by their supervisors.

How workers are paid was a reoccurring theme among the people EMIH consulted. Interviewees noted that high production targets are a major factor contributing to other labour rights violations, including hours of work and lunch and rest break violations. For example, workers who are unable to meet their production targets during regular hours often “voluntarily” come in early or stay late or give up part or all of their rest periods in order to meet the target.

Although companies interviewed by MSN did not comment on issues related to production targets, two of the eleven companies producing in



or sourcing from Honduras did identify overtime as a persistent labour standards compliance problem in the country. One of the two companies noted, “Making sure overtime is voluntary, that workers are getting paid correctly, and ensuring you’re seeing the real books, those are challenges in Honduras and El Salvador, just as in Asia.”

### iii. Changes in the Production Model, and Work Intensification

Work intensification and the drive for increased productivity are also linked to changes in production models, such as the use of teamwork, modular production and 4x4 work schedules (in which workers work 11 or 12 hours a day, four days in a row followed by four days off).<sup>12</sup> Although much of the academic literature in North America and Europe describes the move to lean manufacturing and organization of work in teams and modules as positive and empowering for workers, the workers interviewed by EMIH raised many concerns about these changes.

Some workers felt that they had been contracted to do one activity, that of a sewing machine operator for instance, but were now expected to carry out a number of additional operations,

such as removing loose threads from the garments, with the result that they are even more exhausted at the end of the workday. Others didn’t understand why they were now expected to carry out activities that seemed more appropriate for specialized technicians, for example servicing machines that are in bad condition. In addition, workers reported that they are now expected to clean up their work area, refill water containers and dispose of the garbage at the end of their work shift and that these additional demands have affected workers’ ability to meet production targets, since they lose out on production time and therefore earn less.

Unreachable production targets were identified as a major issue by almost all the workers interviewed. In addition, workers reported cases in which the number of sewing machine operators in work teams had been reduced, but the team production targets were the same or higher. Many complained about the pressure they face to meet the team production target, which, they said, negatively affects their ability to maintain a relationship of solidarity with their co-workers. For example, workers said that the whole team loses income when a member of the team is ill, pregnant

and/or works more slowly than other members. They noted that the work team system transfers what were formerly the supervisor's responsibilities, to discipline workers and maintain the pace of work, to the work teams themselves. Most of the workers interviewed preferred the traditional assembly line method of production in which each worker does one operation and has an individual quota or target to meet.

Civil society informants also pointed to the negative impacts that work intensification and long shifts have on women's health and personal well being. According to Yadira Mineros of the Women's Rights Centre (CDM), as conditions in the maquila become more precarious, violations of labour rights have become more serious, including an increase in verbal abuse and in some cases a return of physical abuse. Mineros also points to a relationship between work intensification and women's reproductive health, which she says needs to be given much more attention. Her organization has identified cases in which women workers have suffered miscarriages or infections during pregnancy, which she believes may be related to working conditions. She notes that, in general, factories no longer fire pregnant women, which she views as an advance, but the increase in reported reproductive health problems is alarming. According to Mineros, there is a need for further research in order to determine whether there is a link between these problems and production practices.

Sociologist Isbela Orellana raised concerns about the impacts of high production targets and 4X4 work schedules on workers' health and quality of life. "The impacts of these long working hours and the way production is organized are factors that need to be given a lot more attention. Studies need to be done using professional, technical criteria in order to determine the implications that the production targets have on workers' health and for their present and future quality of life."

According to Orellana, the move to a 4X4 work schedule has also negatively affected the right of young workers to get an education: "We have a number of university students [who also work in the maquila] that register for classes and have to drop out of school due to changes in their work schedules. They register for a class at a particular time and in two or three weeks they find that their working hours have been changed (to a 4X4 work week). This impedes [their ability to] study at the university."

Workers interviewed expressed different views on the 4X4 regime. Some of the women workers interviewed felt that there are benefits to the 4X4 system because it allows them to focus on their responsibilities in the home during the four consecutive days they have off, though in reality they have no days of rest since they spend their time off caring for their children, cleaning the house, cooking meals, attending school meetings, helping their children with their homework, etc. It is worth noting, however, that this same argument is made by the employers who say that the production model benefits women because it allows them time to attend to their responsibilities in the home, thus reaffirming society's view of women's role in the nuclear family and evading the question of whether the rest of society and the employers themselves have any responsibilities regarding this unpaid and unrecognized labour in the "economy of care."

Other women workers were critical of the 4X4, complaining that during these long workdays, they only have one lunch break and that no one takes the full hour because of the pressure to meet production targets. After working an 11-hour shift, they return home and their children are asleep; they hardly know them.

All of the women interviewed find these work shifts to be exhausting. "It's like working a complete week in less time."

#### iv. Gender Discrimination and Women's Double Day

Many of the women workers interviewed said they were often too tired to meet their production targets because of the unpaid and unrecognized work that they are responsible for in their homes. Those who work the night shift reported feeling disconnected from their children, adding that if they rest during the day it means they rarely see their children..

Before leaving for work, we make their snacks, get lunch ready and if possible do the cleaning. When we get home we are tired and we have to do the cleaning and make dinner, spend time with our children, look over their homework ... There is not a single minute that is just for us.

**Maquila garment worker**

In addition to women's double day, many of those interviewed spoke to EMIH about persistent forms of gender-based discrimination in the workplace. Yadira Mineros of CDM pointed to a number of examples, including:

- Obligatory pregnancy testing, which she said continues to happen in some factories;<sup>13</sup>
- Sexual harassment;
- Segregation of women in job ghettos; and
- Failure of maquila owners to comply with their legal obligation to provide workplace day care.

In contrast, few of the international companies interviewed by MSN were able to identify specific impacts of workplace issues on women workers. Most companies said that while the workforce producing their products in Central America was predominantly female, they didn't think there were any gender-specific issues facing women working in their supplier factories.

"No, I haven't seen a difference [in the working conditions of men and women]," one said. "Women have more employment opportunities ... From a company perspective, there are equal conditions.

In Honduras, the concern is that homicides are at a high level for women, but in terms of labour justice, I don't see any difference between women and men."

However, two companies noted that issues related to women's legal entitlements (leave and benefits) during pregnancy were still not being adequately addressed in Central America,<sup>14</sup> though they believed that obligatory pregnancy testing was no longer a common practice. "The frustrating thing is that factories that have been with us a number of years continue to fail on issues like the rights of pregnant women. That should be something from way in the past. At this point, a woman's rights should not be violated because she is pregnant, but we continue to see that. If the region wants to move to another level, the mentality of its leaders must improve." Another company noted that they occasionally run into problems of discrimination related to pregnancy in hiring, but that this was much more of a problem seven or more years ago.

Two companies pointed to the problem of harassment of women workers, including sexual harassment. According to EMIH, sexual harassment is infrequently reported and many times viewed with indifference by both the employers and Ministry of Labour officials. However, the fact that sexual harassment is a serious problem was confirmed by some of the workers interviewed by EMIH. According to those workers, on many occasions women are the object of harassment by middle managers and by their co-workers. However, there are many cases of sexual harassment in which there are no formal complaints filed against the perpetrator, even though the Equal Opportunity Law prohibits sexual harassment.

One company pointed to gender-based discrimination in recruitment of new employees, noting that job advertisements and postings are gender specific. "While I've not been able to determine whether there's a significant number of





potential female machinery mechanics or fabric cutters, there is an assumption by employers that certain jobs are bound by gender.<sup>15</sup> We do work with suppliers to make job recruitment gender neutral and [make sure that] candidates are selected based on their capabilities to do the job.”

It’s notable that none of the companies mentioned the failure of Honduran maquilas to provide childcare facilities as well as break periods for breastfeeding for their female employees, a requirement of Honduran law for any factory that has more than 20 workers that are mothers.<sup>16</sup> A 2010 Fair Labor Association audit of a Honduran T-shirt factory producing for adidas, Liz Claiborne, and Nike made note of the factory’s failure to comply with the law. The factory management responded that “having a childcare facility is not a common practice in Honduras ... [and therefore] most existing factories do not have one.”<sup>17</sup> Although it is clear that the law is not enforced — a common problem in the country — international brands should be well aware that failure to provide child-care facilities and breaks for breastfeeding are ongoing violations of women’s legal rights and, therefore, of brand codes of conduct.

#### v. Verbal and Physical Abuse

In its early years, the maquila sector was singled out by trade union, human rights and women’s organizations for the recurrence of verbal and

physical abuse. Over time and as a result of numerous complaints, as well as international campaigns, this situation seemed to have improved. However, recent investigations carried out by EMIH have documented examples of physical mistreatment reappearing in some factories. Yadira Mineros of the CDM confirms that her organization has also received complaints and testimonies from workers, stating that they have been verbally insulted and even hit by their employers. Based on recent interviews with women’s labour rights leaders in other Central American countries, EMIH believes this problem of verbal and physical abuse is reappearing in maquiladora factories in other countries in the region as well.<sup>18</sup>

#### vi. Precarious Employment

EMIH documented problems with precarious work arrangements — primarily the abusive nature of short-term contracting and abuse of probationary periods, as well as recent changes to the law designed to allow for more temporary employment (see page 41).

Workers interviewed by EMIH pointed to the fact that some of the companies continue to hire workers for 59 days without allowing them to complete the two-month probationary period.<sup>19</sup> Once this period ends, they are asked to sign a new contract with the result that they never become permanent employees. According to the workers, it is common practice for management

PHOTO: EMIH

to inform new employees that during their probationary period they have no rights, even though the law says otherwise.<sup>20</sup>

Two companies interviewed by MSN also identified abuse of short-term contracts as a persistent code compliance problem in Honduras. “We’re having contractual issues with some factory owners,” one said. “Abuse of short-term contracts is becoming a problem.”

Although the subcontracting of maquila production workers through third-party employment agencies is not a common practice in Honduras, the majority of industrial parks do subcontract some services, including security, cleaning and maintenance. According to EMIH, in factories where security staff are subcontracted, there are many worker complaints about mistreatment, abuse and a lack of respect for their physical integrity by security guards whose job it is to frisk them when leave the factory to prevent theft of apparel products or equipment.

### **vii. Workers’ Health and Safety**

Health concerns came up regularly in EMIH’s worker interviews. Workers frequently complained that they experience chronic pain as a result of spending many hours a day carrying out repetitive movements. Workers also complained of migraines, stress, intestinal problems, and back and muscle pain. Workers organized in teams said they feel pressured not to go to the washroom or to get a drink of water so as not to impede their team from reaching high production targets and receiving resulting production bonuses. Pressure can come from supervisors and/or members of their team.

A number of workers interviewed by EMIH also complained about health problems related to fabric dust and the lack of personal protective equipment, while acknowledging that workers often don’t use the equipment when it is available. Workers said they don’t use facemasks because of the heat in the factory. EMIH suggests that

employers investigate what type of equipment would be more appropriate for use by workers and provide information to workers to encourage its use. Workers also complained that their employers are seldom concerned about hygiene in the preparation of food in the cafeteria and as a result, many workers suffer serious stomach problems from eating the cafeteria food.

EMIH acknowledges that some employers have paid attention to workplace health and safety issues, although more attention is given to these issues prior to visits by social auditors.

The Honduran Women’s Collective (CODE-MUH), one of the organizations that has been for many years systematically documenting and addressing health issues in the maquilas, especially for women, has brought public attention to the widespread incidence of Work-related Musculoskeletal Disorders (WMSDs).<sup>21</sup>

Prior to the June 2009 military coup, CODE-MUH presented a proposal to reform Article 5 of the Honduran Labour Code, however the social and political crisis generated by the coup prevented the proposal from moving forward. CODEMUH explained their proposal in the following words:

We are asking for a reform aimed at preventing illnesses and injuries, as well as promoting better implementation of ergonomics in the workplace. [Specifically, we are asking] that additional illnesses and injuries be recognized [as work-related] that have emerged as a result of new jobs and production processes that are the product of economic globalization. These changes have resulted in new risks for workers’ health: they are using new kinds of chemicals, the work is being organized in new ways, and there are so many other kinds of problems ... Currently there are only 44 types of work-related illnesses and injuries recognized in the law, because this law was written in the 1950s.<sup>22</sup>

In January 2012, CODEMUH announced its decision to file a formal complaint against the Honduran government with the Inter-American

Commission on Human Rights for its failure to act to protect and remediate physical injuries suffered by workers in the maquila industry. The complaint is based on 47 cases on which the Honduran Institute of Social Security (IHSS) has already ruled that the skeletal muscular injuries suffered by workers are irreversible. The complaint will include CODEMUH's request that Article 5 of the Honduran labour code be amended to add additional work-related injuries to its current list.<sup>23</sup>

In November 2011, the Honduran Maquiladora Association (AHM) and the Rehabilitation Centre of the Honduran Social Security Institute (IHSS) signed an agreement<sup>24</sup> pledging to cooperate on occupational health and safety issues for workers in the maquila sector, the focus of which is on the prevention of work-related injuries and the rehabilitation of injured workers and their return to the workforce.<sup>25</sup> Although this initiative does represent an acknowledgement of the problem by industry and government, there is currently not much information available on the substance of the initiative.

An April 2012 report by the Fair Labor Association (FLA) on an investigation into Gildan Activewear's health and safety program in response to a third-party complaint filed by CODEMUH found that while the company has taken a number of steps in an attempt to address ergonomic issues associated with muscular-skeletal injuries, worker awareness of and involvement in the company's health and safety program was seriously lacking.<sup>26</sup> A similar complaint was filed by CODEMUH against Hanesbrands, and that complaint is still outstanding.

#### viii. Personal Security

Yadira Mineros pointed to the lack of personal security in Honduras as "one issue that has had an impact on just about everything that takes place in the country, including foreign investment." She noted that Nicaragua is the only country in the region that has been successful in controlling the drug trade and organized crime, and in preventing gangs from establishing themselves.



PHOTO: GIORGIO TRUCCHI - REL-UITA

A number of companies interviewed by MSN confirmed that the security situation is a competitive disadvantage for Central America, and particularly for Honduras and El Salvador, as compared to most Asian countries in which they operate.<sup>27</sup> One company called safety and security issues the number one disadvantage in Central America. “This is no longer a political or ideological issue; it’s the fact of being a corridor for drug dealing, drug smuggling, and it puts a strain on the whole region....” While personal security is not seen as an issue that would prevent companies from operating in Honduras, it is seen as a serious problem.

For workers, lack of personal security is more than just a competitive disadvantage. On a daily basis, workers who must travel to and from the workplace — some in darkness in the early morning and/or late at night — face the very real threat of being physically and/or sexually assaulted. This is particularly a problem for women workers, who, in the most serious cases, become another victim of femicide.<sup>28</sup> While no one seems to be immune from the problem, workers are clearly more vulnerable since they do not earn enough money to live in safe neighbourhoods or to afford a safe means of transportation that takes them to and from the door of their home.

#### ix. Social Security<sup>29</sup> and Company Medical Services

Issues surrounding health care for workers are of major concern to both employers and workers, although they have very different perspectives on where the problems in the health care system lie. In July 2011, employer/employee contribution rates to the Honduran Social Security Institute (IHSS) were increased, which provoked opposition from employers who expressed their concern that the increase would go to pay the salaries of IHSS “bureaucrats.” This argument that too much of the employer/employee contributions is going to pay the salaries of unionized IHSS em-

ployees is being used to justify the creation of company-controlled medical services.<sup>30</sup> According to Daniel Facusse, president of the Honduran Maquiladora Association (AHM), maquila owners hire doctors in order to prevent “unjustified injury claims” going to IHSS.<sup>31</sup>

In contrast, workers interviewed by EMIH complained that the private medical services provided by employers in the form of workplace clinics don’t adequately address their health needs.<sup>32</sup> They said that their employers prefer that they see an onsite company doctor in order to prevent them from taking time off to go to an offsite IHSS clinic. Workers reported that they are often denied the right to leave work to go to an IHSS clinic, which is justified by the fact that there is a doctor in the factory. And if the factory doctor determines that the illness or injury is not serious enough for the worker to leave work to go to the IHSS clinic, the only option is for workers not go to work the following day and go to IHSS without the plant doctor’s permission, thereby losing a full day’s pay.

Another problem is the long-term economic and health consequences for workers when they suffer a workplace injury that results in permanent disability or when there is an accident outside the workplace and outside working hours. In either case, the injured worker could require costly therapy and medical examinations that are not covered by the IHSS and are forced to seek attention in a public hospital or in a private medical clinic where they have to pay the full cost.

The need for better administrative practices and improved treatment in both the factory and Social Security clinics was a constant preoccupation of the workers who were interviewed. Problems identified included:

- The failure of both IHSS and the employers to take responsibility for the processing and delivery of papers authorizing a new or rehired

employee's access to social security in a timely manner.<sup>33</sup>

- Cases in which employers have made Social Security deductions from workers' pay, but have kept the money rather than passing it on to IHSS. As a result, workers are paying for their health care, but are unable to receive medical attention when they visit a clinic.
- Workers injured on the job not receiving proper medical attention in the workplace clinics, and workers being mistreated by personnel in the factory clinics.
- Workers having to buy their own medicine due to the shortage of medicines in workplace clinics.
- Workers under the 4X4 system or its variations being criticized when they ask for permission to go to IHSS, and workers being expected to go to IHSS on one of their days off.

Another common problem, as mentioned above, has to do with the designation of work-related illnesses and injuries. If the type of injury is not on the IHSS list, as defined by the Labour Code, the worker will have difficulty getting coverage for treatment, compensation or pension.

And finally, many of the workers interviewed by EMIH felt they didn't have sufficient information about their rights under the social security legislation.<sup>34</sup>

#### x. Lack of Social Protection when Factories Close

There are numerous documented cases in Honduras in which factory owners have closed their facilities and have failed to provide workers their legal severance pay, back wages, and other benefits owed,<sup>35</sup> thereby violating national labour legislation and leaving the displaced workers in an extremely vulnerable situation.<sup>36</sup> According to lawyer Yolanda Gonzales of the Reflection, Research and Communication Team (ERIC), "the fact that maquilas close and don't pay their workers has been the

norm in Honduras. Now workers have started to recognize that the factories have an obligation to pay them what they are owed, which is a step forward workers' awareness of their rights."<sup>37</sup>

This concern was also raised by one of the companies interviewed by MSN. It identified unplanned factory closures as a critical issue in Honduras. "One of the things we've realized is that there's a lack of social protection in the event of closures, where workers are not being paid their severance ... Although the Ministry of Labour does get involved, it doesn't enforce the law." The company referred to two cases of factory closures in which the Ministry "took steps, but not enough to make the workers whole."

