

**A Light in the Dark: Labor Reform in Guatemala during the FRG Administration,
2000 – 2004**

By

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Submitted to the Department of Urban Studies and Planning
in partial fulfillment of the requirements for the degree of

Master in City Planning

at the

MASSACHUSETTS INSTITUTE OF TECHNOLOGY
June 2007

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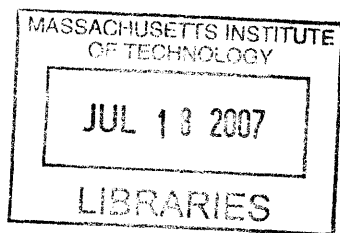
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ABSTRACT

Recent literature on Latin America has highlighted cases of reform by the region's governments to increase State regulation of the labor market, offset the detrimental effects of the so-called Washington Consensus, and promote economic development. In Guatemala however, the FRG Presidential administration (2000 – 2004) seemed an unlikely candidate for this task. Linked to the military and marked by a conservative record, the FRG administration was surrounded by scandals of corruption, poor national economic performance, soaring crime rates and eroding approval ratings. Surprisingly, while in power the FRG enacted and implemented the two far-reaching labor reforms that are the subject of this thesis. The first was a legal reform to the Labor Code and the second was an administrative reform of the Labor Inspection. Most importantly, the two reforms sought to increase State regulation over the labor market, and both had substantial effects in terms of enhanced State regulatory capacity. As the thesis argues, the FRG labor reforms were possible because, unlike the governments preceding (e.g. PAN) and following it (i.e. GANA), the FRG was able to exclude the largest private conglomerates in the country ("the Big Boys") and their followers in the national peak business organization CACIF from influencing and controlling the Executive branch of government. In the past, the Big Boys and the CACIF wielded their power in the Executive to block similar labor reform attempts. Within the FRG Executive however, the FRG Ministers of Labor, supported by both the FRG Vice-President and the U.S. Ambassador in Guatemala, could push for the labor reforms without facing the obstacles that the Big Boys and the CACIF had represented in the past. Additionally, FRG leaders were eager to use the reforms to target political opponents, expand the party's constituency, and obtain recognition by the international community. Interestingly, as the thesis shows, many (although not all) of the FRG reforms survived the transition from the FRG to the Big Boy and CACIF-friendly GANA government in 2004. The explanation offered for this seeming paradox rests on an exceptional conjuncture: at the time, the U.S. Congress was deciding whether to extend free trade benefits to Guatemala under the United States – Dominican Republic Central America' Free Trade Agreement (US-DR CAFTA or CAFTA), and one of the main points of contention was Guatemala's poor labor regulation enforcement record. The GANA party had to show that labor regulation enforcement in Guatemala had improved and to do so it used some of the FRG's labor reforms.

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Acknowledgements

First, I would like to thank my advisor, Judith Tendler, who despite my many changes of heart and mind, and her own incredibly busy schedule, never stopped giving me valuable advice and guidance, and always found the time to meet with me. Finding the light in the dark would not have been possible without her.

I would also like to thank Andrew Schrank, reader of my thesis. When I met Andrew, a few years ago while I was completing my undergraduate education, I never imagined our paths would cross again under such different circumstances. Neither did I imagine how helpful Andrew's comments would be for this thesis. Andrew's knowledge of Guatemala and Latin America in general, is truly inspiring.

I would also like to thank my good friend Seth Pipkin. The academic journey of this thesis began with his first visit to Guatemala in early 2005. Since then, I have come to cherish my conversations with Seth and have learned a great deal from him. His many comments on this thesis helped me piece it all together. I can only hope that we can work again soon and listen to our great friends Alan Jackson, Mr. Tupac and Jorge Ben.

Many other people also gave me valuable comments, advice, help and support, including Roberto Pires, Bruno Baroni, Matthew Houk, Doña Amparito, Leticia González, Regina Abrami, and my family. To my mom, dad, Harald, Auri, Rodrigo, my grandmother Margarita (with whom I lived while I did most of this research for this thesis) and Hugo, many thanks for all your love and support. Rodrigo, I look forward to reading the amazing things you will write next year.

This thesis would not have been possible without the many hours that so many interviewees dedicated to me. To all of them, thank you; I can only hope that they find this thesis accurate and informative, and that it will motivate them to further support academic research. Our country needs this kind of research. I would especially like to thank Alejandro Argueta and Silvia Trujillo, whom I met many, many times and who provided me with much information and comments for this thesis.

Finally, I would like to thank my Kims, who had to deal with my continuous "crustiness" throughout this whole process, and who was always there to love and support me. I cannot wait for our next year together.

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Chapter 1

Introduction

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In January 2004, one of the largest newspapers in Guatemala published a poll assessing the recently concluded four-year government (2000 – 2004) of the Frente Republicano Guatemalteco (FRG). According to the poll, 70.4% of those surveyed felt that the country “had worsened” during the FRG government (Encuesta, January 2004). The poll’s results mirrored the outcome of the 2003 Presidential election which had just taken place, and in which the incumbent FRG’s candidate and leader, General Efraín Ríos Montt, obtained a mere 19.3% of the vote, not even making it past the first election round.¹

The FRG party, deemed “ultra rightist” by Jonas (2000) because of its close relation to the military, engendered public disapproval from all sides of the political spectrum due to the widespread charges of corruption against many of its members, the country’s poor economic performance in the early 2000s, and the sharp increase in crime rates between 2000 and 2004 (Beltran and Peacock 2003; Banco de Guatemala 2007; La Encuesta, Prensa Libre). Additionally, the FRG party’s conservative record, epitomized by party leader and former military dictator General Efraín Ríos Montt, did not prevent the FRG government from constantly confronting the leading family-held conglomerates of the

¹ In Guatemala, elections are usually held in two rounds, unless one candidate obtains more than 50% in the first round. The second round only includes the top two candidates in the first round.

country and excluding them from Executive decision-making. These conglomerates, the so-called “Big Boys” (Segovia 2006), had enjoyed clientelistic arrangements with all governments since at least the return to democracy in 1986. During the FRG administration, when they did not enjoy these clientelistic arrangements, they found strong backing against the government in the country’s peak business organization, the Comité Coordinador de Organizaciones Agrícolas, Comerciales, Industriales y Financieras (CACIF). The “Big Boys,” also known as the “Pyramid Group” (Valdez and Palencia 1998) the “Super Dome,”² the “G-8,”³ or the “GDP Families” because they control more than 20% of GDP,⁴ opposed many of the FRG’s economic, fiscal and social policies, which FRG leaders alleged were aimed at “eliminating the privileges of the wealthiest,”⁵ and which contrasted sharply with past governments’ Big Boy-friendly policies. To tarnish the FRG’s public image, the Big Boys attacked the government using much of the mass media which they owned, as well as the peak business organization CACIF’s public declarations.

Surprisingly, despite the public dissatisfaction, confrontations and shortcomings associated with the FRG government, as well as the conservative record of the FRG party, the FRG administration did carry out two far-reaching, effective labor reforms which sought to increase State regulation of the labor market. These reform efforts

² Interview with Francisco Reyes Lopez, March 19, 2007. The FRG leadership used this term – “Super Cúpula” in Spanish – throughout the FRG government to refer to the “Big Boys.”

³ Interview with Anonymous Labor Lawyer, July 18, 2006 (see Appendix for a list of interviewees). They are called G-8 because it is the eight most powerful families in the country.

⁴ Interview with Anonymous Academic 1, July 26, 2006.

⁵ Interview with Eduardo Weyman, July 28, 2006; interview with Anonymous Academic 4, August 11, 2006; interview with Francisco Reyes Lopez, March 19, 2007.

overcame the strong opposition of the Big Boys and their followers in the peak business organization CACIF.

The first of these reforms was a legal reform to the Labor Code. It was ratified by Congress in 2001. This legal reform attained four large objectives: first, it legalized agricultural workers' right to strike; second, it strengthened the Labor Inspection's (IGT)⁶ enforcement capacity by endowing it with the responsibility to impose fines on noncompliant firms, a task which was previously under the jurisdiction of the Labor Courts; third, it reinforced and streamlined the legal mechanisms governing the formation and organization of labor unions, largely reducing State interference in union internal affairs and eliminating cumbersome requirements for union formation; and fourth, it required the central government to set minimum wages yearly. This legal reform partly responded to observations made between 1989 and 2001 by the International Labor Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR) concerning Guatemala's failure to reform its Labor Code to comply with ratified ILO Conventions 87⁷ and 98.⁸ Most of these CEACR observations concerned the burdensome Labor Code requirements for unionization, as well as the excessive interference of the government in internal union affairs. However, the legal reform also included modifications to the law that exceeded the demands of the CEACR, such as the transfer of the fining capacity from the Labor Courts and Tribunals to the

⁶ As Piore and Schrank (2006a) explain, "Labor inspection systems in Central and South America are basically variants of the Spanish model, which originated in France. The Spanish model is a general, or unified, system: virtually the whole of the labor code is administered by a single agency, the Inspeccion de Trabajo. The inspectors also enforce various provisions of private collective bargaining contracts." (<http://bostonreview.net/BR31.5/pioreschrank.html>)

⁷ Convention on the Freedom of Association and the Right to Organize, ratified by Guatemala in 1952.

⁸ Convention on the Right to Organize and Collective Bargaining, ratified by Guatemala in 1952.

IGT. Although the former modifications to the Labor Code drew some Big Boy and CACIF complaints, most of the Big Boy and CACIF opposition centered on the latter modifications to the Labor Code which exceeded CEACR observations.

The second reform sought to revitalize the Labor Inspection (IGT) of the Ministry of Labor (MTPS). It was an ongoing effort between 2000 and 2004. This administrative reform of the IGT complemented the legal reform to the Labor Code and ran along five axes: first, it increased the IGT budget by almost 40%; second, it raised the number of labor inspectors by more than 80%, from 160 to 292; third, it created a publicity campaign to inform workers about their labor rights; fourth, it established two specialized inspector units for underage, and garment and textile work; and fifth, it institutionalized an internship program for San Carlos University (USAC)⁹ last-year law students to work in the Ministry of Labor.