Two companies spoke about the lack of clarity on severance pay in Honduras. One noted that severance pay is meant to be set aside by the employer and used if the business closes or if a worker's services are no longer needed at the company. "Workers see [severance] as their [annual] entitlement, and employers now pay it out annually," they said. "The sad part is that the money isn't there when workers really need it."<sup>38</sup>

The other observed that when there are retrenchments, employers negotiate individually with the workers for lesser severance than is required by law. "They tell the workers [when they are laid off], 'you don't have to wait two months if you accept this amount now' ... And workers sometimes claim [openly that] they are organizing a union if they want to leave the factory, knowing that they will be offered severance to keep out the union."

#### xi. Freedom of Association [FOA]

EMIH's research found substantial hostility towards unions by employers, who see organized workers as a threat to competitiveness. Based on EMIH's research in May 2012, there were 10 unions in the garment maquila sector.<sup>39</sup> Ten years ago in its February 2002 issue, the magazine *Vida Laboral* listed 28 factory unions.<sup>40</sup>



Everyone knows how difficult and frustrating it is to organize because it is an unstable industry. When workers organize, the employers say that there is no production or that the brand has removed its orders. The factories close and the majority of them do not pay the workers what they are owed and they leave behind useless equipment [of which workers have the legal right to take possession]. What are the workers supposed to do? See if anyone wants to buy the machines so that they can get some of the money that they are owed? — **Evangelina Argueta**

At the same time, there have been some important union victories in recent years, most of which had the support of international solidarity campaigns. Two prime examples are the Russell Jerzees de Honduras and Star cases. Although both struggles were extremely difficult for the workers involved, the outcomes were significant improvements in wages and working conditions. In the Russell case, in which the company had closed the factory in the midst of first-contract negotiations, the persistence of the workers and pressure on US and Canadian universities purchasing licensed apparel from Russell resulted in the company opening a new factory, rehiring the workers and negotiating a collective agreement with their union.<sup>41</sup> SITRASTAR, the union at the Star factory, has been successful in negotiating wage increases in their collective bargaining agreement that have raised wages to 10% above the minimum wage for the sector, as well as achieving daily transportation subsidies and improved maternity and other benefits. Formerly owned by Anvil, the Star factory was recently purchased by Gildan Activewear.

There was consensus among the workers interviewed that it is extremely difficult to organize a union in Honduras, due to the anti-union hostility of employers and the various strategies they employ to keep unions out. These include:

- Offering new benefits in order to convince workers that they don't need a union.
- Promoting "collective pacts" [through *solidarista* associations<sup>42</sup>] as an alternative to union-negotiated collective bargaining agreements. Work-

ers are generally unaware of these pacts.

- Threatening workers that if they are planning to organize a union they will be dismissed.
- Labelling those that participate in a union as "trouble makers," finding ways to get rid of them and then blacklisting those workers.<sup>43</sup>
- Promoting fear that workers will lose their jobs if there is a union, which often results in workers who are not part of the union blaming those that are for putting their jobs at risk.

Those workers interviewed who were members of a union also spoke about the difficulties they have had to overcome to make freedom of association effective. They pointed, for example, to the urgent need for training to strengthen their ability to negotiate with their employers. They noted that the experience they have gained in the process of winning recognition of their union and coordinating with other stakeholders has helped them understand the importance of struggling for their rights and gaining negotiating skills.

Four international companies interviewed by MSN echoed the concerns of workers, identifying freedom of association as a significant noncompliance issue in Honduras. "Some local factory owners would rather not work with [name of brand] than respect freedom of association," said one company. "These factory owners are totally against freedom of association."

"FOA is always a difficult issue in Honduras," another commented. "Even raising the issue with employers is hard. I'm not sure what the history is there, but workers are afraid to raise concerns; they don't even want to talk about it in interviews. They're afraid to voice complaints. I've never

seen a union at any of the garment factories I've been to in Honduras."

The civil society representatives interviewed confirmed that one of the most commonly violated rights in Honduras is the right to organize, and that this is an even greater problem in the maquilas. According to trade union advisor Ayax Irias, freedom of association and the right to bargain collectively are being treated as a thing of the past and the lack of freedom of association is weakening the ability of workers and the organizations that represent them to defend their rights and negotiate improvements in wages and working conditions.

According to Evangelina Argueta, in Honduras "workers don't even have the right to organize themselves anymore. They are told they must protect their jobs, and they are anxious that if they organize, they will lose them. A worker needs her job to educate and feed her children ... There is a campaign to make them submissive...." Argueta charges that social protest has been criminalized in Honduras with the adoption of the Anti Terrorism Law in November 2010,<sup>44</sup> which, she says, also constitutes a threat for workers who want to assert their labour rights.



Members of SITRASTAR

## Labour Laws, Enforcement and Social Dialogue

In addition to discussing problems and issues at the workplace, civil society representatives interviewed by EMIH were also asked to comment on a significant recent change in their country's national labour law that flexibilizes the employment relationship, problems with the enforcement of existing labour laws, and the current labour relations climate.

### i. Temporary Employment Law

Throughout 2010, Honduran employers actively lobbied for changes to Honduran law to allow for temporary employment.<sup>45</sup> Passed by the Honduran National Congress in November of that year, the Temporary Employment Law allows employers to hire workers on short-term employment contracts and pay them by the hour rather than on a

weekly basis. Promoted as an emergency measure to deal with unemployment during the current economic crisis, the program is supposed to come to an end in November 2013. However, trade union and other civil society groups interviewed by EMIH expressed concerns that the Law sets a precedent that could be established permanently in future legislation.

Honduras' three main labour centrals and other civil society organizations have voiced strong opposition to the program, charging that it will undermine workers' right to employment security; stable wages that meet their basic needs; seniority; legal benefits, such as maternity and vacation leave, social security, and the 13th and 14th month salary;<sup>46</sup> and the right to organize and bargain collectively. Under the law, the form of payment for temporary workers is, at least partially, based on whether workers meet production targets. The law states that temporary workers will be paid the base salary plus an additional 20% of that salary if, but only if, the worker meets the production target.<sup>47</sup>

The International Labour Organization (ILO) has made a series of observations and recommendations concerning the Law, including that its exceptional character be guaranteed in order that it not affect permanent employment, that freedom of association and the right to bargain collectively be respected, and that a Monitoring Commission be created to evaluate the results of the program.<sup>48</sup>

Trade union and other civil society spokespeople interviewed by EMIH were unanimous in the belief that the purpose of the Law is to flexibilize and deregulate labour relations in order to attract foreign investment.

Most companies interviewed by MSN were reluctant to comment on the Temporary Employment Law or other recent or proposed changes in government policy and/or labour regulations in Honduras. Most insisted that changes in government labour laws and regulations do not affect

their ability to achieve compliance with their codes of conduct and benchmarks. However, two companies spoke of difficulties they are having with suppliers in Honduras in convincing them that they need to comply with the law and/or their codes of conduct. One company pointed to the new Temporary Employment Law, noting that it "is making it harder to get factories to follow our code; it's making them more resistant." According to the company, suppliers now argue that the law allows them to use flexible hours. Another company said the issue of temporary work is on their radar screen, but they are focusing on whether or not the practice is abusive. "Factories sometimes need short-term work, but that's no excuse to abuse it. If the government is making it easier for them to do that, it would be very discouraging and would make our job that much harder."

Only one company spoke positively about the Temporary Employment Law, arguing that the labour code, in the way it was originally written, was unnecessarily rigid. "If you needed to hire [workers] for three months, the law handcuffed employers." Most other companies said the new law wouldn't affect their ability to implement their code standards and/or that hiring workers on consecutive short-term contracts would be a violation of their code, whether or not it was allowed by law.

## ii. Charter Cities

In February 2011, the Honduran National Congress passed a constitutional amendment making it possible for the government to create Special Development Regions (REDs) based on the Charter City model envisioned by US economist Paul Romer. A RED can only be established with the approval of Congress, but, once established, its charter cannot be revoked or modified without a two-thirds majority vote in Congress and a majority vote in a referendum of the people who have chosen to live in the RED.<sup>49</sup>



In theory, these Charter Cities would be semi-autonomous zones with their own governors, public administrations, police forces, judiciaries, tax systems, laws and regulations (including immigration policies and regulations), and economic development policies and projects. According to Honduran economist Pedro Morazán, “the vision ... is that in these cities all the [country’s] problems could be isolated, creating a kind of legal quarantine within which progress, welfare, and especially a new and better institutional framework would emerge, as if by magic.”<sup>50</sup> For his part, Romer has praised Honduras’ leaders for deciding to establish “a safe haven where they can make a sharp break from a cycle of insecurity and instability...,” and for recognizing “that they would have to go beyond the existing special zones based around the export processing ‘maquila’ industry.”<sup>51</sup>

In December 2011, President Lobo appointed five members to a nine-member interim Transparency Commission that will be mandated to oversee the development and administration of the REDs. With the exception of Ong Boon Hwee, former Chief Operating Officer of Singapore Power, all current Commission members are North American economists, with Paul Romer himself being the Chairperson.<sup>52</sup> The makeup

and powers of the Commission has raised concerns about the neo-colonial and anti-democratic character of the project.<sup>53</sup> Honduran civil society organizations, including EMIH, have also criticized the initiative for being another example of the privatization of government regulation and the diminishing of the role of the national state.<sup>54</sup> As with the maquila model, the Charter Cities will offer investors extremely low taxation rates<sup>55</sup> and will draw upon the labour of migrant workers from other parts of the country.

Faced with the threat that the Honduran Supreme Court would declare the Charter City legislation unconstitutional,<sup>56</sup> Daniel Facusse, president of the Honduran Maquiladora Association (AHM), has called for the creation of the country’s first RED in the northern town of Trujillo in as short a time as possible.<sup>57</sup> Facusse described the REDs as “the only option the country has to attract massive investment and generate immediate employment worth over 1,800,000 lempiras...” He claimed that the AHM “already has official knowledge of national and international investors that are ready to invest in the Special Development Regions.”<sup>58</sup>

It is too early to tell whether this right wing libertarian experiment will survive the Supreme Court challenge, win international support and

attract the massive investment in manufacturing and call centres promised by the AHM, but the very fact that this extreme model of deregulation has been embraced by both the Lobo Sosa government and the maquila industry says much about the assumptions behind their competitiveness strategy.

### iii. Enforcement of Labour Laws

Civil society representatives interviewed by EMIH identified two serious problems with the Ministry of Labour: the lack of or inconsistent enforcement of the national labour law and the Ministry's failure to play a proactive role when conflicts occur between management and workers. This was also echoed by some of the brand representatives interviewed by MSN.

According to Yadira Mineros, the Honduran state has largely abandoned its role of regulating the activities of economic sectors and has become a state at the service of the employers, passing new laws that are generally in their interests. "Since the signing of CAFTA, factory owners have diminished the role of the state to one of only administering services to them..." According to Mineros, the Ministry of Labour is transferring its duties to the non-governmental organizations that provide services to workers. "It's gotten to the point that the Ministry has lost the ability to calculate the benefits owed to workers when their factory closes."

A March 2011 report by the US State Department also raised the issue of labour law enforcement, noting: "In general, Honduran labor laws are good. There are several concerns, however, in enforcement and efficiencies of the application of these laws in courts. Honduras has the lowest caseload of labor violations in the region and Ministry of Labor (MOL) inspectors have faced criticism for not conducting thorough inspections."<sup>59</sup>

Most companies interviewed by MSN said that while labour laws and regulations are a factor

they pay attention to, they wouldn't be a determining factor in their sourcing decisions. However, some brands also spoke about the benefits of effective enforcement of labour laws and regulations. "I see a lot of disconnection between labour regulations and their enforcement," said one company. "Where labour laws are enforced, it gives us more leverage as brands to request that the factory complies [with the company's labour standards]." Regarding labour standards compliance and the labour relations climate in Nicaragua versus Honduras, one company said that Nicaragua is easier to deal with: "Honduran employers are less willing to make changes ... It's partly the government not caring [about compliance]; they don't show up at the factories when there are legal violations."

Lack of government involvement and enforcement was a common refrain. One company stated: "We are struggling with the issue of some local factory owners not wanting to take steps to be in compliance. Local manufacturers are well represented in the government ... They supported the coup ... They believe the government will support them when they refuse to comply..." Another said: "Suppliers tell us, 'we can get a letter from the Ministry of Labour [saying] that this is ok. The other brands have accepted it, so why are you being so hard?'"

### iv. Social dialogue and labour relations climate

The lack of social dialogue is another serious problem that was identified by both civil society representatives and brands. According to civil society leaders interviewed by EMIH, the lack of social dialogue is the legacy of the coup, but also a result of employers' lack of interest and commitment. At the same time, interviewees acknowledged the need for a resumption of social dialogue in order to ensure that workers' concerns were heard. Asked about the prospects of finding a balance between modernization through foreign investment and equity in labour relations, sociologist Isbela Orellana answered:



It's not impossible, but it seems difficult because the employers have been betting on labour flexibilization, which means temporary employment and outsourcing. I think it is important to [try to] make progress on dialogue with the employers, as there was in the past, in order to determine whether or not they want to contribute to resolving the country's problems.

According to EMIH, the three major union confederations in Honduras are currently seeking greater collaboration in order to push for a resumption of social dialogue. The tripartite agreement discussed below is one indication of their success in getting the employers and government back to the negotiating table and reactivating the tripartite and bipartite commissions.

Interviewed prior to those negotiations, a number of the international companies also lamented the lack of social dialogue in Honduras as compared to Nicaragua. One company stated:

Stakeholder engagement is not present in Honduras that I know of ... We used to have a project there, but it's finished and we haven't seen anything similar in which stakeholders could come together regarding sensitive issues.

Asked what changes in the labour relations climate in Honduras would make it a more attractive sourcing destination, companies expressed conflicting opinions. Two companies said that they didn't see any need for improvement and were satisfied with the labour relations climate in Honduras. One of the two companies put it this way: "We find the labour relations climate very attractive in Honduras ... We have a good rela-

tionship with the Ministry of Labour ... The majority of issues — health and safety — are easy to fix ... We hold the Central American region up as a benchmark for employee relations around the world." The company did, however, acknowledge that freedom of association is a problem in some of their supplier factories in Honduras.

Most other companies interviewed by MSN were less positive about the labour relations climate in Honduras, and four companies spoke specifically about the need for better industrial relations in the country. Some were also much more critical of the Ministry of Labour. "One thing we saw as utterly lacking was any meaningful dispute resolution process, either through the Ministry of Labour or another body," one said. "The Ministry of Labour is trying to work on some initiatives with funding from the IDB (Inter-American Development Bank) I think through CAFTA, so they're trying to improve and we're encouraging that." A second company added: "They [employers and workers] need more guidance for the Ministry of Labour; that's something that needs improving ... You need the law, proper enforcement and good training, some kind of program that improves labour relations."

"What is needed is a new generation of factory owners," said one company. "The current ones are stuck between their commercial interests and their linkages with the government and governmental departments. There needs to be a separation between the two." However, another company said that while the labour relations climate in Honduras has been a challenge for them, it has been getting better recently.

## Tripartite Negotiations – Is Social Dialogue Possible?

In late 2011, the country's three main union confederations, the government and the business sector began negotiations aimed at setting a new minimum wage for the maquila sector.<sup>60</sup> Underlying these negotiations was a political and strategic decision by the unions to reestablish dialogue with employers in the maquila sector through the tripartite and bipartite commissions. The negotiations came after years of delays in the negotiation and implementation of minimum wage increases in the maquila sector, which resulted in the wages of maquila workers falling behind those of workers in other sectors. The maquila sector had been left out of the 2009 minimum wage agreement during the Zelaya Rosales administration, and even when there were increases decreed by the Lobo Sosa government in 2010 and 2011, those increases were minimal and their implementation was delayed by the maquila owners and their association which lobbied against retroactive increases.

Tripartite negotiations on the minimum wage for the maquila sector began in late 2011, and after much deliberation, on January 11, 2012, an agreement was reached that has a number of similarities, and some important differences, with Nicaragua's tripartite agreement (see Chapter 3). The Honduran business sector considers the Agreement<sup>61</sup> an historic precedent, because it establishes the percentage of the minimum wage increases for a three-year period — 6% for 2012, 7.25% for 2013, and 8% for 2014. For 2012, the minimum wage per month is 4,845.34 Lps (US\$254.28) per month.

In addition to setting the minimum wage for the sector, the Agreement also addresses some social issues relevant to the maquilas that had not been the subject of discussion in previous tripartite or bipartite negotiations, including maternity rights, social security benefits, health issues, a pilot project for community child care centres, and a call on the government to expand services offering maquila workers basic goods at below market prices and a commitment of the AHM to arrange other mechanisms to offer the sale of such good through the workplace. The Agreement also includes employer commitments

to respect freedom of association and the right to bargain collectively. The Agreement demonstrates a clear intention among the three parties to reactivate the tripartite and bipartite commissions and promote harmony and peace between business and labour. The parties to the agreement also commit themselves to work together to promote the industry internationally in order to attract foreign investment.

The preamble to the Agreement mentions the following as motivating factors for its signing:

the global financial crisis, the loss of employment, and “the aggressive competitiveness policies neighbouring Central American countries are implementing in order to attract existing businesses away from Honduras as well as those that might have come [to Honduras but didn't], and the strong competition created by cheap labour in Asian countries.” These are precisely the arguments that the maquila business owners utilized prior to the negotiations in an intense campaign in favour of a competitiveness strategy based on low salaries.



Evangelina Argueta

PHOTO: MSN

According to Evangelina Argueta of the CGT, who was involved in the negotiations and has been advising unions in the maquila sector in northern Honduras, the principal objectives of the Agreement were to establish a decision-making process that would improve the development of the maquila sector, preserve jobs, and create the conditions under which there would be greater dignity for workers and improved working and living conditions.

The Tripartite Agreement has generated a great deal of debate among trade union and other civil society organizations in Honduras. Some civil society representatives, as well factory-level unions, have criticized the agreement, arguing that rather than guaranteeing fair wage increases for the next three years, it condemns workers to continuing to receive a poverty wage. They note that the percentages of minimum wage increases negotiated are less than those established unilaterally in 2011 by the Lobo Sosa government, and the average rate of inflation in the 12 months preceding the agreement was 6.7% — more than the percentage wage increase for 2012.<sup>62</sup>

According to labour lawyer Salvador Espinoza, from a legal perspective the Agreement sets a bad precedent because it modifies the way the minimum wage is determined and the established time periods for negotiation. Regarding the Agreement's promised social benefits, Espinoza says these will be difficult to put into practice because

they depend on the good will of the parties to the Agreement. He notes that some provisions of the Agreement are already matters of state policy, but that there are no new regulations in place to ensure their enforcement. "The rights and benefits discussed in the Agreement are already established as part of national legislation, such as the right of workers to workplace childcare centres.<sup>63</sup> However, these legal requirements have never been enforced by the government or complied with by the business sector." Espinoza also notes that despite some discussion in the Agreement of the cost of the basic market basket, there is no firm commitment to provide basic goods at subsidized prices at any time in the near future.

Similarly, Idalmy Carcamo of the Unitary Confederation of Honduran Workers (CUTH) has been skeptical of the willingness of the business sector to implement and comply with the Agreement. "The business sector still doesn't see a worker as a person who has needs and demands."

In a radio interview,<sup>64</sup> representatives of SITRASTAR, the union at the Star factory, spoke out in opposition to the Agreement stating that they did not feel they were represented in the negotiations and that it is problematic to freeze worker's salaries for three years. For workers currently organized in unions that have the legal right and capacity to negotiate wage increases as part of their collective bargaining agreements at the factory level, doing so could become more difficult with the existence of this sector-wide agreement. Leaving aside the legal question of whether workers have the right to negotiate wages above these negotiated minimum wage levels, employers will likely interpret the negotiated minimum wage as the ceiling rather than the floor.

However, Argueta believes that the Tripartite Agreement does not limit the possibility of negotiating salary increases at individual unionized factories. She notes that one advantage to the three year agreement is that there is a commitment to apply the increases year-to-year, whereas when



PHOTO: GIORGIO TRUCCHI - REL-UITA

Salvador Espinoza

the minimum wage is negotiated on an annual basis the business sector generally delays the application of the agreement and, as a result, workers often lose close to two months' salary, since there is no retroactive payment. She argues that the agreement benefits unorganized workers, and should be a stimulus for them to organize themselves in a union.

Argueta also points to the fact that the Agreement contains a safeguard that allows for the commission to meet and make an adjustment if the negotiated wage increase fails to keep up with the rate of inflation. In fact, in March 2012, both the CGT and the CUTH called for a review of the minimum wage for 2012 following reports that the inflation rate was likely to increase.<sup>65</sup> The Tripartite Agreement provides for a salary revision if inflation rate reaches 8%. According to CGT's Daniel Duran, "there are too few advances in [the implementation of] clauses in the Agreement, including the setting up of subsidized stores that would keep prices low...."<sup>66</sup> To date no such review has taken place.

One positive aspect of the tripartite negotiation process on which there seems to be agreement among civil society groups is that for the first time ever maquila union leaders were directly involved in the negotiations for minimum wages for the sector they represent. Carcamo, for example, acknowledged that the mere fact that the maquila sector union leaders participated in the negotiations was important because it represented a recognition of the right of maquila workers to have a voice at the tripartite table. It's worth noting that some of those leaders, like Evangelina Argueta, have had direct experience in negotiations with international brands and manufacturers, as well as in working with civil society organizations at the national and international levels on campaigns to pressure those international companies, and that these have contributed to the reopening of factories and the signing of collective bargaining agreements with considerable benefits for workers.

It was also relevant that the Ministry of Labour provided a study on the current situation of wages in the country, which is by law one of its responsibilities. According to statements made by both business and union leaders involved in the negotiations,<sup>67</sup> the study played an important role in providing more solid and current information that helped in the decision-making process. And while the social provisions in the Agreement do not represent a major improvement over what is currently provided for in the law, the fact that these legal obligations are now established as issues to be discussed in the tripartite and bipartite commissions may make it possible to make progress on their implementation. At the very least, these provisions open the door to future discussion and negotiation of social benefits and their implementation that could improve working conditions and workers' lives.

EMIH's consultation with civil society leaders found that there is the perception among Honduran civil society organizations that unions in Honduras generally focus their efforts exclusively on the salary issue and as a result they sometimes lose sight of broader social issues facing workers and society as a whole. With all its weaknesses, this Agreement may reflect a more integrated vision that could allow the movement to focus its struggle on broader objectives, which in the end would improve the lives of the workers. Yolanda Gonzalez poses the question in the following terms:

One thing that is clear is that wages are not the determining factor in whether working conditions are dignified. I think that when the salary workers receive is based on their productivity, there are collateral impacts that are very negative for workers ... Unfortunately, women workers are not drawing attention to these negative impacts. To date, the focus of the workers' struggle has been determined by men, but women value other things [in addition to wages]. As a woman, I would value my health, because I need my health in order to take care of my children. I value a job that provides social security so that I can take my child to the





PHOTO: EMIH

doctor; this is not something I can pay for with 100 lempiras or even more. The fact that when my child is sick s/he can go to the social security clinic: this is something that men do not always recognize.

There is no doubt that the business sector gained a lot from this agreement. Their campaign in favour of a low-wage competitiveness strategy has borne fruit. The employers have won a commitment from the union centrals that they will intervene regarding the cost of electricity, supporting preferential treatment for the companies that invest in the country. The Agreement also affirms the employers' contention that other countries in the region are acting to lure companies out of Honduras.

It goes without saying that cost predictability and stability are favoured by international buyers. Some of the brands interviewed by MSN expressed

dissatisfaction with the previous year's battles over minimum wage setting, because those conflicts made it more difficult to predict future labour costs. From a brand perspective, the negotiation of minimum wages levels for the coming three-year period is obviously a positive development.

For its part, the union leadership has won promises from the business sector that it will reactivate the tripartite negotiations on certain subjects, such as social benefits that are mentioned in the document. However, the Agreement does not include mechanisms for oversight of compliance with the rather vague commitments made on those issues. A crucial question is therefore whether the union movement is strong and capable enough to articulate, together with other social movements, a strategy to make the nonbinding commitments in the agreement a reality.



## Conclusions

In the context of the global economic crisis and the political crisis in Honduras, employers have been putting forward proposals for changes in national laws and regulations that focus on diminishing workers' rights and flexibilizing the employment relationship. The global economic crisis and events taking place in other neighbouring countries have been and are being used as arguments in favour of these regressive changes to labour and other laws and regulations affecting workers, such as legislation permitting Charter Cities.

Despite the cheap surplus labour force and numerous tax and other concessions being offered to foreign investors, the maquila sector continues to be a footloose industry that doesn't generate authentic development and ultimately leaves behind a labour force with few marketable skills or prospects for a better life. This problem is aggravated by the promotion of competition between countries in the Central American region and globally, resulting in a race to the bottom on wages, working conditions and workers' rights, as well as rising unemployment and sub-employment in countries viewed as less competitive.

For many years, Honduran employers in the maquila sector have periodically voiced alarm about their industry's alleged lack of competitiveness and the possibility that foreign investors and/or brands will move production elsewhere leaving thousands of workers unemployed — in order to gain concessions from workers and the government. Lower labour costs in Nicaragua, and the threat that this poses to Honduras, has been a constant theme of media statements made by industry spokespeople.

The perception of many union and women's movement leaders and other labour rights experts consulted as part of this research is that fear of job loss is being intentionally created in order to justify changes in labour laws that will make em-

ployment more precarious. Figures used by both industry and government concerning factory closures, jobs lost and investment fleeing from Honduras to Nicaragua are extremely difficult to verify and may not be based on solid information. Many of the international brands consulted by MSN also believe that this fear of investment leaving the country is being exaggerated.

The 2009 military coup created conditions under which the national employer associations are in a stronger position to win the passage of laws, such as the Temporary Employment Law, that make employment more precarious. There are no proposals being considered for new laws or regulations that would help to achieve greater equity for workers. At the same time, many of the brand buyers and foreign manufacturers interviewed by MSN insist that their suppliers will be expected to comply with their codes of conduct on issues like the abuse of short-term contracts. Therefore, Honduran factory owners and the Honduran government may find that there contradictions between flexibilized labour laws and buyer code requirements.

Labour and women's movement leaders and other labour rights experts also believe that since the coup, the state has been co-opted by the business owners. In the process, the social welfare role of the state has been weakened and has virtually disappeared. One result is an increase in the precariousness of employment and a deterioration in working conditions. In the case of the maquila sector, this represents a significant step backward.

Stagnation in salaries, and an actual decline in real wages, was the problem most often cited by workers and a number of the civil society representatives interviewed for this study. Even with the recent signing of the Tripartite Agreement establishing annual increases in the minimum wage in the maquila sector for the next three-

year period, workers' wages are still insufficient to meet basic needs and are unlikely to keep pace with further increases in the cost of living.

As work becomes more precarious, there has been a return of some of the violations of workers' rights that have been less present in the maquila over the past few years, such as verbal abuse and physical violence against workers. Growing personal insecurity outside the factory gates has also become of critical concern for the people of Honduras — both for workers and employers. However, this problem is particularly acute for workers, and most notably for women workers, who must travel to and from the workplace, often in the early hours of the morning and late into the evening, and cannot afford to live in relatively safe and protected neighbourhoods or afford secure means of transportation.

Among the most serious workplace problems that were identified by both the civil society spokespeople and workers were high production targets; long work shifts, such as those of the 4X4 system; new models of work organization that maximize productivity; and the impacts of work processes on workers' health and safety. Civil society spokespeople were unanimous on the urgent need for a thorough and scientific analysis of these issues in order to prevent further problems for the workforce both during and after they labour in the maquila industry. Prevention is of primary importance.

Although there are some new initiatives to improve health and safety, such as an agreement between the Honduran Maquiladora Association and IHSS to strengthen IHSS' institutional capacity to address critical health and safety issues at the workplace, what is still lacking is the political will of the government to adopt and implement health and safety policies and regulations and to carry out regular workplace inspections.

Without a doubt, gender-based discrimination was seen by women's movement leaders and workers interviewed as a problem desperately in

need of attention. Common workplace issues that have a particular impact on women include verbal and physical abuse and sexual harassment, reproductive health issues, discrimination in hiring and promotion and the segregation of women in low-paying job categories, failure to register workers with IHSS and other weakness in the social security system that negatively affect women's health and maternity benefits, failure to provide workplace child care facilities and breaks for breastfeeding, and work shifts that impact on women's home life and ability to care for their children. The double day that women work is not recognized by the family, the state, by the employer or brand buyers. And while a number of brands interviewed by MSN identified specific issues of gender-based discrimination in the workplace, none spoke of the double day or the possible impacts of work shifts and work processes on women who also carry out the activities that are part of the "economy of care." Nor did any of the companies interviewed mention the complete absence of workplace child care centres, despite the fact that they are required by Honduran law.

Violations of fundamental labour rights, such as the right to organize, persist and are worsening. As a result, it is becoming more difficult to achieve respect for other rights at the workplace. The crisis in labour relations is also connected with the lack of legitimacy of the state that emerged after the coup and the impunity that continues to prevail in the "post-coup" period. In this political context, the state institutions responsible for labour rights are turning a deaf ear to workers' complaints.

The civil society leaders and workers interviewed have little confidence in the possibility of changing the situation or achieving a balance between cost competitiveness (creating conditions to attract and keep foreign investment) and equity for workers. For some of those consulted, achieving that balance would require addressing structural and institutional problems in Honduran society

and a significant change in the attitudes of employers that conduct negotiations in the country.

In the current political context, in which the country has lived through a prolonged crisis following the 2009 coup, the space for social dialogue has been greatly reduced. Nevertheless, the civil society actors EMIH interviewed share the belief that social dialogue is necessary if things are going to change. It is therefore significant that the major trade union confederations in the country are recognizing the need to work together to create the space for social dialogue. Whatever its weaknesses, the recently negotiated tripartite agreement offers an opportunity for a resumption of constructive social dialogue in Honduras that could help to diminish social conflict, violence and repression. However, if the maquila owners,

their association and the government fail to take seriously their moral obligation to put the commitments they made in the agreement into practice, social dialogue runs the risk of being co-opted by employers to solely advance their interests.

Because the agreement goes beyond the question of the minimum wage and also addresses issues of national social policy, it poses a challenge to the trade union and social movements to create oversight mechanisms to verify progress on the implementation of those social commitments. Ultimately, the principal challenge for the labour and broader social movement is how to make use of the general commitments to labour rights that appear in the agreement in order to advance the struggle for the realization of those rights.

## Notes for Chapter 2

- 1 EMIH will publish a separate, more detailed report based on their Honduras research entitled *La competitividad: ¿Una estrategia que fomenta la precariedad laboral? El caso de Honduras*, which will be available at: <http://emi-honduras.org/>

Other relevant EMIH publications include: *Un golpe más: Los efectos del fin del Acuerdo Multi fibras en Centroamérica y República Dominicana*, Iniciativa Regional para la Responsabilidad Social y el Trabajo Digno (IRSTD), 2007, pp. 202-264; *Obstáculos a la Justicia Laboral en Centroamérica y el Caribe: Estudio de Caso Honduras*, December 2007; *¿Que es el precariedad laboral?*, May 2011.

- 2 Most interviews were carried out between September and November of 2011; additional interviews were conducted after the signing of the tripartite minimum wage agreement in January 2012. EMIH interviewed 98 garment workers, 65 of whom were women and 33 men, from 25 factories in the San Pedro Sula area. Civil society representatives interviewed included: Yadira Mineros, Women's Rights Centre (CDM); Daniel Duron, General Secretary, General Workers' Confederation (CGT); Evangelina Argueta, CGT Maquila Coordinator – North Zone; Idalmy Carcamo, Unitary Confederation of Honduran Workers (CUTH) and adjunct member of the ILO's Administrative Council; Salvador Espinoza, labour lawyer; Ana Lucia Restrepo, economist; Isbela Orellana, sociologist, National Autonomous University; Áyax Irias, professor, National Autonomous University and trade union advisor; Dunia Montoya, Director, *Vida Laboral* magazine; Yolanda Gonzalez, lawyer, Radio Progreso/Jesuit Reflection, Research and Communication Team (ERIC); Zoila Lagos, Coordinator, Association for Mutual Support Among Women (APOMUH); Maria Luisa Regalado, Honduran Women's Collective (CODE-MUH); and Maria Elena Sabillón, AFL-CIO Solidarity Center. EMIH's requested an interview with the Maquiladora Association of Honduras (AMH), but received no response.
- 3 Beyond the garment and textile sector, there has been some diversification into other maquiladora industries, such as electronics, auto parts (harnesses) and medical equipment.
- 4 There have been numerous reports on repression, violence and threats of violence against human rights defenders, members of civil society organizations, and journalists in Honduras, including the following:  
  
Inter-American Commission on Human Rights. *Annual Report 2011, Chapter IV: Honduras* ([www.oas.org/en/iachr/docs/annual/2011/TOC.asp](http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp)); *Statement of the United Nations Special Rapporteur to Honduras*, February 2012. (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11830&LangID=E>); *Reports Received by CCR of Human Rights Violations in Honduras in December 2011 and January 2012*, Center for Constitutional Rights, February 2012 ([http://ccrjustice.org/files/Honduras\\_MemoHuman-RightsViolations\\_02\\_12.pdf](http://ccrjustice.org/files/Honduras_MemoHuman-RightsViolations_02_12.pdf)); and Amnesty International *Annual Report 2011* (<http://www.amnesty.org/en/region/honduras/report-2011>).
- 5 The AFL-CIO and 25 Honduran unions also filed a CAFTA complaint against Honduras in April 2012 arguing that Honduras has failed to effectively enforce its own laws related to freedom of association, the right to organize and bargain collectively, child labour and acceptable conditions of work in the manufacturing, agriculture and port sectors.
- 6 Honduras has ratified the eight Core Conventions of the International Labour Organization, including the Conventions on freedom of association (C87), collective bargaining (C98), and discrimination (C111), as well as other Conventions including weekly rest (C14) and the employment policy convention (C122). It has also ratified the Convention on the Elimination of All Forms of Discrimination against Women; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women; and the International Covenant on Economic, Social and Cultural Rights; amongst others.
- 7 *Frente a Frente*. TV5, January 13, 2012.
- 8 "Maquilas en Honduras se van a Nicaragua." *La Prensa*, March 10, 2011.
- 9 As of March 19, 2012, one Honduran Lempira = US\$0.0524797. All conversions in this chapter are dated March 19, 2012.
- 10 "Familias de cinco miembros necesitan al mes L.6,650" *La Tribuna*. January 11, 2012. available at: <http://www.la-tribuna.hn/2012/01/11/familias-de-cinco-miembros-necesitan-al-mes-l-6650/>
- 11 This chart compares the Honduran minimum wage with the cost of a basic food basket. It is different than the chart on page 63 that compares the Nicaraguan minimum wage with the cost of a market basket, which includes not only food but other items such as rent, transportation, fuel, etc. Data on the cost of an expanded market basket in Honduras is not available over the full time scale, but is generally estimated to be twice the value of the basic food basket and three times the value of the Honduran minimum wage.
- 12 A July 2004 investigative report by the Worker Rights Consortium (WRC), in response to a third-party complaint filed by MSN and supported by the Independent Federation of Honduran Workers and the Canadian Labour Congress, found that 4X4 work schedules were in violation of the following articles of the Honduran Labour Code: Article 339 (Official Holidays), Articles 344 and 338 (Official Rest Days), and Articles 322 and 321 (Eight Hour Day). Although the company that was subject to the complaint, Gildan Activewear, was able to produce a document signed by the Ministry of Labour in August 2003 authorizing the company to use the 4X4 work schedule, the WRC concluded that the Ministry did not have the authority to issue such a document and cannot arbitrarily exempt a company from the national