The two reforms entailed a series of positive outcomes in terms of 1) worker wages, and 2) the State's regulatory capacity. Regarding the latter, first the value of fines imposed by the State on firms failing to comply with labor regulation increased more than seven-fold between 2001 and 2003, from about Q.900 thousand to Q. 7.4 million. Second, in this same period the amount in fines collected by the State increased by more than twenty five-fold, from about Q. 50 thousand to Q. 1.5 million. Third, during the FRG government, the number of cases of firms found in non-compliance settled by the Labor Inspection (IGT) rose almost seven-fold, from 136 to at least 923 cases. In terms of

⁹ The San Carlos University (USAC) is the national university. It is also the largest university in the country, with a student population in excess of 100,000 students.

worker wages, the FRG administration raised minimum wages every year of its term, increasing the real value of the non-agricultural and agricultural minimum wages by 24% and 33% respectively between 2000 and 2004. No other administration has ever raised minimum wages in each of its four years in office.

The enactment and implementation of these two reforms is surprising not only because they were approved by the FRG administration, but also because they took place in Guatemala, a country whose weak State is infamous for its inability to uphold labor rights (Goldston 1989; Frundt 1987, 1998 and 2002; Fuentes 1998; Spohn 2002; Dosal 1995; Levenson-Estrada 1997; Segovia 2006). In Guatemala, forced labor was legal until 1944 (Dosal 1995; Yashar 1997). Unions were virtually outlawed between 1954 and the early 1980s, and workers faced constant repression from employers and employer-friendly military governments until the mid 1980s (Fuentes 1998; Levenson-Estrada 1997; Dosal 1995). The 1980s and 1990s witnessed a reduction in the size of the State and its regulatory role as the Washington Consensus advanced with its penchant for self-regulating markets. In addition, during the 1980s and 1990s, after the return to democracy in 1986, Guatemala constantly received international complaints for labor rights abuse. For instance, one mechanism of international censure was the United States Trade Representative's (USTR) revision of Guatemala's trade preferences under two trade programs: the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI). USTR revisions came in response to labor-based U.S. and Guatemalan group petitions denouncing inadequate labor regulation enforcement in Guatemala, and placed Guatemala's trade preferences under probation. Between 1986 and 2001, the

USTR revised Guatemala's trade preferences more times than any other Latin American country's preferences as a result of labor complaints (Frundt 1998).

Thus, this thesis mainly looks at the FRG labor reforms as a case of a weak Latin American State attempting to strengthen its labor market regulatory apparatus. In this effort, the State ran into conflict with private sector elites, namely the Big Boys and their followers in the CACIF. The thesis builds on Polanyi's (1944) work underscoring the role of the State in preventing the unbridled forces of the market from bringing social dislocation and the disruption of the fabric of society – what Polanyi refers to as the second movement of the “double movement.” Not only does Polanyi argue that this second movement is important for the fabric of society, but he also shows that it was crucial in ensuring the creation of functioning national markets (Chauhdry 1993). The thesis also looks to complement more recent literature on Latin America focusing on the region's governments' current push toward increased labor market State regulation not only to prevent social dislocation following the so-called Washington Consensus (Piore and Schrank 2006a and 2006b; Murillo and Schrank 2005), but also to promote economic development by seeking to “reconcile the public's demand for protection with the market's demand for efficiency” (Piore and Schrank 2006b, 4). As this literature shows, governments from Mexico to Argentina are carrying both *de jure* and *de facto* labor reforms to enhance the regulatory capacity of the State apparatus in the labor market.

Yet, the FRG labor reforms are also surprising because many of them survived the 2004 replacement of the FRG government with the Gran Alianza Nacional (GANNA)

government, despite this latter government's close relation with the Big Boys and their followers in the CACIF. Although the GANA administration did overturn the IGT responsibility to fine, and reduced the number of IGT labor inspectors by 13%, from 292 to 258, it also preserved several of the legal and administrative labor reforms. Among the legal reforms to the Labor Code, the GANA administration did not roll back the legality of harvest-time strikes, the yearly setting of minimum wages, and the streamlined and reinforced legal mechanisms governing union formation and organization. With respect to the administrative reforms, the underage and garment inspector units, the internship program for last year USAC law students, and several of the public campaign projects still exist today.

Explaining the Reforms and Their Post-FRG Survival

In late 1999, the FRG government was elected with 68% of the vote in a runoff against the incumbent PAN party's Big Boy and CACIF-friendly candidate Oscar Berger.¹⁰ With this landslide victory, the FRG not only captured the Executive, but also obtained a majority in the Legislature. Alfonso Portillo became the President of the country in early 2000, and Francisco Reyes Lopez took the Vice Presidency, while Juan Francisco Alfaro, the leader of the oldest union confederation in the country, the Confederacion de Unidad Sindical Guatemlateca (CUSG), was appointed FRG Minister of Labor. However, Alfaro died in 2002, and his place in the Ministry was first taken by Victor Hugo Godoy, a human rights advocate, and later by Victor Moreira, a former union leader in the

¹⁰ Berger ran again in 2004 as the candidate for the new business-friendly party GANA. He won the election with 54% of the vote.

Electricity Institute (INDE). In addition, the FRG also took control Congress and FRG leader Efraín Ríos Montt became its President in 2000.