- labour law. MSN is not aware whether other companies using the 4X4 system in Honduras have received similar exemptions. For a copy of the WRC report, go to: [http://www.workersrights.org/freports/Gildan\\_El\\_Progreso\\_7.29.04.pdf](http://www.workersrights.org/freports/Gildan_El_Progreso_7.29.04.pdf)
- 13 Discrimination against workers in relation to their pregnancy is explicitly forbidden by Honduran law. Article 46 and Article 51 of the Law for Equal Opportunity for Women and Article 144 of the Honduran Labour Code
  - 14 Article 124 of the Honduran Labour Code states: “The employer cannot terminate the work contract of a pregnant woman without prior authorization from a Labour Judge with respect to the causes enumerated in Article 112. In these cases, the employment relationship will continue until the post-natal leave has finished or until a sentence has been executed which declares that the contract has been terminated.”
  - 15 In a study done by EMIH as part of a regional investigation, *Un golpe mas: Los efectos del fin del Acuerdo Multi fibras en Centroamerica y Republica Dominicana* (2007), EMIH observes that, over time, the ratio of female to male labour had diminished significantly in the maquilas. Possible causes of this phenomenon include discrimination in hiring in newer industries — harnesses and electrical parts, for example — the introduction of new mechanized processes and heavy equipment, for which employers prefer to hire male labour, or possibly the view expressed by some employers that women cost them more in legal benefits. The figures provided by the Central Bank of Honduras also reflect a continuing shift in male-female ratios over time. A recent Central Bank study notes that in 2010 the ratio between women and men in the maquila was 52.8% female to 47.2% male. [www.bch.hn/download/maquila/informe\\_bienest2010.pdf](http://www.bch.hn/download/maquila/informe_bienest2010.pdf)
  - 16 Article 59, Law for Equal Opportunities for Women and Articles 140 and 142, Honduran Labour Code.
  - 17 <https://portal.fairlabor.org/fla/go.asp?u=/pub/zTr5&tm=5&Rid=515&Fdn=11&Fna=53002912021%5FHonduras%2Epdf>
  - 18 Unpublished report prepared by EMIH. “Consulta regional sobre la situación de los derechos laborales de las mujeres de la maquila en Centro América,” January 2012.
  - 19 The Honduran Labour Code’s Article 49 says: “The probationary period, which cannot exceed sixty (60) days, is the initial period of the work contract and its objective, for the employer, is to evaluate the worker’s aptitude and for the worker to determine whether or not the working conditions are in his/her interest. This period will be paid and if, upon conclusion, neither of the parties manifests its will to terminate the contract, it will continue for an indefinite period of time.”
  - 20 Article 52 of the Honduran Labour Code states: “Workers in their probationary period will enjoy all benefits except pre-aviso (advance notice) and severance for dismissal. If before one year there is a new contract between the contracting parties and for the same kind of work, this should be understood to be for an undefined period of time without the need in this case for a probationary period.”
  - 21 In 2006, CODEMUH published a 96-page detailed study of the injuries experienced by and on-going health risks facing women workers in the maquilas entitled “Trabajo y Salud, Situación de las Obreras de la Maquila en Honduras.” The study is based on worker interviews and examination by ILO health experts of over 100 women workers. CODEMUH defines WMSDs as follows: “[I]njuries to the muscles, tendons, nerves and joints that are most frequently located in the neck, back, shoulders, elbows, wrists and hands . . . The predominant symptom is pain associated with inflammation, loss of strength and the difficulty or inability to carry out some movements...” See flyer on CODEMUH website: [www.codemuh.net/indice.php/31](http://www.codemuh.net/indice.php/31)
  - 22 Excerpt from CODEMUH’s statement to the press following an international forum (Foro Internacional sobre Trabajo y Salud de las Trabajadoras y Trabajadores), which took place in Tegucigalpa on May 28, 2009.
  - 23 “Honduras a las Puertas de una Nueva Demanda por Violación de Derechos Humanos ante la CIDH,” January 25, 2012. [http://www.defensoresenlinea.com/cms/index.php?option=com\\_content&view=article&id=1797:honduras-a-las-puertas-de-una-nueva-demanda-por-violacion-de-derechos-humanos-ante-la-cidh&catid=42:seg-y-jus&Itemid=159](http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=1797:honduras-a-las-puertas-de-una-nueva-demanda-por-violacion-de-derechos-humanos-ante-la-cidh&catid=42:seg-y-jus&Itemid=159)
  - 24 For more information in Spanish on the agreement, visit: <http://www.ahm-honduras.com/?p=2302>
  - 25 When the agreement was signed, there was special mention made of Canadian T-shirt manufacturer Gildan Activewear and its positive contributions. Gildan and its competitor Hanesbrands have been consistently under fire from a number of organizations, especially CODEMUH, for failing to adequately address occupational health issues in their Honduran facilities.
  - 26 FLA report “Evaluación de la adecuación y la sostenibilidad del programa de ergonomía, de Gildan Activewear, planta San Miguel y Planta Hosiery Río Nance #3, Honduras,” translation and publication pending.
  - 27 The security problem is widely acknowledged as a drain on the economy. A recent article in *Pueblo en Línea* reported that economic losses in Honduras resulting from attacks on cargo carriers reached nearly US\$150 million in 2011. The same article noted that Nicaragua reported only US\$1million in losses from attacks in the same year. (<http://spanish.peopledaily.com.cn/31617/7724664.html>)
  - 28 According to media reports, between January and April 2012 there were 126 women murdered in Honduras, and 28 of those murders took place in municipalities where there are maquilas. For the same period in 2011, there were 69 women murdered in the country. “Registro del Foro de Mujeres por la Vida, Zona Norte.”
  - 29 In Honduras and other Latin American countries, the term “social security” is used to describe a number of interrelated governmental social programs that are available to employees and are funded by employer and employee contributions. These include health care services, maternity benefits and retirement pensions. Employees, who should by law be registered with the Honduran Social Security Institute (IHSS), have the right to leave



- work without loss of pay in order to go to an IHSS health clinic if they have health problems or workplace injuries.
- 30 “El IHSS inicia modernización, pero empresa privada exige auditorías,” *LaPrensa.hn*, November 9, 2011 and “Empresarios anuentes a ruptura de techos si mejoran servicios del IHSS,” *La Tribuna.hn*, December 15, 2009.
  - 31 “El IHSS inicia modernización, pero empresa privada exige auditorías,” *LaPrensa.hn*, November 9, 2011
  - 32 Under Article 103 of the IHSS Law, companies that provide medical services for illnesses, accidents and maternity are entitled to a reduction in their employer contributions to IHSS, based on the nature of the services they provide. However, there is currently little or no monitoring of the nature or quality of the private medical services provided.
  - 33 Workers and advocates reported that these papers often sit for up to six months in the Social Security office before they are delivered to or claimed by the employer
  - 34 Some of the workers interviewed were not aware that they have the right to two months health care coverage under IHSS after dismissal. More importantly, a number of workers were not aware that their employer is legally obligated to register them with the IHSS as of the first day of their employment.
  - 35 Two prime examples of irresponsible factory closures in Honduras are the Hugger de Honduras and Vision Tex cases. Both factories, Hugger in San Pedro Sula and Vision Tex in Choloma, were closed without prior notice in January 2009. A subsequent investigation by the Worker Rights Consortium (WRC) found that both employers had failed to pay workers their legal severance pay, accrued vacation pay and annual bonuses, and in the case of Vision Tex, their last week’s wages as well. The WRC concluded that workers at Hugger were owed a total of over \$2 million dollars, and the workers at Vision Tex were owed over \$570,000. The WRC report is available at: [http://www.workersrights.org/Freports/Report\\_re\\_Hugger\\_and\\_Vision\\_Tex\\_%28Honduras%29\\_10-08-09%20%283%29.pdf](http://www.workersrights.org/Freports/Report_re_Hugger_and_Vision_Tex_%28Honduras%29_10-08-09%20%283%29.pdf)
  - 36 Under Article 121 of the Honduran Labour Code, workers are entitled to accrued severance if their employment ends without the worker having quit of his or her own accord, or having been dismissed with just cause. The amount of severance is determined by the worker’s tenure in the facility.
  - 37 The problems associated with factory closures led women’s organizations, unions and NGOs to come together as the Coordination for Labour Protection (CPL), which promotes respect for labour rights in the maquilas. In March 2004, CPL presented a proposal for a new law to protect worker benefits [in the event of closures] as well as for a national campaign on the issue. *Un golpe mas: Los efectos del fin del Acuerdo Multifibras en Centro América y República Dominicana, Caso de Honduras*, Iniciativa Regional para la Responsabilidad Social y el Trabajo Digno (IRSTD), 2007, p.202.
  - 38 When companies liquidate workers’ accrued benefits each year, they usually calculate the severance portion of their accrued benefits at the rate which would apply had they worked for a period of between six months and a year at the facility, i.e. 20 days of salary, rather than a rate which takes into account workers’ actual length of service. According to labour rights groups, while this annual payout may be appropriate as an “advance” on their eventual severance payment upon leaving the company, it results in an underpayment of this benefit for which workers are not made whole when, after multiple years of employment, they later do terminate their service.
  - 39 Interviews with representatives of Honduran’s three labour confederations with a presence in the maquila sector, May 2012.
  - 40 *Vida Laboral*, No. 7, February 2002, [www.honduraslaboral.org](http://www.honduraslaboral.org).
  - 41 <http://en.maquilasolidarity.org/jerzees>
  - 42 A *solidarista* association is a form of worker organization that is usually initiated by management as an alternative to unions. Its ideology rejects the existence of any conflict of interest between employers and workers, and such associations are usually under management’s control. The ILO has specifically ruled that *solidarista* associations do not meet the requirements of ‘free association’.” See p. 6, [http://www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@actrav/documents/meetingdocument/wcms\\_114972.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/meetingdocument/wcms_114972.pdf)
  - 43 *Violación a las garantías constitucionales de libertad de petición y asociación: represión y listas negras en las empresas maquiladoras de Honduras*, Centro de Derechos de Mujeres (CDM), 2007.
  - 44 Passed by the Honduran National Congress in the early hours of November 18, 2010, the Law, among other things, limits the right to protest and puts restrictions on the operations of non-governmental organizations. <http://archivo.laprensa.hn/Ediciones/2010/11/18/Noticias/Honduras-Congreso-aprueba-ley-antiterrorista>
  - 45 [http://en.centralamericadata.com/en/article/home/Honduran\\_Businessmen\\_Call\\_for\\_Labor\\_Reform](http://en.centralamericadata.com/en/article/home/Honduran_Businessmen_Call_for_Labor_Reform)
  - 46 “Centrales obreras opuestas a la Ley de Empleo Temporal,” November 3, 2010. <http://www.honduraslaboral.org/leer.php/2875114> .
  - 47 To view the law, visit: <http://www.trabajo.gob.hn/organizacion/dgt-1/direccion-general-de-salarios/leyes-y-decretos/Gaceta%20No.%2032-358-%20Decreto%20No.230-2010%20Ley%20del%20Empleo%20Temporal.doc/view>
  - 48 <http://www.losrecursoshumanos.com/contenidos/7620-nueva-ley-de-empleo-por-horas-en-honduras.html>
  - 49 Legislative Decree number 283-2010 ratified with Decree number 4-2011, which reforms the Constitution and creates Special Development Regions.
  - 50 Morazan, Pedro. *Charter City para Honduras: ¿Fata Morgana o revolución?* SUDWIND Institute, Germany, February 27, 2011.
  - 51 Brandon Fuller and Paul Romer. *Success and the City: How charter cities could transform the developing world*, The MacDonald-Laurier Institute, April 2012, pp.2-3.

- 52 Romer has proposed that the Canadian government put forward a credible person for permanent membership on the Transparency Commission and recommend Canadian justices for fixed-term appointments to the RED judiciary, and that the RCMP contract its services to a RED to train police officers and hold them accountable “for modern standards of service and conduct in policing,” *Success and the City ...*, pp.15-16.
- 53 “Model City Law,” *Honduras Culture and Politics*, August 1, 2011, <http://hondurasculturepolitics.blogspot.ca/2011/08/model-cities-law.html>. See also: “Honduras Sovereignty for Sale,” *Foreign Policy in Focus*, Institute for Policy Studies, May 16, 2012, [http://www.fpiif.org/blog/honduras\\_sovereignty\\_for\\_sale](http://www.fpiif.org/blog/honduras_sovereignty_for_sale); and “Honduran charter cities trample on democracy,” *The Independent*, January 16, 2012, <http://blogs.independent.co.uk/2012/01/16/honduran-charter-cities-trample-on-democracy/>
- 54 *La competitividad: ¿Una estrategia que formenta la precariedad laboral? El caso de Honduras*, EMIH, May 2012, p.28-29.
- 55 Taxes on net income in the Charter Cities can never be higher than 12% for individuals, and can’t be over 16% for companies. Sales taxes and value added taxes can not be more the 5% of the value of the transaction.
- 56 On November 18, 2011, the *Sala de lo Constitucional* of the Honduran Supreme Court accepted an appeal (recurso 769-2011) alleging that the Special Development Regions were unconstitutional because they violate national sovereignty.
- 57 “Urge aprobación de ciudades modelo,” *La Tribuna*, May 15, 2012, [www.latribuna.hn/2012/03/10urge-aprobacion-de-ciudades-modelo](http://www.latribuna.hn/2012/03/10urge-aprobacion-de-ciudades-modelo)
- 58 “Presidente de maquiladores asegura que hay inversionistas interesados en las ciudades modelo,” *Proceso Digital*, March 4, 2012.
- 59 Bureau of Economic, Energy and Business Affairs. *2011 Investment Climate Statement: Honduras*, US Department of State, March 2011. Available at: <http://www.state.gov/e/eb/rls/othr/ics/2011/157290.htm>
- 60 Minimum wages in Honduras, as per special legislation, are set by tripartite negotiations involving industry, government, and trade union representatives. However, when the parties to the negotiations are unable to reach agreement, the government is mandated to establish the minimum wage based on a consideration of the inflation rate and other factors.
- 61 *Acuerdo de Protección, Estabilidad de Empleo, Fortalecimiento del Sector Laboral y Empresarial de la Maquila Hondureña*, January 11, 2012.
- 62 Banco Central de Honduras. Índice de precios al consumidor. January 2012.
- 63 Article 59, *Law for Equal Opportunities for Women* and Article 140, *Honduran Labour Code*.
- 64 Radio Progreso, “Foros Populares,” January 16, 2012.
- 65 “Sindicatos piden cumplimiento a varias demandas”. *La Tribuna*, March 5, 2012 and “Honduras: Piden revisar el salario mínimo,” *La Prensa.hn*, March 23, 2012.
- 66 “Honduras: Piden revisar el salario mínimo,” *La Prensa.hn*, March 23, 2012.
- 67 *Frente a Frente*, TV5, January 13, 2012.

# Chapter 3

## Nicaragua

IN THIS CHAPTER, WE EXPLORE WHETHER and to what degree Nicaragua is, in fact, taking a high-road approach to competitiveness, one that seeks a balance between the interests of foreign investors and those of Nicaraguan maquiladora workers. The chapter profiles the views of labour rights promoters and other experts on Nicaragua's approach to competitiveness and highlights the major problems facing garment workers in the country. Our findings are based in large part on interviews with Nicaraguan union and women's movement leaders and other labour rights experts,<sup>1</sup> as well as the testimonies of maquila garment workers and other participants in the 14th Annual Colloquium of the Movement of Working and Unemployment Women, Maria Elena Cuadra (MEC).<sup>2</sup> The chapter also draws upon interviews MSN carried out with brands and manufacturers sourcing from and/or producing in Nicaragua, and research reports published by MEC, the Labour Institute for Central America and the Caribbean (ISAAC), and Jennifer Bair and Gary Gereffi.<sup>3</sup>

### A. Is Social Dialogue a Competitive Advantage?

As noted in Chapter 1, investment promotional materials of government agencies in both Nicaragua and Honduras highlight proximity and duty-free access to the US market, tax exemptions, legal guarantees, qualified and productive labour forces,

and competitive labour costs as competitive advantages of their respective countries.<sup>4</sup> However, public statements by Alvaro Baltodano, Presidential Delegate for Investment Promotion for Nicaragua,<sup>5</sup> seem to indicate that the Nicaraguan maquila industry and the Nicaraguan government are also promoting the benefits of social dialogue as a competitive advantage. Among other reasons for companies to invest in Nicaragua's maquilas, in a February 2012 interview, Baltodano points to "the alliance that exists between employers, the government and workers that define the rules of the game for investors." In addition to mentioning the country's most obvious competitive advantage — relatively low minimum wage increases for this sector for a three-year period that were established by tripartite negotiation — he also pointed to "improved labour conditions and medical attention for workers," which he claimed were among the positive results of tripartite negotiations.<sup>6</sup>

A number of actions and initiatives undertaken by the Nicaraguan government would seem to indicate its interest in achieving a balance between competitiveness and equity for workers. These include:

- The proactive role of the Ministry of Labour in seeking solutions to problems in the maquilas,

For an overview of the Nicaraguan apparel and textile industry, see **Appendix Two.**



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in comparison to that of the Ministry under the previous administration;<sup>7</sup>

- Promotion and facilitation of tripartite social dialogue, and of the negotiation of two tripartite agreements, one in 2009 and the second in 2010;
- Some resistance within the government to allowing “flexibilize” work shifts and to industry proposals for reduced pension benefits for workers; and
- Support for and participation in the ILO Better Work program.

Based on their 2010 research into the competitiveness of Nicaragua’s garment/textile industry, Gary Gereffi and Jennifer Bair argue that Nicaragua has a number of institutional advantages over some of its main Asian competitors, such as Vietnam and Bangladesh, chief among these being “a more mature industrial relations environment and a better record of labour rights enforcement.”<sup>8</sup> They point in particular to the 2010 tripartite Socio-Labour Agreement of the Free Trade Zone Tripartite Labour Commission,<sup>9</sup> which was signed by representatives of the maquila industry, labour and government, as an example of “ongoing dialogue among the industry’s main stakeholders about how to preserve and increase Nicaragua’s competitiveness while simultaneously ensuring that workers benefit from the industry’s growth.”<sup>10</sup>

Most of the brands and manufacturers interviewed by MSN also identified the 2010 Tripartite Agreement and the “strong social dialogue that exists in Nicaragua” as competitive advantages for Nicaragua over Honduras. “Nicaragua has given clear guidelines for the next three years in terms of salaries and other regulations,” said one company. Another observed that the Agreement “promotes stability and security from a labour relations standpoint and from a cost standpoint; it’s very coherent, with all parties agreeing on a future direction.”

## A Tradition of Social Dialogue

Nicaragua has a fairly well established tradition of social dialogue dating back to the period of the first Sandinista government between 1979 and 1990. During the UNO government of Violeta Chamorro, which came to power in 1990, a more formal process of *concertación*<sup>11</sup> between the new government and the Sandinista opposition was established to facilitate a peaceful transition and to address thorny issues such as property ownership.<sup>12</sup> In that same period, the Sandinista labour movement was successful in pressuring for the inclusion of issues like the minimum wage in the *concertación* process.

Since the return to power of the Sandinista party in 2007, a party with a historical relationship with two of the major union centrals active in the maquila sector, the Nicaraguan government has been promoting social dialogue and mature industrial relations in the maquila and other sectors, while continuing to offer foreign investors incentives to invest in and remain in the country.

The tripartite agreements signed by the maquila industry, labour and government build on Nicaragua’s tradition of social dialogue, coming at another moment of crisis. Between December 2007 and March 2009, Nicaragua lost an estimated 15,300 jobs<sup>13</sup> when a group of Asian manufacturers decided to close their facilities and move production elsewhere. Principal among these companies was Nien Hsing, a Taiwanese-based multi-national jean manufacturer that employed 14,850 Nicaraguan workers.<sup>14</sup> Closures and layoffs during that period resulted in a 20% decline in the sector’s workforce, 22.5% of the sector’s female workforce and 16% of the sector’s male workforce.<sup>15</sup>

According to the Labour Institute for Central America and the Caribbean (ISACC), during this period of factory closures and layoffs, many employers failed to give advance notice<sup>16</sup> to workers who were to be laid off, and many closed their facilities without providing workers their full legally mandated severance pay.<sup>17</sup> According



to ISACC, “this situation generated a great deal of labour conflict.”<sup>18</sup>

While the immediate cause of the factory closures was likely the reduction in orders from the US due to the growing economic crisis and continuing fallout from the demise of the global import quota system in 2005, the message conveyed by Asian investors in Nicaragua was that factories were being closed because of high labour costs.<sup>19</sup>

Between June 2007 and May 2009, the minimum wage in the free trade zone industries had increased by 46.5%, from 1,744.50 Cordobas (US\$75.14)<sup>20</sup> to 2,556.70 Cordobas (US\$110) per month. During the same period inflation rose by 23.7%, although notably there were dramatic spikes in inflation in mid-2008, which spurred the two separate wage increases in 2008, before inflation slowed down again at the end of that year.<sup>21</sup>

### Fear of Job Loss Sparks Negotiations

Nicaragua’s experience with social dialogue, as well as the need to conserve employment and attract more foreign investment, contributed to the signing of two tripartite agreements, one in 2009 and the second in 2010. Both agreements contained two basic elements: creation of a differential minimum wage for manufacturing that takes place under the Free Trade Zone Regime<sup>22</sup> determined through a tripartite negotiation process separate from that in other economic sectors in the country and a commitment to provide a series of social benefits to compensate workers for their relatively modest salary increases.

According to Cesar Largaespada, Vice-Rector of the Faculty of Law, Paulo Freire University, the primary concern of those involved in salary negotiations at the tripartite table was to prevent any future job losses in the sector.

The 2009 tripartite agreement, known as the Emergency Economic and Labour Agreement, was signed in March of that year. Under the Agreement, minimum wage increases for maquila workers were set at 8% for 2009 and 12% for

2010. The Agreement also established the Free Trade Zone Tripartite Commission and included a commitment from industry and government representatives to create workplace commissaries to provide workers access to basic goods at subsidized prices, including cooking oil, beans and rice.<sup>23</sup>

In 2010, a second agreement, the Socio-Labour Agreement of the Free Trade Zone Tripartite Labour Commission, was signed. It established minimum wage increases of 8% in 2011, 9% in 2012, and 10% in 2013.<sup>24</sup> The signatories to the Agreement included the Minister of Labour, the presidents of the Federation of Nicaraguan Chambers of Private Export Zones and the Nicaraguan Association of the Textile Manufacturing Industry (ANITEC), and the leaders of the country’s union confederations that have factory-based unions in the sector.

The 2010 agreement goes further than its predecessor in that the government and private sector committed to working toward the creation of a series of social benefits to complement the salary increases, including the construction of 1,000 low-cost homes for workers between 2010 and 2013, creation of recreational centres and savings and loan cooperatives for workers, and initiation of skills training for workers in conjunction with the National Technological Institute (INATEC) in order to improve productivity. The Agreement also pledges to expand the commissary program to factories that did not have them and to make available to workers at subsidized prices at least 40,000 food packages in the first year.<sup>25</sup>

### Does the Social Wage Compensate for Low Wages?

Most of the trade union leaders interviewed by PASE spoke positively about the most recent tripartite agreement. According to Pedro Ortega, General Secretary of the Confederation of Free Trade Zone Workers - Sandinista Workers’ Central (CST), the results of the Agreement have been



very satisfactory. “A number of improvements in the maquila sector have been achieved, but the most important result has been the preservation of thousands of workers’ jobs.”

According to Ortega, the CST has been explaining to its members the reasons that it is at the table negotiating with the government and the employers “in order to dispel any concerns or fears they might have about their union’s involvement in the process and to encourage them to provide their union representatives in the negotiations information on the principal problems they are facing in the maquila.”

Armando Zepeda, of the CST-JBE, also spoke positively about the Agreement pointing to the fact that a lot of workers will be direct beneficiaries through the acquisition of new housing that is being constructed. “Commissions have been created that will follow up on the commitments made in the Agreement, for example, the housing commission, the training commission, the recreation commission, etc.” However, Zepeda also point to one area of concern — that the Free Trade Zone Commission “has continued to be a bit weak in its support of the Agreement and hasn’t effectively pressured the maquila owners to implement [the commitments made in] the Agreement.”

Luis Collado, Assistant Secretary of the CUS, was less positive, observing that “these are accords within an environment of discord.” He pointed to friction between the Ministry of Labour and the employers and argued that the salaries that were negotiated are inadequate to meet workers’ basic needs. “Social dialogue must be based on a

dignified salary, labour stability and a collective bargaining agreement for all the workers.” According to Fernando Malespin, advisor to the Ministry of Labour, while the Tripartite Agreement has diminished many of the problems in the maquila sector, old problems persist, such as wage and hours of work violations and conflicts between labour and management.

The most serious weakness in the Agreement is its lack of mechanisms for enforcement, oversight or verification of compliance with its various social provisions, with the exception of the wage provision, for which the Ministry of Labour is legally responsible for ensuring compliance. The trade unions have attempted to fill this void by bringing these issues to the tripartite table and using them to make headway in their struggle for new demands.

As well, the language of the social provisions of the Agreement is weak. Rather than clearly stating that compliance with those provisions is obligatory, the Agreement talks in aspirational terms about the parties working together to “promote” or “foster” the creation of particular social benefits for workers. As a result, it is difficult to challenge the lack of implementation of these provisions. Also, the fact that wages have been negotiated at the national rather than the factory level means that factory worker representatives have no direct input into the negotiation process. And while the existence of the Agreement does not, in principle, prevent workers from negotiating higher wages at the factory level, in practice such negotiations have not taken place.

The labour centrals that signed the Agreement filed it with the Ministry of Labour in order to establish that it is a legal collective bargaining agreement. Unfortunately, it appears that the workers covered by the Agreement are generally not familiar with its content. This was confirmed at the 2012 MEC Colloquium during which the issue of salaries was a major focus of discussion among the approximately 1,500 workers in attendance, but the Agreement was never mentioned.<sup>26</sup> Perhaps as a result of this lack of worker awareness, to date there has not been one formal complaint made to the Ministry concerning the failure to implement any provision of the Agreement.

MEC's Executive Director, Sandra Ramos, whose organization was not involved in the negotiation of the 2010 Agreement, believes that the major beneficiaries have been business and government, rather than workers. "Any salary that would be agreed upon is not going to match the cost of living increases," says Ramos. "The big losers of a three-year salary agreement are the workers, because wages are something that should be negotiated every year." She adds, however, that she doesn't want to demonize the Agreement because "there aren't many alternatives available to people in this country" where higher wages are viewed as a threat to investment and jobs.

In contrast, Emilio Noguera Caceres, Legal Advisor to the Free Zone Corporation argues that maquila workers have fared relatively well under the Agreement, noting that the 8% wage increase that maquila workers received in 2011 was higher than that achieved by workers in other related sectors through annual negotiations.<sup>27</sup> He also points out that workers in the maquila sector were receiving the minimum wage increase negotiated for 2012 as of January 1, whereas it is rare for workers to receive retroactive pay when annual minimum wage negotiations conclude later than the month of January.

Concerning the government's commitment to construct 1,000 subsidized housing units between

2010 and 2013, according to the CST-JBE as of February 2012, 100 units are being constructed and none have yet been transferred to the program's intended beneficiaries.<sup>28</sup> While the provision of low-cost housing to maquila workers is certainly a laudable initiative, it appears that only a small fraction of the maquila workforce will likely benefit from this program.

Plans to expand the commissary program, in which workers can purchase basic goods at subsidized prices at their workplaces, have also been slow to be implemented. It is not entirely clear whether it is the government or the employers who have been stalling on the implementation of this commitment, however, according to Andrea Pérez Morales, CST-JBE Women's Secretariat, employers are not fully complying with this provision of the Agreement. Asked who will verify and enforce compliance with the social provisions of the Agreement, Morales stated: "The only guarantee will come from the workers themselves. They are the guarantors of compliance and they will follow up if there are no improvements."

According to Antonio Montero, Executive Director of ISACC, considerable effort and financial resources<sup>29</sup> have been invested in the tripartite process, but there has been little progress to date. However, he is hopeful that within five years there will be an agreement in which workers receive a significant increase in salaries. "In that case, there will be wage stability and better salaries without the creation of precarious work."

"One of the Ministry of Labour's primary concerns is promoting social dialogue," says Fernando Malespin, advisor to the Ministry of Labour. The objective of the tripartite process is to "foster a willingness to negotiate among the parties involved." He notes that, to date, the companies involved in the tripartite negotiations haven't suffered any negative effects as a result of their dialogue with the unions. "These are the same companies that always had complained about various regulations, including those related to salaries."

## B. What Are the Main Issues for Workers?

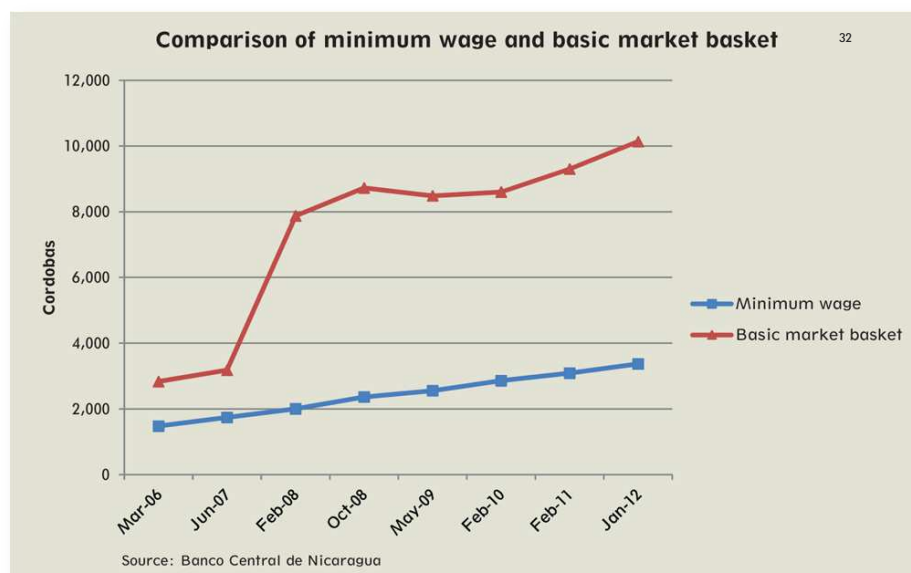
Whatever improvements have been achieved through social dialogue and tripartite negotiations, serious problems persist at the workplace level in Nicaragua's maquila sector. Issues of critical concern that were identified by union and women's movement leaders and labour rights experts interviewed for this study, as well as maquila workers participating in MEC's 2012 Colloquium, included:

- Wages that don't meet workers' basic needs and irregularities in the calculation of monetary benefits;
- Forced overtime, and failure to pay the overtime premium rate;
- High production targets and pressures on workers to meet them;
- Work-related illnesses and injuries;
- Restrictions on access to social security coverage and clinics;
- Arbitrary dismissals, including for speaking out about workplace problems and/or for attempting to form a union; and
- Persistence of gender-based discrimination, including sexual harassment.

### i. Wages

The fact that wage levels in the maquila sector and other sectors in the country don't come near to meeting workers' basic needs was of critical concern to all those consulted. Wages in Nicaragua are the lowest in Central America and the second lowest in the hemisphere, after Haiti. Although wages are not the only factor in the total cost of production, the continuing low wage levels in Nicaragua, as well as the predictability of a three-year agreement, have undoubtedly been a major attraction for foreign investors. The importance of price as a competitive advantage was confirmed by all companies MSN interviewed.

In August 2010, there was a twelve percent increase in the minimum wage for workers in the maquila sector, bringing it to C\$2,863.50 a month (US\$123.33),<sup>30</sup> and in August 2011, there was another increase to C\$3,093 (US\$133.22).<sup>31</sup> Despite these negotiated increases in the minimum wage, and even when this is combined with an increased access to basic goods at subsidized prices, the salaries Nicaraguan maquila workers receive are still much lower than what is needed to meet their basic needs. In fact, wage increases



are not keeping up with increases in the cost of living. For example, the cost of the 53 goods in the basic market basket increased by 3.23% in the first five months of 2011, bringing the cost of the basic market basket to C\$9,584 (US\$412.78).<sup>33</sup> The C\$3,093 minimum wage of a maquila worker could only purchase 32% of the basic market basket.

Most of those interviewed for this study, as well as workers attending the MEC colloquium, acknowledged that, for the most part, maquila owners are complying with minimum wage requirements. However, many workers believe they are not receiving all the monetary benefits to which they are legally entitled as a result of irregularities in the calculation of pay for lunch breaks,<sup>34</sup> work on Saturdays and Sundays, severance, benefits,<sup>35</sup> and vacations. They believe this practice of underpaying monetary benefits is institutionalized (and hidden) through the employer's practice of keeping two sets of books. Wages are further decreased through unfair deductions of a full day's pay when workers are late for work. Workers reported that supervisors sometimes deny workers production bonuses or other bonuses they are entitled to for punctuality or quality. A related complaint was that in some cases supervisors arbitrarily set production bonuses at different levels for individual workers.<sup>36</sup> One proposal coming from the colloquium was that the Ministry be involved in regulating both the deductions made and incentives offered, because "there are more illegal deductions than incentives."

Nicaragua has relatively generous legislation on paid vacations that entitles workers to a total of 15 days of vacation every six months, for a total of 30 days a year, regardless of the number of years the worker has been employed at the company. According to PASE, it is customary for employers in the maquila sector not to provide vacations or to pay workers for them. For 16 years, under previous administrations, governments permitted this illegal practice, however, the current

government is attempting to enforce this legal requirement, but is encountering resistance from employers to provide vacations and reluctance on the part of workers to take them. Workers simply cannot afford to lose even the relatively modest bonuses they receive for punctuality, quality, production, etc.

According to Sandra Ramos, "although there may be some companies that are paying less than the legal minimum wage — those that are not being carefully monitored, those where there is no union or organized women workers — the fundamental problem in Nicaragua is that the minimum wage does not cover the cost of living. C\$3,000 is nothing. The devaluation of the Cordoba and the economic crisis that we are facing, along with the petroleum crisis, are making life impossible for all of us."

## ii. Hours of Work

In MEC's 2009 biannual report, 53% of the 1,000 workers interviewed said that overtime was voluntary, and 44.6% reported it was compulsory.<sup>37</sup> 57.7% said they were paid the legal overtime rate, while 34.7% reported that overtime was paid as regular pay, and 2.4% reported they weren't paid at all for overtime hours worked.<sup>38</sup>

Hours of work and forced overtime were named as chronic problems by maquila workers at the 2012 MEC Colloquium. Workers reported being required on a regular basis to work extra hours beyond the legal limit,<sup>39</sup> with the problem being most extreme in the peak production months of July through September.

You can't refuse to work the hours they demand; if you complain, they say—if you don't come in tomorrow [Sunday], don't come back.  
**Maquila worker**

We all sign letters when we're hired stating that we agree to work overtime; that's the only way to get hired.

**Maquila worker**

When there's no production, they put us to work



cleaning washrooms to fill in the day, but then we have to work 12-hour shifts on the weekend. I've had experiences where we've worked on Saturday until 11:00 p.m. and then had to be back at work at 7:00 a.m. on Sunday.

**Maquila worker**

A number of the workers participating in the maquila workshops at the MEC Colloquium complained that overtime hours are not properly calculated, and workers are therefore being denied the overtime premium rate. For example, workers come in 15 minutes or a half hour before their shift and don't take their rest or lunch breaks, and then they stay late in order to meet their production targets, but they are not paid a regular or overtime wage for this extra time worked.

### iii. Production Targets and Work Schedules:

Maquilas in Nicaragua are less likely than those in Honduras to use production bonuses to motivate individual workers or work teams to reach production targets. Despite this, high production targets and the impacts they have on workers' hours, pay and health are one of the main complaints of Nicaraguan garment workers.

Seventy-four percent of workers surveyed by MEC in 2009<sup>40</sup> reported that they were expected to meet daily production targets and, of those, 67% said the targets were high, very high or unattainable. As well, 32% of the workers surveyed said that their employers use salary deductions and the threat of such deductions to pressure workers to reach high production targets. Other methods used to pressure workers to reach the targets included: threatening them with dismissal, verbal reprimands, and sending them home for three days without pay.

Workers participating in MEC's 2012 Colloquium confirmed that unrealistic production targets continue to be of major concern. Workers fear they will be fired if they are unable to reach their targets, which they report are being increased regularly. They believe that they are being short-

changed monetarily because any wage increases negotiated are being offset by increases in production targets. As a result of the constant pressure to meet ever increasing targets, their bodies are suffering the consequences and their health is being permanently affected.

They demand that we meet high production targets, and if you don't reach them, you earn less. They have a system to record the amount of time you take to go to the washroom, and as a result you don't go. They don't respect our right to take lunch or rest breaks.

**Maquila worker**

If we don't reach the targets, they tell us that they don't need our services anymore. When they increase the targets, it's difficult to reach them; then they classify us as unproductive.

**Maquila worker**

I was making 500 [items] to meet the basic target. Now the target is 600, but even if one wanted to make more, it's physically impossible to reach that level of productivity.

**Maquila worker**

Nicaragua does not have much experience with the 4X4 work schedule (see Chapter 2). To our knowledge, there is only one company in Nicaragua that is currently using the 4X4 work week, Canadian T-shirt manufacturer Gildan Activewear, which was authorized to do so by the previous government. According to Gereffi and Bair, "although the previous administration did not object to this practice, officials of the current Labor Ministry believe that it is inconsistent with legal protections mandating an eight hour workday and requiring overtime pay for additional hours."<sup>41</sup> However, Gildan has been able to maintain the 4X4 system because, having filed an appeal on the issue to the Supreme Court, it is temporarily protected from any legal action until the question is resolved. If the Court rules in Gildan's favour, such a ruling could encourage other apparel manufacturers in Nicaragua to adopt the 4X4 system. However, those interviewed for this report felt it

was unlikely that there would be a ruling in Gildan's favour. At the same time, they believed that it would likely be some time before the Supreme Court ruled on the case, which would allow Gildan to continue this practice for the foreseeable future.

#### iv. Health and Safety

According to Sandra Ramos, "occupational health and safety is one of the greatest challenges faced by workers in this country, not only in the maquila industry, but in all industries." Ramos attributes many of the health problems to the fact that Nicaragua continues to have "an obsolete industry with an obsolete infrastructure" that has yet to be upgraded. At the same time, she does recognize that there are newer plants with more up-to-date equipment and infrastructure in which there are fewer health problems.