Table 1-1. FRG Key Figures

FRG Official	Position in FRG Government
Alfonso Portillo	President (2000 – 2004)
Efraín Ríos Montt	President of Congress (2000 – 2004)
Francisco Reyes López	Vice-President (2000 – 2004)
Francisco Alfaro	Minister of Labor (2000 – 2002)
Víctor Hugo Godoy	Minister of Labor (2002 – 2003)
Víctor Moreira	Minister of Labor (2003 – 2004)

Because the Big Boys and their followers in the peak business organization CACIF could not place their delegates in key governmental and Ministerial positions and did not enjoy a close clientelistic relation with the FRG leaders, the FRG government (2000 – 2004) represented a significant break from the past. As explained above, the Big Boys are the seven or eight largest conglomerates in the country, all of them are family-held and globalized, depending crucially on international markets (Segovia 2006). The Big Boys are most heavily invested in agro-industry and industry, including beer, cement, rum, poultry, and sugar production, but they also hold interests in other economic activities such as commerce, finance, real estate and services. In addition, the Big Boys still have investments in the sector where most of them originated: traditional agriculture (e.g. coffee and sugar cane).

Since the return to democracy in 1986, the Big Boys permeated every Executive: representatives of the CACIF who were loyal to them and even the Big Boys' own employees were appointed to various Ministries and government positions. In addition, the Big Boys had what Segovia refers to as “door-knocker right”: they could organize

informal meetings with the highest ranking officials in the Executive to express their opinions and demands.¹¹ The FRG changed these practices, as it excluded the Big Boys and their followers from the Executive. This thesis refers to this phenomenon as the *shielding of the Executive*. The shielding of the Executive led to intense Big Boy – FRG public confrontations which eventually eroded FRG approval ratings as the Big Boys’ used the mass media and the CACIF’s public declarations to tarnish the government’s image. With the transfer of power from the FRG to the GANA in 2004, however, the Big Boys and their CACIF followers recovered their access to and influence over the Executive.

Interestingly, the Big Boys have a dual position regarding democracy: one for the internal politics of the peak business organization CACIF, and another for national level politics. The Big Boys are highly authoritarian within the CACIF. The CACIF is divided into sectoral chambers (e.g. commerce, finance, agriculture, industry) and associations (e.g. sugar, micro-enterprise, non-traditional exports), and in the past chambers and associations presented strongly divergent positions. However, over the years, as the Big Boys have increased their economic power relative to the rest of the CACIF members, the CACIF has become less democratic, since the Big Boys have come to dominate the decisions of the organization (Segovia 2006). Today, most of the CACIF positions respond directly to the demands of the Big Boys. This is evident in labor issues, where the CACIF labor commission, the premier private sector labor representative in tripartite negotiations with government and labor, bases most of its decisions on the positions of the Big Boys.

¹¹ They also met with high ranking officials in the Legislative and Judicial branches (Segovia 2006).

Paradoxically, at the national level, the Big Boys are die-hard advocates of democracy, as are most of their followers in the CACIF. Paige (1997) predicted this outcome for El Salvador as a result of production upgrading from an agrarian base to agro-industry, and increased globalization of the country's economic elites. Ironically, this author refused to extend his finding to Guatemala, even though democratization followed a similar path there as well. Partly because many of their export markets since the mid 1980s have been contingent on a democratic Guatemala, the Big Boys cannot allow a collapse of democracy: if the country were to return to authoritarian regimes, many of these markets, most notably the U.S. market, would be immediately closed to their products.

Additionally, in the past the Big Boys and other economic elites organized in the CACIF relied on the military – which for all intents and purposes is synonymous with the army (Schirmer 1998) – to organize armed coups against governments they oppose. However, starting in the late 1970s, the military and these economic elites steadily grew apart, and they finally broke their unholy alliance with the signing of the Peace Accords in 1996. In the Peace Accord negotiations, the Big Boys and their CACIF followers turned their back on the military, placing most of the blame for the atrocities committed during the war on the Armed Forces. Furthermore, the Big Boy-friendly Partido de Avanzada Nacional (PAN) administration (1996 – 2000) drastically reduced the defense budget and increased civilian control over internal military affairs. This military – Big Boy and CACIF break cemented the Big Boy commitment to democracy, a commitment which played a central role during the FRG government: the Big Boys and their followers did not organize a

coup to depose the shielded FRG administration, even though they strongly disagreed with the administration's policies.

Yet, Paige's (1997) accurate prediction of the establishment of democracy contrasts with the absent accuracy of his stance on changing labor practices. Paige (1975 and 1997) argued that the transformation from agrarian production to agro-industrial production entailed a move from zero-sum to positive-sum relation between employers and employees: in agrarian production, employers depended on control over land and peasants to maintain their position, and could not allow labor condition improvements that could challenge the status quo; in agro-industry, such control was not necessary. Thus, he predicted that labor wages and conditions would improve following the upgrading process from agrarian to agro-industrial production. However, even though the Big Boys and their CACIF followers support democracy at the national level, they are not open to enhanced public labor regulation enforcement. This became evident in their opposition to the FRG labor reforms, especially the legal reforms to the Labor Code. Fortunately, despite their overwhelming economic and political power, the Big Boys could not penetrate the FRG Executive to block the reforms.