Asked if Nicaraguan workers were experiencing some of the same muscular-skeletal injuries related to the pace of production and long work shifts as have been documented in Honduras, Ramos said: "We know that the same thing is happening to women here, but it has not yet been scientifically proven because there are no occupational health physicians that would allow us to follow up on what happens to workers after five years of employment in the maquilas. And the provisional clinics only offer the women pills and tell them that they have common illnesses when they are not common illnesses."

Andrea Morales Pérez of the Women's Secretariat of the CST-JBE pointed to the same problem mentioned above — the fact that doctors and other medical personnel employed by the Nicaraguan Social Security Institute (INSS) and the Ministry of Health (MINSA) are not trained in occupational health and safety and therefore aren't able to identify work-related illnesses and injuries. "This year we want to pressure for an occupational health and safety law. For example, INSS and MINSA should make sure that the

clinics have highly-skilled staff that are trained to treat work-related illnesses and injuries, not just common illnesses."

When asked to describe the "obstacles" they are facing in the maquilas, workers at the MEC colloquium consistently put work-related health problems at the top of their list, including repetitive strain injuries in hands and shoulders as a result of repetitive motions, digestive problems as a result of missed meals, and urinary tract problems as a result of not getting permission to go to the washroom when they need to.

I've been working in the maquilas for 10 years, and my hands don't function any longer. I'm not sure how long I'll be able to keep my job.

**Maquila worker**

Permission to go the washroom is so limited and monitored at my workplace that many workers now have kidney problems.

**Maquila worker**

Many workers spoke of the problems they and their co-workers were experiencing due to exposure to lint from cotton fabrics as well as from exposure to chlorine and other chemicals. Some workers pointed out that their workplaces did provide lint-masks as stipulated by law, and complained that fellow workers sometimes didn't want to use them because of the heat in the factory.

I've worked for 20 years in the free trade zone and ended up with lung problems. When I was requesting health leave, they fired me because I was sick.

**Maquila worker**

Management only brings out the masks, glasses and toilet paper when auditors from the brands or Ministry visit.

**Maquila worker**

If we ask for masks the supervisor makes a note of it; if we ask for more than three we get a deduction in our salary.

**Maquila worker**

## v. Social Security

Closely linked to workers' health problems is the limited access they have to medical care at the workplace and at government health clinics. Workplace clinics provided by the companies don't have the capacity to deal with work-related health problems, yet supervisors seem reluctant to provide workers written permission to go to the INSS clinic or they deduct portions of their basic salary if the workers have to leave work to do so, which in turn functions as a deterrent to seeking proper medical attention.

MEC's 2009 research found that 31% of the workers surveyed did not have an INSS identification card.<sup>42</sup> The main complaint of the workers surveyed was the failure of employers to register workers immediately upon hiring and, as a result, workers could go three months or more without receiving their INSS card during which time they would be unable to receive medical care. A total of 26% of those who had INSS cards said they had not received them in a timely fashion.

Another concern expressed by workers in 2009 was about deductions that were made from their salaries and/or incentive pay when they left work to go to an INSS health clinic, which, they said, was meant to discourage them from going to INSS.<sup>43</sup> Close to 49% said some deductions were taken from their attendance or production bonuses when they left work to visit an INSS clinic; sometimes they lost a full day of pay. Although workers have the right to file a complaint with the Ministry of Labour in such cases, few do because it takes time to file, and when they do they rarely see results.

If we don't come to work one day they deduct half of our salary (300 Cordobas), and for sick leave given by the INSS, they don't pay us at all, which means a full day lost every time you're sick.

Maquila worker

If I wake up sick, I have to make the trip to the factory in order to get permission to go to the clinic or I lose a day's pay and my week's punctuality bonus.

Maquila worker

## vi. Stable Employment and Precarious Work

Unlike Honduras, Nicaragua does not have specific legislation allowing employers to hire workers on short-term contracts. However, Nicaragua's national labour law does allow employers to dismiss workers at any time without cause as long as workers are paid their proper severance.<sup>44</sup> According to PASE, the majority of dismissals in free trade zone garment factories are justified under the application of this article of the Labour Code, and workers' appeals to the labour authorities are dismissed for the same reason. This was confirmed by worker testimonies at the MEC Colloquium.

When there are dismissals, they are done based on articles 42 and 45 [of the Labour Code] concerning reduction of personnel. They never give an explanation of the reasons for the dismissals.

Maquila worker

According to Sandra Ramos, failure to pay severance benefits to dismissed workers continues to be a problem in Nicaragua's maquilas. "We are constantly receiving complaints from the women who say, 'I was fired and I didn't get payment of my benefits.' Or the benefits are paid in instalments, and sometimes it takes as long as three months to receive payment."

## vii. Freedom of Association

According to the ISACC research, in September 2010 there were 34 unions in Nicaragua's maquila garment factories and a total of 43 unions in 28 factories in the maquila sector as a whole.<sup>45</sup> Of the 19 maquila firms Gereffi and Bair interviewed, 11 companies reported the existence of one or more unions in their factory. However, the number of members of those workplace unions varied

from 10% to 80% of the total workforce.<sup>46</sup> Ministry of Labour figures identified 22 collective bargaining agreements (CBAs) in the sector in August 2010, as compared to seven in August 2007.<sup>47</sup>

MEC's research in 2009<sup>48</sup> found: 30.6% of workers surveyed said that they had and were knowledgeable about their CBA; 24.5% said that there is a CBA in their workplace but they aren't aware of its contents; 19% said that there was no CBA at their workplace; 22% said they didn't know; and 4.1% didn't answer.

The majority of the labour rights experts interviewed for this report felt that respect for freedom of association (FOA) has improved in Nicaragua over the past few years, but consistently added that there continue to be problems at the factory level. According to Pedro Ortega of the CST, in the past, persecution of trade unions was a serious problem for local union leaders, but today things have improved. "If you compare the number of unions that existed in the factories five years ago with the number of those that exist today, you will see a difference," he said. "The Ministry of Labour has done a great job, but employers continue with the same attitude of dismissing workers who want to form union committees and gain recognition of their union; the dismissals are immediate, arbitrary and without just cause." He notes, however, that since 2006 the CST has been trying to form new unions at the factory level and, as a result, they now have more than 6,000 members and are trying to organize workers in rural areas where new maquilas are being set up.

Andrea Morales described the CST-JBE's experience in similar terms. She suggested that while there is more respect for FOA in the maquila sector today, "when a new maquila opens, we have a lot of challenges and a lot of work to do." In a recent public statement, the CST-JBE reported: "In spite of all the advances and achievements of the last year, we continue to see labour conflicts in some sectors, including the maquilas — in

both Han Sae International and SCA Footwear there were reprisals against and repression of union leaders as well as violations of collective bargaining agreements."<sup>49</sup>

According to Cesar Largaespada of the Paulo Freire University, unions share responsibility for the low level of worker organization. "Only 10% of the workers in the garment and textile sector are organized, despite the fact that 34% of all workers in the sector say they recognize the benefits of collective agreements. For that reason, it's not only a problem of persecution [by employers], but also a problem of leadership and organization of the trade union movement."

Most of the brands interviewed by MSN also thought that respect for freedom of association had improved in Nicaragua in recent years and was now less of a challenge than in Honduras. However, one company pointed to competition among unions and federations as a negative factor, but noted, "the breakthrough they have made is that they at least have unions in the factories." Based on their interviews with maquila firms, labour representatives and other stakeholders in Nicaragua, Gereffi and Bair also found "broad agreement that the industrial relations environment in Nicaragua has improved markedly in recent years." However, they also noted that "some concerns remain regarding freedom of association."<sup>50</sup>

Concerns regarding violations of freedom of association related to participation in a women workers' organization were also raised at the MEC colloquium.

There are cases in which women have been dismissed for participating in this kind of activity (colloquiums) and for that reason women are afraid to participate. There have been cases in which the list of participants was given to a company's human resources department. This is a step backward to how things were done ten years ago.

**Maquila worker**

### viii. Specific Impacts on Women

Sandra Ramos described the gender-specific issues facing women workers with the following words:

Women have specific problems [because of their gender], not only related to their health rights, but also related to their sexual and reproductive rights. One major problem is that women don't have anyone to take care of their children, and given their long work shifts, as well as unanticipated demands to work overtime, the children are sometimes left unattended. But if they don't work overtime, they don't bring food home to their family. Another problem is that young women get stuck in the maquila and they don't continue their education. Women have to work Saturdays during the time that they could be studying and they work long shifts and this means that they can't take classes in the evenings. They have fewer opportunities to study given the type of work that they are doing.

Andrea Pérez Morales also pointed to the problem of childcare. "One of the greatest difficulties that we hear from the women is that they don't have anyone to leave their children with ... The child development centres that we do have

are in good condition, but there aren't enough of them to meet the needs of the women ... and they don't stay open late enough to accommodate overtime hours, leaving women workers' children without care."

Ramos did point to one area where there has been improvement — respect for pregnant women. "In Nicaragua we struggled so hard to keep pregnant women from getting fired and although we haven't been 100% successful, and there is no workplace that I would call a model factory, we can say that about 80% of the managers have learned to respect women's right to be mothers. This is progress."

At the MEC Colloquium, maquila workers pointed to another area of improvement for women, the fact that physical abuse has, for the most part, been eliminated. Unfortunately, workers also reported that verbal abuse is still common, as is sexual harassment — although workers are hopeful that the law criminalizing workplace violence (see p. 70 below) will act as a deterrent.

Another concern that many women testified about was discrimination against workers on the basis of their age. "Once we turn 40, they don't want us anymore," was a common complaint.



PHOTO: GIORGIO TRUCCHI - L'INFORMAZIONE



## C. New and Proposed Legislation

Unlike in Honduras, there have been positive developments on the legislative front in Nicaragua, although employers continue to resist some proposed changes in labour and other laws. In recent months, Nicaragua's National Assembly passed two important laws that actually expand the protection of worker rights and improve the conditions of workers' lives.

The *Law for Prevention, Rehabilitation and Promotion of Opportunities for Persons with Disabilities*,<sup>51</sup> which went into effect in November 2011, establishes that persons with disabilities are protected from discrimination in the workplace on the basis of their condition. This law also requires that no less than 2% of an employer's workforce be composed of people with disabilities. However, at present, it seems that the majority of factories, if not all, are non-compliant with the law, in part because of a lack of knowledge as to how to implement it.

The *Comprehensive Violence Against Women Act*,<sup>52</sup> which was passed by the National Assembly in January 2012 and went into effect April 26, 2012, recognizes a wide range of forms of violence against women as criminal acts, including physical and economic violence in women's work environment. It also makes these criminal acts punishable by law and subject to fines. Included in the law are specific references to violence, discrimination and harassment at the workplace.<sup>53</sup> MEC and its members throughout the country campaigned for enactment of the law, together with 21 other civil society organizations.

One interesting new draft legislative proposal, the Outsourcing Act [*Ley de Tercerización*], which was submitted in late 2011 by the trade unions and is currently under discussion in the Legislative Assembly, aims to regulate employment of workers through third-party agencies, a phenomenon that does not currently affect the garment and textile sectors, but does impact the conditions of workers

in other sectors of the Nicaraguan economy, and could potentially affect garment workers as well.

According to Luis Collado of the CUS, "we still have to struggle to win the law on outsourcing, which is a public struggle against the employers." While other countries seem to be making changes in national laws to facilitate these more "flexible" working relations, it is certainly of note that there is some possibility that Nicaragua will actually strengthen its oversight in this area. Unfortunately, on February 28, 2012, the Ministry of Labour announced that because of opposition from the country's most powerful business organization, the Superior Council of Private Enterprise (COSEP), the proposed bill was being referred back to the Commission on Labour Affairs of the National Assembly for further debate.<sup>54</sup>

Another positive change in terms of legal procedures was the establishment of the Oral and Public Procedure to facilitate the enforcement of labour laws and streamline the administrative processes for workers' complaints.<sup>55</sup> Although seemingly a small administrative change, the majority of those interviewed for this report pointed to this change as a step forward that could turn out to be very important for workers. However, this change will need to be accompanied by training and additional legal support for workers, since the same oral procedures will be available to companies, who have lawyers available to argue cases verbally as well as through prepared written submissions.

Despite the positive developments with regard to legal protections, there is also a proposal currently being debated that would represent a setback for worker rights. Employers are currently lobbying for changes in the Social Security Law<sup>56</sup> that would raise the retirement age, limit the amount of pension income, and increase the number of years of employment required to qualify for a pension. Employers are proposing

that the retirement age be raised from 60 to 65 and that workers' pensions be calculated on the basis of the average salary over their work life, whereas the unions want to retain what is currently established in the law, that the pension be the average of the last three years of the workers' employment. These proposed changes were of great concern to workers at the MEC Colloquium who requested that MEC develop a campaign to lobby against these changes.

Despite their attempts to weaken retirement benefits and block legislation on outsourcing, it seems that employers in Nicaragua are not pushing for changes in the labour code to flexibilize the employment relationship. However, this may be due in large part to the fact that Nicaraguan law already allows employers to arbitrarily dismiss workers without cause, which — as noted above — is the justification for the majority of dismissals in garment factories.



#### D. ILO Better Work Program

After three years of exploratory discussions, in early 2011 an International Labour Organization (ILO) Better Work program<sup>57</sup> was launched in Nicaragua. The stated objectives<sup>58</sup> of the program are to:

- Improve working conditions through increased compliance with national and international labour standards in apparel manufacturing companies;
- Strengthen the competitiveness of the Nicaraguan apparel industry by demonstrating sustained compliance; and
- Contribute to the strengthening of social dialogue both in the factories and in the sector.

Under the program, garment and textile factories of participating companies in the maquila sector will be monitored for compliance with national labour law. Participation in Better Work Nicaragua is voluntary and currently includes the Ministry of Labour, all of the country's major labour centrals with members in the sector, and the Nicaraguan Apparel and Textile Manufacturers Association (ANITEC). It is also supported by eight international buyers: Columbia, Gap, Fishman & Tobin, Levi's, Target, Sears, VF Corporation and Wal-Mart.

Most of the worker advocates and labour rights experts interviewed by PASE and the companies

interviewed by MSN spoke positively about the potential of the Better Work Nicaragua program.

According to Fernando Malespin, advisor to the Ministry of Labour, the Nicaraguan experience with the program is unique because it builds on an historical experience with tripartite social dialogue. He notes that the guiding document for Better Work Nicaragua was elaborated at the tripartite table. According to Malespin, the Ministry of Labour considers Better Work “an instrument to measure [labour standards compliance], but it is clear that it will not replace the role or authority of the Ministry concerning compliance with labour standards or concerning conditions in a maquiladora factory.”

For Luis Collado of the CUS, one major benefit of the Better Work program is that it could provide a better factory auditing system than that which is currently being carried out by the brands. “Support for Better Work is very important; they have the capacity to replace company [audits of] codes of conduct.” However, Collado also pointed to some of the weaknesses of high-level initiatives like Better Work: “One of the greatest problems of this kind of project is that they never build the capacity of union organizations.”

All companies sourcing from Nicaragua that were interviewed by MSN spoke favourably about the country’s involvement in the ILO Better Work program. Two of the benefits identified were the tripartite nature of the program, which encourages suppliers to engage with government and unions, and the fact that an ILO factory monitoring program will lessen the need for individual companies to monitor factories. “Instead of us doing all the auditing, we can spend our time on remediation, moving beyond auditing,” said one company, adding “obviously there’s a major advantage in having the government and the unions involved.”

One company, however, commented that they haven’t seen significant improvements at the

factory level in Cambodia because of Better Factories Cambodia program, so they remain somewhat sceptical about Better Work Nicaragua, though they have chosen to participate. They also mentioned that Better Work doesn’t do environmental or C-TPAT (US Customs-Trade Partnership Against Terrorism) audits, so the company will still have to do their own audits.

Despite these expressions of support from the brand buyers, Bair and Gereffi report that they encountered scepticism on the part of apparel firms in Nicaragua about the business case<sup>59</sup> for and potential benefits of participating in the Better Work program.

[O]ur field work revealed the need for securing better buy-in among local manufacturers ... While local manufacturers were encouraged that some buyers have promised to reduce or eliminate their audits of local firms participating in Better Work, they are hoping that buyers might provide more incentives for local factories to participate (for example, by pledging to source only from Better Work factories).<sup>60</sup>

In MSN’s interview with Bair,<sup>61</sup> she also noted that only one half of the maquila companies in Nicaragua are part of the maquila association, which represents companies at the Better Work table, and the vast majority of the Asian-owned companies are not members. This would seem to indicate that concrete incentives are needed to encourage maquila companies to participate in the program. In addition to buyer preference or exclusive purchasing for participating companies, another possible incentive might be to link a continuation of the TPL provision of DR-CAFTA to the participation of companies or the industry as a whole in the program, thereby providing an economic incentive similar to that offered by the US-Cambodia Bilateral Textile Agreement.<sup>62</sup>

## Conclusion:

### Can Nicaragua Achieve a Balance between Competitiveness and Equity for Workers?

Although Nicaragua and Honduras are offering very similar incentives and benefits to foreign companies to induce them to invest in and maintain production in their respective maquila garment industries, Nicaragua does seem to be distinguishing itself as a country that is also attempting to find a balance between global competitiveness and equity for workers.

By encouraging and facilitating initiatives like negotiations of the tripartite agreements and the country's participation in the ILO Better Work Program, the government of Nicaragua is building on the country's tradition of social dialogue in order to seek national consensus on a social dimension to its global competitiveness strategy.

As well, the Ministry of Labour appears to have a relatively good reputation with trade unions, brands and most union and labour rights leaders interviewed for this study because of its role in promoting and helping to facilitate social dialogue and for contributing to better labour relations and greater respect for freedom of association in the country. However, there continue to be problems concerning the Ministry's effectiveness in detecting workplace violations and enforcing national labour laws and regulations.

The 2010 Tripartite Agreement represents a national compromise between trade unions, employers and the government, and therefore does not resolve a number of outstanding issues maquila workers face on a daily basis. First and foremost is the fact that the minimum wage increases negotiated at the tripartite table are not keeping up with increases in the cost of living and do not begin to meet workers' basic needs. Other outstanding issues include excessively high production targets; continuing, though diminished, discrimination against workers attempting to form unions at the factory level; compulsory overtime, excessive

hours of work, and failure to pay the legal overtime rate; harassment and discrimination against women workers and insufficient and inadequate child care facilities; inadequate attention to workers' health and safety resulting in work-related illnesses and debilitating injuries; weaknesses in the social security system; and arbitrary dismissals.

The social benefits negotiated under the Tripartite Agreement could help to compensate workers for the lack of significant wage increases. However, the social provisions of the Agreement are lacking in enforcement mechanisms and the commitments made at the tripartite table by employers and government have been slow to materialize. In order to realize these commitments, workers will need to be fully informed of the content of the Agreement and actively involved in claiming their social rights. The Ministry of Labour should consider including compliance with the Agreement's social provisions as part of its monitoring mandate.