Returning to the FRG administration, the FRG Executive was shielded from Big Boy control and influence because it successfully formed a coalition that could counterweight the economic and more importantly, political power, of the Big Boys and their followers in the CACIF. To do so, the FRG enlisted the support of the military, and what this thesis refers to as the "renegade" elite. Both of these supporters provided campaign

funds as well as voters, and also staffed FRG government offices. In other words, like its predecessors, the FRG engaged in clientelistic relations, but it did so with the military and the renegade elite instead of the Big Boys and the CACIF. The military supported the FRG for at least three reasons: first, the FRG leader, Efraim Rios Montt, was a general in the Armed Forces and a teacher to many of the military leaders. Second, the Big Boy and CACIF-friendly PAN party, the main FRG opposition force and the party governing the country before the FRG, had negotiated the 1996 Peace Accords which, as explained above, placed most of the blame for the war atrocities on the military (Beard 2001)¹² while the CACIF, which had been closely allied with the military, emerged practically unscathed. Third, the PAN administration (1996 – 2000) had also weakened the Armed Forces by lowering the Ministry of Defense budget and removing some of its leadership. Thus, with the FRG, the military hoped to regain some of its lost political legitimacy, and more importantly, increase the budget of the Ministry of Defense, despite directions to the contrary in the Peace Accords. In addition, the military hoped to maintain its access to political power through the Estado Mayor Presidencial (EMP),¹³ which the Peace Accords also stipulated should be dismantled.

Meanwhile, the renegade elite were businessmen who parted file from the Big Boys and their followers in the CACIF to support the FRG administration. Led by the FRG Vice President Reyes Lopez, a truck company owner, the renegade elite also included a wealthy banker; the country's second largest fertilizer importer; and the owner of almost

¹² Interview with Anonymous Academic 2, July 19, 2006.

¹³ A military structure supposedly in charge of the President's security. However, many of its members were accused of serious human rights violations during and after the Civil War (1960 – 1996). The military strongly opposed dismantling this structure (Beltrán and Peacock 2003).

all the television channels in Guatemala, among others (Palencia 2002). This renegade elite had at least three characteristics that distinguished it from the Big Boys and their followers: first, they were “self made men” (Cammett forthcoming) in the sense that they did not belong to the traditionally powerful families of Guatemala; second, some of them had links to the military, for instance Vice President Reyes Lopez, was a former military man; and third, some of them were involved in illicit activities (Palencia 2002).

However, the deeper division between the Big Boys and their followers on the one hand, and the renegade elite, on the other, revolved around status: the Big Boys and their followers in the CACIF looked down on the renegade elite as a second-class elite because of the latter’s non-oligarchic, military- linked background and illicit dealings. Thus, the renegade elite saw the FRG government as an opportunity for enrichment that could circumvent the entrenched and much greater power of the opposing Big Boys and their followers. They hoped to obtain Ministry positions, government contracts and beneficial tariffs, among other privileges, from the FRG administration.

The importance for this thesis of the FRG’s ability to form an alternative coalition in order to exclude the Big Boys from the Executive rests on the Big Boys and their followers in the CACIF’s traditional opposition to labor reforms such as those of the FRG. In the past, representatives of the Big Boys and the CACIF in the Executive could consistently block labor reform attempts in order to keep the Guatemalan State weak and unable to regulate the labor market. For instance, many times labor reform discussions took place in tripartite commissions where the CACIF labor commission – the body traditionally representing the Big Boys and their followers – union members and

government reached “agreements” on labor conditions, regulation and enforcement. Nonetheless, since they were permeated by Big Boy and CACIF-friendly officials, previous governments always sided with the CACIF labor commission to the detriment of unions. With the FRG administration, however, the Big Boys and their followers did not have direct control over Ministers and other key FRG Executive figures, and thus could not prevent the shielded FRG Executive from enacting and finally implementing the legal and administrative labor reforms.

More concretely, the FRG exclusion of the Big Boys from the Executive allowed labor-friendly FRG Labor Ministers Alfaro, Godoy and Moreira, with the strong backing of Vice President Reyes Lopez, to advance in their reform efforts. Much of the literature on bureaucracies indicates that embedded, Weberian bureaucrats are of integral importance in reform processes (Evans and Rauch 1999; Evans 1989). In Guatemala, two of the Ministers, Alfaro and Moreira, were embedded in the labor movement, since they came from the labor union sector. The third Minister, Godoy, had a history as a human rights advocate. Additionally, the three Ministers of Labor had long careers and were highly experienced in labor issues, thus enjoying Evans’ (1989) Weberian characterization. Within the Executive, and later in the Legislature, they succeeded in garnering enough support for their reforms, partially corroborating the literature claims. At the same time, as the FRG labor reforms show, such embedded, Weberian Ministers, although important, are not enough to enact and implement a reform. This thesis claims that the FRG Ministers of Labor succeeded in their efforts because they were working within an shielded Executive where the Big Boys and their followers had little room to block them.

As in the case of the Labor Ministers, the FRG's exclusion of the Big Boys from the Executive enhanced the U.S. government's influence on Guatemalan national labor policy. The U.S. government relied on the threat of trade sanctions to influence government policy. Much of the literature on Latin American labor draws a direct connection between U.S. trade sanctions and labor condition improvement (Frundt 1998 and 2002; Ambruster-Sandoval 1995). However, as this thesis argues, for U.S. trade pressure to be most effective at the national level, it must traverse domestic government channels (i.e. the Minister of Labor, Congress, and the Executive) whose openness varies from administration to administration: the presence of the Big Boys in the Executive usually narrows these channels, as they oppose "imperialist" interventions seeking to enhance labor market regulation by the State. Thus, labor improvements do not follow automatically from trade pressures: domestic political conditions mold the effects of these pressures. During the Portillo administration, channels that U.S. government trade pressures could traverse were more open because there were labor-friendly Ministers of Labor working within an Executive that did not suffer from the constant influence and control of the Big Boys and CACIF. In fact, the FRG Labor Ministers and Vice President used the threat of U.S. trade sanctions to garner support for the reforms within the Executive, and more importantly, in Congress. Therefore, the effectiveness of U.S. pressures was enhanced by the FRG's exclusion of the Big Boys and the CACIF from the Executive.

It is also important to note that the FRG supporters – the military and the renegade elites – did not oppose the reforms. The military remained neutral with regard to the FRG labor reforms for at least three reasons: first, the reforms targeted the urban, not the rural, workers. During the Civil War, most of the military repression took place in rural areas against Indigenous peasants, where the military strategy envisioned control over the population as the way to defeat the guerrillas. But urban areas were under much less military control, and thus the military was not as sensitive to reforms that potentially enhanced worker mobilization in these areas. Second, important factions within the military supported a limited redistribution of resources as a way to prevent any type of “Communist” uprising. As these military factions reasoned, much of the past guerrilla mobilization responded directly to Guatemala’s high levels of inequality. This doctrine underpinned the policy decisions of some of the military governments of the 1970s and 1980s, most notably the governments of Kjell Laugerud (1974 – 1978) and FRG leader Efraín Ríos Montt (1982 – 1983). Third, the military was unaffected by the reforms, as a completely different set of labor regulations prevails within the Armed Forces.

Similarly, the renegade elite chose not to oppose the reforms for at least two reasons: first, the FRG government selectively used the reforms to target the Big Boys and their followers in the CACIF, creating an advantage for the renegade elite, which did not have to worry about increased labor costs. As several interviewees declared, the FRG government many times used the IGT as a political weapon against its opponents, most importantly the Big Boys and their followers in the CACIF. The second reason why the renegade elites supported the reforms was because many of them were involved in

industries with low labor intensity. Thus, the reforms did not significantly affect the renegade elite's cost structures even if the reforms' enforcement had been targeted toward them.

Therefore, the FRG's exclusion of the Big Boys and CACIF from the Executive explains the administration's ability to enact and implement the legal and administrative labor reforms. Within this shielded FRG Executive, labor-friendly Ministers of Labor, with the support of the Vice President and the U.S. embassy, could garner the necessary support for the reforms, while the Big Boys and their followers stood by helplessly. The result of this Executive shielding was the far-reaching legal and administrative labor reforms to the Labor Code and the Ministry of Labor's (MTPS) Labor Inspection (IGT).

The election of the Big Boy and CACIF –friendly GANA party in 2004 appeared to signify the demise of the FRG labor reforms, but the actual experience under the GANA proved skeptics partially wrong. Although the GANA administration did limit the coercive regulatory capacity of the IGT, it maintained many of the other FRG reforms. Much of the GANA administration's decision not to overturn all the reforms rests on the exceptional political conjuncture: at the time, the U.S. Congress was debating whether to approve the United States – Dominican Republic Central America Free Trade Agreement (US-DR CAFTA or CAFTA), and the U.S. government and Congress placed much attention on labor conditions in Guatemala. Most importantly, U.S. labor unions, consumer groups and business associations were actively lobbying U.S. Congressmen to block the agreement, focusing much of their anti-CAFTA campaign on Guatemala's poor

labor rights protection record. Therefore, the GANA administration had to stop short of overturning all the FRG labor reforms. Indeed, it even used some of the FRG labor reforms as proof to the U.S. government and Congress that labor conditions and labor regulation enforcement in Guatemala had improved.

Thesis layout

This thesis begins by examining the path of enactment and implementation of the FRG labor reforms. Chapter Two presents the reforms and their different characteristics, also describing the actors involved in their planning and negotiation. Negotiations among these actors mostly surrounded the legal reform to the Labor Code requiring Executive and Congressional approval. These negotiations took place both within the FRG administration, and also between the FRG administration and the Big Boys and their followers represented by the CACIF labor commission. Labor unions organized into two large confederations, the Unidad de Acción Sindical y Popular (UASP) and the Unión Guatemalteca de Trabajadores (UGT), and the U.S. Embassy in Guatemala also played an important role in the negotiations. On the other hand, the administrative reforms only involved the Executive and not Congressional approval, and thus required much less negotiation.

Within the FRG administration, negotiations concerning the legal reform to the Labor Code took place between the camps of the two FRG strong men: President of Congress Efraín Ríos Montt, and Vice President Francisco Reyes López. A third FRG leader, President Alfonso Portillo, lost much of his power to Reyes López early in the FRG term

and held little sway in the negotiations. Vice President Reyes Lopez, who held most of his power within the Executive, where he appointed Ministers and Vice Ministers loyal to him, supported a legal reform proposal to the Labor Code which exceeded the requirements of the observations which the International Labor Organization's (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR) had been making since 1989. Among his loyal Ministers were Juan Francisco Alfaro, the first FRG Labor Minister (Minister from 2000 – 2002); and Victor Moreira, the third FRG Labor Minister (Minister from 2003 – 2004). Alfaro initiated the legal labor reform process, while Moreira accelerated the administrative reforms to the IGT. Straddling the terms of Alfaro and Moreira was Minister Victor Hugo Godoy (Minister from 2002 – 2003), who Vice President Reyes Lopez quickly removed from his position after only one year because of Godoy's loyalty to President Portillo and not to him.