The labour and women's movements have been successful in putting a series of reform proposals on the national agenda, some of which have since been enshrined in law and/or labour justice procedures. These include legislation against violence against women, including in the workplace; legislation to defend the right to employment for people with disabilities; proposals for legislation to regulate outsourcing; and changes in judicial procedures to allow for oral testimony rather than just written testimony. Employers and their organizations have also been active in lobbying for changes in the social security system and other legislation to limit worker entitlements. Although the success of civil society proposals is never guaranteed, the balance of forces appear to be more even in Nicaragua than in Honduras.

The Better Work Nicaragua program has the

potential to build on Nicaragua's tradition of social dialogue in order to further improve the labour relations climate and labour standards compliance, and to provide verifiable evidence to international buyers and investors that progress is being made. While Better Work cannot and should not replace the role of the Ministry of Labour in enforcing national labour law, it can verify and measure progress toward labour standards compliance.

While the ILO and its Better Work Program are tripartite by their very nature, the active participation of international brand buyers in the initiative is essential for its success. The justifiable scepticism of factory owners about the business case for participation — the potential benefits beyond fewer factory audits — will not be overcome unless and until brand buyers offer concrete incentives and benefits, such as giving preference or exclusive rights to orders to suppliers participating in the program, making commitments to regular and long-term business relationships, and offering preferential prices to suppliers investing in compliance.

## Notes for Chapter 3

- 1 In September and October of 2011, PASE carried out interviews with: Fernando Malespin, Advisor to the Nicaraguan Ministry of Labour; Pedro Ortega, General Secretary, Confederation of Free Trade Zone Workers – Sandinista Workers' Central (CST); Armando Zepeda, Secretary of Organization, Workers' Union Confederation – Jose Benito Escobar (CST-JBE); Jose Espinoza, General Secretary of the Unified Labour Central (CUS); Luis Collado, Assistant Secretary, CUS; Cesar Largaespada, Vice-Rector, Faculty of Law, Paulo Freire University; and Antonio Montero, Executive Director, Labour Institute for Central America and the Caribbean (ISACC). In February 2012, MSN interviewed Sandra Ramos, Director, Movement of Working and Unemployed Women — Maria Elena Cuadra (MEC) and Andrea Pérez Morales, Women's Secretariat, CST-JBE. Jennifer Bair, Assistant Professor, Department of Sociology at the University of Colorado at Boulder, and Alberto Legall Torrez and Elena Arengo, Better Work Nicaragua were also interviewed for this chapter.
- 2 Held on March 4, 2012, the MEC colloquium brought together approximately 1,500 women maquila workers to discuss the issues they face at work and to determine which are the most critical issues for MEC to address in the coming year. Quotes in this chapter are from two workshops that included more than 500 free trade zone workers.
- 3 Movimiento de Trabajadoras y Desempleadas — Maria Elena Cuadra (MEC), *El Impacto de la Crisis Económica en la Vida de las Mujeres de la Zona Franca de Nicaragua: Diagnostico 2009*, March 2010 (based on interviews with 1,000 workers, 67% of whom worked in the garment sector); Instituto Sindical para América Central y el Caribe (ISACC), *Nicaragua: Zonas francas industriales, derechos laborales y estrategias sindicales*, August 2010; Gereffi, Gary and Bair, Jennifer. "Strengthening Nicaragua's Position in the Textile-Apparel Value Chain: Upgrading in the Context of the CAFTA-DR Region," December 20, 2010.
- 4 See Chapter 1, pp.20-21.
- 5 "Nicaragua como destino de inversión: Autoridades organizan foros para promover al país como confiable y atractivo," *El Financiero*, February 10, 2012.
- 6 On March 5, 2012, MSN attended a meeting in Managua with the legal representative of the Free Trade Zones Commission, at which time a 2012 promotional video was presented to the group that clearly highlighted Nicaragua's commitment to social dialogue and to a decent work agenda.
- 7 It should be noted that there continue to be many criticisms of the Ministry and its poor record of detecting labour rights violations in its inspections and/or resolving specific cases. This was identified as a major concern by workers present at the MEC March 2012 Colloquium.
- 8 Gereffi and Bair, p.2.
- 9 For a description of the 2010 Agreement, see page 60.



- 10 Gereffi and Bair, p.2.
- 11 In Nicaragua, the term “concertación” has been used to describe negotiations at the national level for a kind of social contract to achieve consensus on divisive issues. These have included bilateral negotiations between an elected government and the opposition and tripartite negotiations between national union confederations, employer associations and the government.
- 12 Everingham, Mark, “From Insurrection to Concertacion in Nicaragua: Alliances, Businessmen and Elite Consensus,” paper presented at XVII International Congress of the Latin American Studies Association, Los Angeles, CA, September 24-27, 1992.
- 13 ISACC, p.10.
- 14 <http://www.cablegatesearch.net/cable.php?id=09MAN-AGUA324>
- 15 ISACC, p.11.
- 16 ISACC, p.12.
- 17 ISACC, p.13.
- 18 Idem.
- 19 Bermudez, Gustavo. *Nicaragua: Free Trade Zone Tripartite Commission: Social Dialogue in Times of Crisis*, International Labour Office, 2009. p.2. <http://www.oit.org.pe/3/?p=142>
- 20 As of March 19, 2012, 1 Nicaraguan Cordoba = US\$ 0.0430700. All conversions in this chapter are dated from March 19, 2012.
- 21 Bermúdez, Gustavo, p.4.
- 22 At present, garment facilities constitute 63% of the businesses included under the Free Trade Zone Regime; others include tobacco (cigars), agro export (primarily shrimp) and call centers and a few other small export product manufacturing facilities.
- 23 Acuerdo de Emergencia Económica y Laboral, 2009. <http://www.csu-red.org/Paises/nicaragua/2009/IM-AGE0001.JPG>
- 24 The Socio-Labour Agreement of the Free Zone Tripartite Labour Commission covers the vast majority (approximately 98%) of Nicaragua’s garment work force. For an English translation of the Agreement, see Gereffi and Bair, Appendix G.
- 25 According Emilio Noguera Caceres of the Free Trade Zones Corporation, the workplace commissaries are much more convenient than community-based commissaries because goods are available on a daily basis and because workers can have the cost of their purchases deducted from their salaries. MSN meeting with the Corporation, March 5, 2012.
- 26 It is worth noting, however, that at least some of the union federations have made efforts to educate their members about the Agreement. The CST-JBE, for example, has circulated to its members 10,000 copies of a booklet detailing the various commitments made in the Agreement. The booklet, Conociendo los acuerdos de concertación socio laboral y diálogo social de Zonas Francas de Nicaragua, also describes the ILO Better Work program.
- 27 Meeting at the Free Trade Zones Corporation, March 5, 2012.
- 28 Interview with Andrea Morales, February 2, 2012.
- 29 When Montero speaks of the considerable resources that have been invested in the tripartite process, he is likely referring to the financial subsidies Nicaragua receives from the Venezuelan government through the Bolivarian Alternative for the Americas (ALBA) trade and development pact, which have largely covered the costs of the Nicaraguan government’s contribution to the social benefits provided to workers as part of the Agreement. Whether these benefits will be sustainable if there is a change in government in Venezuela is open to question.
- 30 <http://www.mitrab.gob.ni/news/2010/nuevo-salario-minimo-para-trabajadoras-y-trabajadores-nicaraguenses>
- 31 <http://www.mitrab.gob.ni/news/2011/trabajadores-nicaraguenses-con-nuevo-salario-minimo>
- 32 See footnote 11, page 53.
- 33 <http://www.mitrab.gob.ni/documentos/canasta-basica/>
- 34 Many workers reported that employers are deducting pay for lunch breaks; labour rights experts are clear that these should be paid as part of the regular work day.
- 35 Workers who participated in maquila workshops at the MEC colloquium believe that their annual severance (indemnización) is being calculated on their base salary rather than on their full salary including bonuses, which is complicated by the fact that bonuses are often paid through a separate payroll program or even in cash. Workers also reported that their contracts were being terminated and subsequently reissued when they received their annual severance payments, although they continued to work without a break in employment. As well, their reissued employment contracts often weren’t signed for three months and, as a result, they lost three months severance in their next annual payment. This practice of annual payments of severance is common throughout Central America, and is viewed by workers as a right.
- 36 Some workers interviewed expressed the belief that supervisors actually make individual arrangements with some workers to receive a percentage of their bonus payments.
- 37 *Diagnóstico 2009*, p.44.
- 38 *Ibid*, p.45.
- 39 The legal work week in Nicaragua is 48 hours plus up to nine hours of overtime for a total of 57 hours. The legal length of the work day is eight hours, however factories can request a legal exception to this provision.
- 40 *Diagnóstico 2009*, pp.50-51.
- 41 Gereffi and Bair, p.19.
- 42 *Diagnóstico 2009*, pp.60-62. It is worth noting that registration with INSS is one of the criteria on which factories are evaluated as to whether they receive the Trade Preference Level (TPL) credits.

- 43 *Diagnóstico 2009*, p.66.
- 44 These practices are permitted under Article 45 of the Labour Code.
- 45 Breakdown by sector was: garment: 34; harnesses: 3; cigars and tobacco: 3; agro-industry: 3. ISACC, p.28.
- 46 Gereffi and Bair, p.16.
- 47 <http://www.mitrab.gob.ni/documentos/salario-minimo/Concertacion%20sociolaboral%20de%20la-ComisionTripartitaZF.pdf>
- 48 *Diagnóstico 2009*, p.58.
- 49 “Posición de la CST-JBE a la nación en el año 2012.”
- 50 Bair, Jennifer, Gereffi, Gary, “Better Work in Central America: Assessing the Opportunities for Social Upgrading in Nicaragua’s Apparel Sector,” Paper Prepared for “Workers, Businesses and Government: Understanding Labour Compliance in Global Supply Chains,” October 26-28, 2011, International Finance Corporation, Washington DC.
- 51 *Ley 202, Prevención, Rehabilitación, Equiparación de Oportunidades para las Personas con Discapacidad*, approved by the Nicaraguan National Assembly on April 13, 2011 and made effective in November 2011.
- 52 *Ley no. 779: Ley Integral en Contra de la Violencia hacia las Mujeres*. For an excellent description of the law (in Spanish) see “Esta ley es para todas: Ley Integral Contra la Violencia Hacia las Mujeres,” *La Boletina Suplemento*, Puntos de Encuentro, March 2012.
- 53 The *Comprehensive Violence Against Women Act* formally recognizes physical, psychological, sexual, property and economic, and workplace violence, as well as misogyny and violence against women perpetrated by government officials.
- 54 <http://www.laprensa.com.ni/2012/02/29/poderes/92380-cosep-detiene-ley-tercerizacion>
- 55 *Ley Sobre el Código Procesal Laboral Oral*. The new procedure allows for oral testimony in judicial proceedings. Previously, testimony was only allowable if it was presented in writing, which made it more difficult for workers to give testimony unless they had skilled counsel.
- 56 <http://www.misfinanzasenlinea.com/noticias/20110615/proponen-en-nicaragua-elevar-la-edad-de-jubilacion-de-60-a-65>
- 57 Launched in February 2007, Better Work is a partnership of the International Labour Organization (ILO) and the International Finance Corporation (IFC) of the World Bank. Better Work was at least partially inspired by the experience of the Better Factories Cambodia and the ILO-led factory monitoring program under the bilateral US-Cambodia Textile Agreement. Under the Agreement, Cambodian firms gained increased access to the US market for showing progress on labour standards compliance. As well, only those companies that participated in the ILO monitoring program could obtain an export permit. However, that economic incentive was lost with the demise of the global import quota system in January 2005.
- 58 “Better Work Nicaragua Programme Update,” July 2011.
- 59 In the context of this study, the term “business case” refers to the real or purported benefits of corporate social responsibility for the financial success of a company, such as employee and customer loyalty, improved brand reputation, lower staff turnover, and increased worker productivity.
- 60 “Better Work in Central America...”, pp.19-20.
- 61 Phone interview with Jennifer Bair, October 19, 2011.
- 62 The US-Cambodia Bilateral Textile Agreement (1999) provided for increased export quotas to the US market in exchange for participation in the Better Factories Cambodia program (precursor to the Better Work program) and “substantial compliance” with international core labour standards.

# Conclusions

IN A PERIOD OF TRADE LIBERALIZATION and global economic crisis, competition among apparel companies (brands and manufacturers) and among garment-producing countries has intensified, leading many to conclude that a race to the bottom on price has eclipsed concerns over corporate social responsibility. In this study, we have examined whether it is possible in this difficult context to adopt national competitiveness strategies that seek a balance between the needs and demands of foreign investors and buyers and the rights, needs and aspirations of garment workers.

Our study leaves little doubt that cost is the central determining factor in the sourcing and investment decisions of international brands and multinational manufacturers in the global apparel industry. The end price of a garment, however, depends on a mix of cost factors, including proximity and speed to market; import duties; transportation and energy costs; wage and benefits costs; efficiency and productivity; skills, experience and training; fabric availability; etc. Manufacturers tend to focus on reducing labour costs because they are the portion of the total cost of production that are easiest for them to adjust, particularly if their employees are unorganized and therefore lack the power to resist these adjustments. That reducing labour costs is the focus of most garment-producing countries' competitive strategies is a result of political and economic choices, not necessity.

## Competition between Central America and Asia

No Central American country has lower wages than those found in most Asian garment-producing countries, such as Bangladesh, Vietnam or Cambodia. When we compared the competitive advantages of Central America versus Asia, however, we found that despite having higher labour costs than most Asian garment-producing countries, Central America does have other competitive advantages over Asia, including proximity and speed to market and duty-free access to the US market for some apparel products as a result of the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA).

However, in addition to lower labour costs, some Asian countries have additional competitive advantages over Central America, including access to a greater variety of high-quality fabrics, ability to do a range of styles as well as fine embellishment work, and better customer service. In general, Central America is known as a high-volume basics manufacturer with a transportation system that is better than those of some Asian countries, such as Bangladesh, but poorer than those of other Asian countries, such as China.

Competing with Asia on the basis of the cost of labour is not a viable option for the countries of Central America. Furthermore, the Asian experience shows that basing competitiveness strategies solely on low labour costs is short-sighted

and unsustainable. Nor would such a strategy differentiate the region's apparel industry from those of other regions that may offer even lower prices in the future. Expecting workers to bear the burden of competition through lower wages and increased flexibilization ignores the other means of lowering costs, such as improving transportation infrastructure, access to credit, customs processes, work organization and training, and can result in labour instability and on-going conflict in the workplace.

While labour laws and regulations and the labour relations climate are not seen as a determining factor in the sourcing decisions of major international apparel brands, they are factors to which brands pay attention, because they make their efforts to achieve compliance with their codes of conduct easier and lessen the risk of reputational damage caused by exposure of worker rights abuses in their supply chains. The content of labour laws and regulations are seen by brand buyers as less of a problem in Central American countries than is the general lack of enforcement of those laws and regulations.

### Competition between Honduras and Nicaragua

As a result of the demise of the import quota system, periodic downturns in the US economy, and the current global economic crisis, both Honduras and Nicaragua have experienced significant fluctuations in their apparel exports. However, both countries have also experienced relatively sustained growth in exports to the US since 2009. Although Nicaragua has shown stronger growth in exports of some products than has Honduras, and has captured an increasing share of production within DR-CAFTA, there is little evidence of major shifts in production or orders from Honduras to Nicaragua.

Although Nicaragua has lower labour costs than Honduras, the garment and textile industry in Honduras has more years of experience, greater

productivity and skills, and access to its own port. Honduras also has a fairly well developed textile sector, though the knit fabrics produced in the country are for basic products that can be assembled anywhere in the region.

In addition to its lower labour costs, Nicaragua also has the competitive advantage of the Tariff Preference Levels (TPL) provision of DR-CAFTA, which allows it to use some fabrics from outside of the DR-CAFTA region while retaining duty-free access to the US market. However, the continuation of the TPL provision beyond its current 2014 expiration date is not assured.

While Nicaragua and Honduras are offering similar concessions and incentives to foreign investors, Nicaragua is beginning to also promote itself as a country in which there is a tradition of social dialogue, as well as an improving labour relations climate. Two examples of Nicaragua's focus on promoting and facilitating social dialogue are the tripartite agreements setting minimum wage levels for the sector and offering promises of social benefits for workers, and the country's participation in the ILO Better Work program.

Although the existence of constructive social dialogue is not a guarantee that a country has adopted a socially-responsible competitiveness strategy, it is an indication that key sectors in the country are seeking national consensus on economic, social and labour policies and regulations that impact on competitiveness. The active participation of trade unions, women's groups and other civil society organizations in social dialogue with employers and government is therefore critical to achieving competitiveness strategies that seek a balance between the interests of workers and investors

Nicaragua's 2010 Tripartite Agreement is attractive to investors and brand buyers, not only because it keeps minimum wage increases at fairly moderate levels, but also because it offers stability and predictability on labour costs. The Better Work Nicaragua program is supported by



brand buyers because it encourages their suppliers to participate in social dialogue and also because it reduces the number of social compliance factory audits that need to be carried out by the brands. However, suppliers appear to be sceptical about the concrete benefits of participation in the program, beyond a reduction in the number of factory audits they are subjected to.

#### Benefits of Social Dialogue for Workers

Although Nicaragua's 2010 Tripartite Agreement offers workers the promise of social benefits that are intended to compensate them for the relatively low increases in the minimum wage for a three-year period, to date those promises have not been fully realized. The commitments made in the Agreement to provide workers access to housing and basic goods at subsidized prices, among other benefits, are laudable, but those social provisions lack enforcement mechanisms. As a result, the realization of those commitments will depend on the ability of the Nicaraguan unions to mobilize their members to pressure for their implementation. Even if they are fully implemented, social benefits are still no substitute for payment of a living wage.

In contrast, Honduras has only recently resumed tripartite social dialogue after a period of social conflict and polarization that followed the military coup of 2009. Emboldened by the coup, the business sector stalled on minimum wage negotiations, engaged in a media campaign alleging that any increase in the minimum wage would drive jobs out of the country, and pressed for changes in the national labour law to flexibilize employment relationships. In this context, the trade union and broader social movement, which had been actively opposing the coup government, remain sceptical about the willingness of the business sector and the government to engage in good faith social dialogue in order to resolve national problems.

Despite these challenges, the Honduran labour centrals have taken the initiative to push for a resumption of tripartite negotiations for the maquila sector on the minimum wage and other issues. The result was a controversial agreement that, as in Nicaragua, sets minimum wage increases for a three-year period. Although the Agreement includes provisions on social benefits and worker rights, most of those benefits and rights are currently



provided for in law, though not enforced. Nor does the Agreement include new mechanisms for oversight or enforcement of its social provisions. Although it is modelled on the Nicaraguan Tripartite Agreement, the Honduran Agreement is even weaker on concrete commitments to provide such benefits to workers. On the positive side, the Agreement sets an important precedent for the negotiation of national social policy issues at the tripartite table. However, as in Nicaragua, the realization of any commitments made in this and other future tripartite agreements will depend on the ability of the trade union movement, in alliance with the broader social movement, to mobilize for their implementation.

### Similarities and Differences in Workplace Issues

Despite the many differences between Nicaragua and Honduras, the two countries share many of the same problems in their maquila factories. These include: wages that are not keeping up with the cost of living and do not begin to meet workers' basic needs; high production targets and relentless pressure on workers to meet those targets; compulsory overtime and failure to pay the legal overtime rate; serious work-related illnesses and injuries and a lack of proactive health and safety measures to prevent them; problems with access to and delivery of social security benefits; lack of economic and social protections when factories close and/or workers are laid off; continuing gender-based discrimination and a lack of attention to women's double day; and continuing violations of freedom of association.

However, there are also significant differences in how these problems manifest themselves in the two countries. Although Honduras' maquila industry is known for higher productivity than the industry in Nicaragua, Honduran workers are paying the price for this high productivity. Many of the issues raised in worker and informant interviews were attributed to the production

process and how production is organized, including high production targets, incentive-based payment systems, payment by the piece and for meeting individual or group production targets, and 4X4 work schedules.

A key issue raised by Honduran interviewees was the impact of the rapid pace of production and long work days on workers' health and on women's double day working a second shift in the "economy of care." Work-related injuries often displace workers permanently from the paid labour force and push women back into the informal economy. Although similar problems are likely to also exist in Nicaragua, as was confirmed in worker testimonies at the 2012 MEC Colloquium, payment by the piece and for meeting production targets and 4X4 work schedules are less common in that country. As well, serious studies on these issues have yet to be carried out in Nicaragua.

While women in Nicaragua complained of limited access to workplace child care, Honduran women appeared to have no access to such child-care services, despite the fact that workplaces are required by law to provide childcare centres.

In Honduras, personal and community security is also a critical issue for workers, and particularly for women workers, as well as for employers and management personnel. Security issues are less of a problem in Nicaragua.

Although violations of freedom of association continue to take place in both countries, it appears that progress is being made in Nicaragua, while this remains a systemic problem in Honduras where neither the apparel manufacturers nor the government has shown a willingness to comply with legal and/or brand code requirement or to enforce the law. However, it is worth noting that Honduran workers, in alliance with international labour rights networks, have made some significant advances in winning union representation and collective bargaining agreements at a few large factories. Significantly, when international brands

were questioned about the training needs in both Honduras and Nicaragua, they spoke not only about the need for technical training, but also training on human resource management; labour rights, including freedom of association; and brand expectations regarding freedom of association and other labour rights.

In general, the Ministry of Labour in Nicaragua is perceived to be more actively involved in promoting and facilitating social dialogue than is the Ministry in Honduras. And while there are problems with enforcement of labour laws in both countries, the failure of the Honduran Ministry of Labour to enforce the country's labour laws appears to reflect deeper structural problems in the state that result in impunity at a societal level beyond just the labour relations sphere.

#### Existing and Proposed Legislation

While there is considerable debate and contention between employer organizations and trade unions, as well as women's and other civil society organizations, on existing and proposed legislation in both Honduras and Nicaragua, it appears that the legislative agenda is largely being set by the employers in Honduras, whereas trade unions and women's organizations have made some advances in Nicaragua. Although the balance of forces on legislative issues is largely determined by the particular histories and political contexts in the two countries, the changes and proposed changes in labour laws also reflect their different national competitiveness strategies.

One recent change in labour legislation in Honduras has been the passage of the Temporary Employment Law, which allows employers to hire workers on short-term contracts. Although the Law was introduced as a temporary measure, trade unions believe it sets a dangerous precedent that could undermine workers' rights to employment security, social security and other benefits, and freedom of association and the right to bargain collectively. The Honduran government

had earlier made concessions to maquila companies to allow the introduction of the 4X4 work schedules, despite the fact that they do not meet the letter of Honduran labour law. Both these measures were undertaken in the name of competitiveness.

In Nicaragua, the government has been a bit more resistant to employer demands for flexibilization of labour laws to accommodate labour flexibility at the workplace. However, it must be noted that current laws already allow employers in Nicaragua to arbitrarily dismiss workers without cause, which may make it unnecessary for employers to seek further flexibility in the employment relationship.

Two positive examples of new legislation that strengthens and expands the rights of workers in Nicaragua are the Law for the Prevention, Rehabilitation and Promotion of Opportunities for Persons with Disabilities and the Comprehensive Violence Against Women Act. Although enforcement of the former has already proven to be a challenge and enforcement of the latter will likely depend on the ability of the women's movement to mobilize its members and supporters, these are two progressive pieces of legislation that have the potential to expand the rights of workers, people with disabilities and all Nicaraguan women.

#### Challenges for Governments and Social Movements

Both Nicaragua and Honduras see labour costs as central to their national competitiveness strategies. However, Nicaragua has made considerable efforts to seek tripartite consensus on its competitiveness strategy, and as a result trade union organizations have made some gains concerning their right to organize and bargain collectively, as well as commitments from the industry and government to provide workers social benefits to at least partially compensate them for relatively modest wage increases. Although these social benefits are far from being fully realized, they are



on the national agenda as necessary components of the country's competitiveness strategy.

In seeking an alternative road to competitiveness that attempts to balance economic competitiveness and equity for workers, Nicaragua will need to build on its experience with social dialogue and attempt to bring international buyers to the table, seeking commitments from buyers to prioritize countries and suppliers that make measurable progress on labour standards compliance. The Better Work Nicaragua program is one place to start this discussion. The good faith participation of manufacturers, trade unions and brands in the Better Work Nicaragua program, as well as documented evidence of progress on labour standards compliance in the sector, could be an important selling point for Nicaragua in its efforts to win support in the US for an extension of the Trade Preference Levels (TPL) provision of DR-CAFTA beyond 2014.

Social dialogue and tripartite negotiations are at a more preliminary stage in Honduras, and the labour and broader social movement remain sceptical of the willingness of the maquila owners and Honduran government to negotiate in good faith or to comply with commitments made in such agreements. However, if the private sector and government make good faith efforts to implement commitments made in the 2012 Tripartite Agreement, such efforts could open the door to genuine social dialogue on the major issues in the maquila sector that are outlined in this report.

In the end, neither Nicaragua's nor Honduras' maquila workforce or industry is well served by price competition between the two countries. Stronger regional alliances among labour and women's organizations and other civil society groups are needed in order to collectively develop and elaborate national and regional strategies to achieve common demands. Regional and multi-sector consultation, coordination and alliance

building are essential in order to counteract the race to the bottom in the region on salaries and benefits, labour standards, and workers' rights.

A major challenge for labour rights movement at the regional and international levels is to remove wages from price competition. To do so, the movement will need to put sufficient pressure on the brands and the multi-stakeholder initiatives to which they belong to transform their stated commitment to the principle that workers have a right to wages that meet their basic needs into concrete action. While garment-producing countries need to develop and promote competitive

advantages that don't rest solely on the backs of workers, international buyers need to do their part by ensuring that the prices they pay to their suppliers are sufficient to allow them to pay their workers a living wage.

In addition to seriously addressing the central issue of poverty wages in the maquilas, international brands and manufacturers must also be prepared to seriously engage with the labour and women's rights movements on the many outstanding workplace issues and problems in Central America's maquila garment and textile industry.

The authors of this report have prepared a list of proposals to international apparel brands and manufacturers that, we hope, will contribute to constructive engagement on how these issues and problems can be overcome. Visit [www.maquilasolidarity.org/competitiveness-decent-work](http://www.maquilasolidarity.org/competitiveness-decent-work)





- As of the end of 2010, there were 128 firms operating in the country's apparel and textile industry, representing 42.5% of firms in the maquila sector.<sup>1</sup> US investment accounts for 42.2% of the apparel and textile industry, domestic investment is 34.2%, and Asian investment 11.3%. More than 90% of the jobs in the industry are located in the north of the country, centred in the Cortés area (which includes the cities of San Pedro Sula, Choloma and El Progreso).<sup>2</sup>



## The Honduran apparel industry

- The apparel industry is one of the largest employers in Honduras, which – at the end of 2010 – employed 87,390 people. Approximately 56% of the workforce is female.<sup>3</sup> Three international companies – Gildan Activewear, Hanesbrands, and Fruit of the Loom – own their own production facilities in Honduras and account for almost 40% of the employment in the industry.<sup>4</sup> The majority of other factories in Honduras, however, produce on a contract basis for a range of international buyers, including Nike, adidas, Gap, JC Penney, Target, Under Armour, Wal-Mart and others.
- Over 84% of manufactured exports from Honduras go to the United States.<sup>5</sup> Apparel accounts for approximately 60% of Honduras' total exports to the US.<sup>6</sup> Within the DR-CAFTA region, Honduras is the biggest supplier of apparel to the US market. Exports of apparel to the US from Honduras were valued at US\$2.7 billion in 2011.<sup>7</sup> Globally, Honduras is the fifth largest exporter of apparel to the US (by volume), after China, Vietnam, Bangladesh and Indonesia.<sup>8</sup>
- Apparel manufacturers in Honduras are best known for the production of "basics": knit products such as T-shirts, pullovers, underwear, and socks. T-shirts and undershirts combined accounted for 51% of the value of the country's apparel exports to the US in 2010. Honduras is the foremost supplier of socks to the U.S. market, accounting for 28.6% of US sock imports by volume.<sup>9</sup> Its share of US imports of men's and boys' shirts has been steadily growing, now threatening to surpass China for the top position.<sup>10</sup>

- Exports of apparel to Canada from Honduras were valued at more than CDN\$78 million in 2011, a 35% increase since 2007 (pre-crisis). Among countries in the Americas, Honduras ranked third in exports to Canada (after the US and Mexico).<sup>11</sup> However, in 2010 Canada accounted for only .3% of the country's total manufactured exports.<sup>12</sup>

### Full-package

- Honduras has 38 full-package firms, representing 48.7% of the country's apparel industry.

### Textile Capacity

- There are 19 textile mills in Honduras.<sup>13</sup> The country is particularly strong in producing knit fabrics.<sup>14</sup>

### Infrastructure and Energy

- Electricity costs are relatively high compared to those in countries like China and Vietnam,<sup>15</sup> and businesses must pay a deposit up front to secure a connection.<sup>16</sup> However, electricity rates are slightly lower than those in Nicaragua. Average cost per kilowatt hour is between 11 cents and 12.8 cents.<sup>17</sup>
- The deepwater port of Puerto Cortes is the exporting hub of Honduras. It is also used extensively by Nicaraguan exporters. Puerto Cortes has an in situ US customs office and x-ray machines.<sup>18</sup> Containers can make the trip by sea to Miami in two days,<sup>19</sup> making the average freight time to the US three days in total.<sup>20</sup>

### Access to Credit

- As of December 2011, the average lending rate in Lempiras was 18.1%, and 8.93% for a loan in U.S. dollars.<sup>21</sup>

### Market Access

- Most important among the free trade agreements signed by Honduras is DR-CAFTA, which ensures duty-free access to the US market for a range of apparel and other textile goods. Honduras also has free trade or partial preference agreements with:
  - Mexico, Guatemala, El Salvador, Nicaragua and Costa Rica (a new deal signed in December 2011 will, when ratified, replace earlier bilateral agreements between these countries);<sup>22</sup>
  - Chile, El Salvador and Costa Rica (Central America/Chile);
  - Nicaragua, Costa Rica, Guatemala, and Panama; and
  - Taiwan.
- Honduras has access to tariff preferences under the respective GSP (Generalized System of Preferences) programs of Canada, the US and the European Union. More recently, it signed trade agreements with the European Union and Canada (both of which have yet to be ratified).

### Notes

- 1 According to the Honduran Central Bank, the maquila sector in Honduras includes companies manufacturing textile and apparel, vehicle harnesses and electronics, furniture and other industrial products, as well as business service companies.
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- 3 *Ibid.*
- 4 Asociación Hondureña de Maquiladores (AHM) Directory, June 2011.
- 5 Banco Central de Honduras, p.29.
- 6 US International Trade Commission (USITC), 2012.
- 7 USITC, 2012.
- 8 Office of Textiles and Apparel, US International Trade Administration (OTEXA), category 640.
- 9 OTEXA: <http://otexa.ita.doc.gov/msr/cat332.htm>
- 10 OTEXA: <http://otexa.ita.doc.gov/msr/cat640.htm>
- 11 Statistics Canada, <http://cansim2.statcan.gc.ca/cgi-win/cnsmcgl.pgm>
- 12 Banco Central de Honduras, p.29.
- 13 [www.apparelcentralamericadr.com/ce-catec-dr/index.php?option=com\\_content&view=article&id=3&Itemid=3](http://www.apparelcentralamericadr.com/ce-catec-dr/index.php?option=com_content&view=article&id=3&Itemid=3)
- 14 Gary Gereffi and Jennifer Bair, *Strengthening Nicaragua's Position in the Textile-Apparel Value chain: Upgrading in the Context of the CAFTA-DR Region*, December 20, 2010, p.15.
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- 17 O'Rourke Group Partners, p.17.
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- 21 Banco Central de Honduras, [http://www.bch.hn/tasas\\_interes.php](http://www.bch.hn/tasas_interes.php)
- 22 "Honduras Signs Free Trade Agreement," *Honduras News*. December 11, 2011. Available at: <http://www.honduras-news.com/honduras-signs-free-trade-agreement/#.TxW1k4HsdaA>



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## The Nicaraguan Apparel Industry

- In December 2011, there were 63 garment maquilas, employing 64,774 people (52% women), and three textile manufacturers, employing 296 workers (31% women).<sup>1</sup> The majority of investment in the sector is of US origin, followed by Korean, Nicaraguan, and Mexican investment.<sup>2</sup> Most of the sector is located around Managua, Nicaragua's capital city.
- Many of the firms manufacturing in Nicaragua's export processing zones are contract manufacturers making clothing for a range of international buyers including Wal-Mart, JC Penney, Target, Columbia, Levi's, Gap, Under Armour, and others. Manufacturers like Gildan Activewear and VF Corporation own their own production factories in the country as well.
- At the end of 2011, apparel accounted for approximately 52% of Nicaragua's total exports to the US<sup>3</sup> and the majority of employment in the country's free trade zones.<sup>4</sup> That year, Nicaragua was the eleventh largest exporter to the US (by volume) worldwide,<sup>5</sup> and the third largest US apparel supplier in the DR-CAFTA region (after Honduras and El Salvador). By the end of 2011, Nicaragua's share of DR-CAFTA's apparel exports to the US had grown by 13%, the largest year-on-year growth in the region.<sup>6</sup>
- Nicaragua's garment export industry is known for basics manufacturing, primarily producing cotton knit shirts, jeans and twill pants, cotton underwear and some woven shirts. It is a strong player in the men and boys' jeans category: Nicaragua accounted for 69% of DR-CAFTA's total volume of exports in this category at the end of 2010, and 80% by the end of 2011.<sup>7</sup>
- Apparel exports to Canada from Nicaragua were valued at CDN\$17.2 million in 2011, a 49% increase since 2007. Amongst countries in the Americas, Nicaragua ranked sixth in exports of apparel to Canada (after the US, Mexico, Honduras, El Salvador and Guatemala).<sup>8</sup>

### Full package

- A majority of apparel firms in Nicaragua offer or are in the process of developing full-package capabilities.<sup>9</sup> Full-package production is not as predominant for woven goods manufacturers as it is for knitwear manufacturers.<sup>10</sup>

### Textile Capacity

- Nicaragua has almost no domestic textile production. Eighty percent of the knit fabrics used in Nicaraguan factories come from Asia and 20% from US or other DR-CAFTA countries. Some manufacturers have cited the high cost of electricity as a hindrance to the development of knit fabric production in Nicaragua. For woven fabrics like denim and twill, approximately 63% of fabrics come from Asia and 37% from elsewhere in the Americas.<sup>11</sup>

### Infrastructure and Energy

- Electricity costs are high compared to those in other countries in the region, including Honduras. The average cost is between 14.85

cents and 19 cents per kilowatt hour.<sup>12</sup> The Nicaraguan government is taking steps to improve the energy supply and lower costs.<sup>13</sup>

- Nicaragua does not have a deepwater port of its own and therefore diverts most of its exports through Puerto Cortes in Honduras. This adds an extra two days to the average shipping time to the US as compared with Honduras.<sup>14</sup> There are plans to build a new deepwater port at Monkey Point on the southeast coast of Nicaragua, although feasibility studies will not be completed until late 2013,<sup>15</sup> which means that Nicaragua's capability to ship directly to the US is still quite a few years in the future.

### Access to Credit

- As of December 2011, interest rates on short-term loans denominated in Cordobas averaged 13.19%; loans denominated in US dollars averaged 8.43%.<sup>16</sup> Lack of access to adequate and affordable credit can hinder a manufacturer's ability to purchase high quality textiles and fill full-pack-

age orders.<sup>17</sup> This issue is also relevant for Honduras, where interest rates are even higher.

### Market Access

- Most important among the free trade agreements signed by Nicaragua is DR-CAFTA, which ensures duty-free access to the US market for a range of apparel and textile goods. Unlike Honduras, Nicaragua has an additional benefit in DR-CAFTA (Tariff Preference Levels) which allows it to use Asian fabrics in apparel production while retaining duty-free access to the US, with some conditions. Nicaragua also has free trade agreements with Mexico, Taiwan and Panama, as well as Preferential Access Agreements with Colombia and Venezuela and reduced tariffs under GSP (Generalized System of Preference) to Canada, Japan, Norway and the European Union.<sup>18</sup>

## Notes

1 Comisión Nacional de Zonas Francas. *Manufactura Ligera*. Presentation, March 2012.

2 *Ibid.*

3 USITC, 2011.

4 Comisión Nacional de Zonas Francas, 2012.

5 OTEXA: <http://otexa.ita.doc.gov/msr/cat1.htm>

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7 OTEXA: <http://otexa.ita.doc.gov/msr-part/p347-D.htm>

8 Statistics Canada Trade Data Online.

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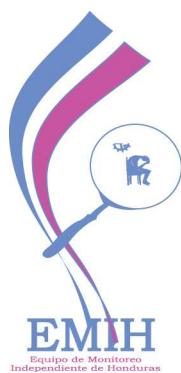
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