Meanwhile, Rios Montt controlled an obedient Congressional majority which “was not subordinate to the Executive.”¹⁴ Unlike Reyes Lopez, Rios Montt was much more hesitant about the Executive's legal labor reform proposal exceeding the CEACR observations, fearing the opposition of the Big Boys and their followers in the CACIF. Therefore, Chapter Two describes how the Executive and Legislature led by Reyes Lopez and Rios Montt respectively, negotiated and finally came to an agreement – with the important intervention and support for the reform of the U.S. government represented by its ambassador Prudence Bushnell – on the legal reform to the Labor Code. As described above, the legal reform finally exceeded the CEACR observations. The Chapter also

¹⁴ Interview with Anonymous FRG Minister, March 16, 2006.

describes the process of administrative reform to the IGT which was internal to the Executive and thus involved less negotiation between the two FRG strong men.

Furthermore, Chapter Two examines the legal reform negotiations between the FRG government and other important actors, most significantly the CACIF labor commission representing Big Boys and their followers. Even though the CACIF labor commission had previously refused to reform the Labor Code to comply with the ILO's CEACR observations, it chose to support a legal reform fulfilling these observations after the election of the FRG. The explanation for this decision rests on the CACIF labor commission's awareness of the FRG's intent to push for a reform with or without Big Boy support. At the very least, the CACIF labor commission wanted to have a say in the reform. Thus, it chose to propose a labor reform adhering strictly to the CEACR observations with the mistaken expectation that this alternative would stymie the FRG Executive's intention of enacting and implementing a legal reform which not only fulfilled the CEACR observations, but also exceeded them. However, as the Chapter describes, this CACIF labor commission's effort did not prevent the FRG Executive from obtaining Congressional ratification for its broader legal reform to the Labor Code.

Lastly, Chapter Two examines how the successor government of the FRG government (2000 – 2004), the Big Boy and CACIF-friendly GANA administration (2004 – 2008), did not overturn all of the labor reforms of the FRG. As explained above, the GANA's decision was a result of the U.S. Congress' CAFTA discussions and the intention of the

IANA administration to show that labor conditions and labor regulation enforcement in Guatemala had improved.

Chapter Three then turns to an explanation of why the labor reforms were enacted and ratified by the FRG administration, and why they took the characteristics described in Chapter Two. The chapter describes the importance for the reforms of the FRG's exclusion of the Big Boys and CACIF from the Executive. As the chapter explains, this shielded FRG Executive came as a result of renegade elite and military support. The chapter also looks at the enhanced role of the FRG Labor Ministers and U.S. Ambassador within this shielded FRG Executive. Finally, the chapter examines the opposition to the reforms of the Big Boys and their followers, but also underscores their unyielding commitment to democracy as a crucial reason behind the success of the FRG reforms' enactment and implementation process.

Final Note

It is important to underscore that this thesis is not a defense of the FRG administration or of its leader, General Efraín Ríos Montt. Neither does it attempt to defend or criticize any other government before or after the FRG administration. Instead, this thesis simply attempts to faithfully describe the two labor reforms of the FRG administration, and to provide an account for their timing and direction.

A few months ago, while I was explaining the FRG labor reforms as positive, impressive advances in Guatemala's labor history, a family member interrupted me and asked, "For

whom were the FRG labor reforms a positive, impressive advancement, for workers or for employers?” I had asked myself this question several times before then, and it seemed that the natural answer was that they favored labor, something which my family member, himself a businessman, seemed to assume. However, as I explained to him, I believe that the significance of these reforms lies beyond this labor versus capital debate: their significance is found in their enhancement of the State’s capacity to enforce labor market regulation, as I explained to my family member, “in their reinforcement of the rule of law in Guatemala.” This advancement, I believe, is beneficial to both labor *and* capital in the path to economic development.

Chapter 2

Enacting and Implementing Labor Reforms:

The Legal Reform to the Labor Code and the Administrative Reform of the Labor Inspection

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In 1989, the International Labor Organization's (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR) submitted its first observations on Guatemala's status regarding two of the country's ratified ILO conventions: 87 on the Freedom of Association and Protection of the Right to Organize, and 98 on the Right to Organize and Collective Bargaining. The CEACR observations addressed the burdensome requirements for unionization of the country's Labor Code, especially in terms of the requirements to form a union committee and call a strike; underscored the excessive "supervision of trade union activities by the Government" (CEACR Observations 1999); and demanded the legalization of harvest-time strikes for agricultural workers. The CEACR submitted the same observations year after year throughout the 1990s.¹⁵ However, until 2001, no Guatemalan government seriously addressed them.¹⁶

¹⁵ The ILO's CEACR made the same observations in 1989, 1991, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 and 2001 (ILO).

¹⁶ Some of the CEACR observations were partially addressed by a 1992 legal reform to the Labor Code. However, as Frundt (1998) explains, these reforms were not enforced. The next chapter returns to a more detailed description of the 1992 legal reforms.

In 2001, the Frente Republicano Guatemalteco (FRG) administration (2000 – 2004) finally enacted and implemented a substantial legal reform to the Labor Code which not only fulfilled most of the CEACR requirements, but more importantly, exceeded them by addressing issues concerning State labor regulation enforcement and minimum-wage setting.¹⁷ The main thrust for the legal reform came from a weak Executive which, among other things, sought to strengthen its labor market regulatory apparatus. In the previous two decades, the Washington Consensus had limited the State's regulatory capacity, allowing the unbridled forces of the market increase social dislocation and inequality. It was the weakened Executive produced by the Washington Consensus – an Executive which in 2001 was under the control of the FRG party – which led the push for the legal labor reform that fulfilled and exceeded the demands of the CEACR observations, and increased the State's regulation of the labor market. Instrumental in this Executive push were Vice President Juan Francisco Reyes Lopez and Minister of Labor Francisco Alfaro. To obtain ratification by Congress of the legal reform to the Labor Code, the FRG Executive had to overcome the opposition of the Big Boys, the largest conglomerates in the country, and their followers organized in the peak business organization *Comite de Organizaciones Agricolas, Comerciales, Industriales y Financieras (CACIF)*.

¹⁷ The Executive's defense of the reform also emphasized the role it played in satisfying the requirements set forth by the Peace Accords, specifically by Accord Number 26 on Socioeconomic Aspects and the Agrarian Situation. The two requirements cited by the Executive were to punish legal violations with severity, and to make the imposition of fines effective on those who fail to comply with the labor regulation (Expediente Decreto 18-2001). In its reform defense, the Executive received support from the Special Representative of the United Nations General Secretary to Guatemala in a letter sent to Minister Alfaro on May 8, 2001 (Expediente Decreto 18-2001). CACIF also recognized the importance of the Peace Accords in a law initiative it presented entitled "Redacción que satisface los Requisitos de la OIT y los Acuerdos de Paz" (May 10, 2001).

In addition, the FRG Executive also implemented an administrative reform to revitalize the Labor Inspection (Inspeccion General del Trabajo, IGT) of the Ministry of Labor (Ministerio de Trabajo y Prevision Social, MTPS). This administrative reform complemented the legal reform to the Labor Code. The central objective of this administrative reform was to enhance the IGT's capacity to enforce the new legislation.

The path of labor reform enactment and implementation determined the number of required negotiations. Both reforms emerged without much negotiation from within the FRG Executive, where the Big Boys had no representation and thus could not block the reforms: the FRG was the first government since at least the return to democracy in 1986 in which the Big Boys had no Ministers or high-placed officials favorable to them and no direct channels of communication – what Segovia (2006) calls the “door-knocker right” – to contact government officials to ensure satisfaction of their demands. Since the administrative reform of the IGT only required Executive approval, the Big Boys and their followers had little room to block the reform. However, in the case of the legal reform to the Labor Code, which unlike the administrative reform also required Legislative approval, the Big Boys and their followers held influence in different parties and commissions represented in Congress and used these channels in an effort to block them. With that said, the Big Boys and their followers also found other ways to limit the effects of the administrative reforms, most directly by shirking the new regulations and refusing to comply with the IGT.

The two labor reforms yielded substantial results. This chapter examines the effects of the reforms in two areas: 1) worker wages and collective rights, and 2) the State's regulatory capacity. As it concludes, the two labor reforms yielded substantial results, especially in terms of the capacity of the State to enforce labor regulation. In terms of State regulation enforcement, for instance, fines collected from noncompliant firms increased from about Q. 53 thousand to Q. 1.5 million between 2001 and 2003. Similarly, settled cases of firms found in noncompliance with labor regulation rose substantially from 136 to 923. With regard to worker wages and collective rights, minimum wages increased by 24% and 33% for the non-agricultural and agricultural sectors respectively.

Surprisingly, most of the FRG's legal and administrative reforms survived after the transition from the FRG administration to the Big Boy and CACIF-friendly Gran Alianza Nacional (GANA) government in 2004, where once again the Big Boys were directly represented by government officials. As the last section of this chapter explains, although the GANA did overturn some of the FRG labor reforms, most notably restricting the IGT's fining capacity, it could not overturn all the reforms. This GANA decision directly responded to the impending U.S. Congress decision on whether to ratify the United States – Dominican Republic Central America Free Trade Agreement (US-DR CAFTA or CAFTA), a decision which partly hinged on Guatemala's labor regulation enforcement and labor conditions record.

The Legal Reform to the Labor Code

As Murillo and Schrank (2005) argue, over the past few years many of Latin America's labor codes have been reformed so as to make them more favorable to labor. As these authors explain, quoting Ruth Berrins Collier and David Collier (1979), labor codes are noteworthy because they provide "a highly visible and concrete policy statement around which political battles are fought, won, and lost, and around which political support is attracted, granted, and withheld" (Murillo and Schrank 972 quoting Collier and Collier 971). Meanwhile, Piore and Schrank (2006a) argue that "the labor law reforms anticipated by proponents of the Washington Consensus have not only been 'limited to a few countries'... but have arguably been more likely to expand rather than curtail the scope of worker protection," leading "many countries to rededicate themselves to labor-law enforcement." As the claim, the results of these efforts have been "neither trivial nor cosmetic" (Piore and Schrank 2006a, <http://bostonreview.net/BR31.5/pioreschrank.html>).

In Guatemala, the FRG legal reform to the Labor Code came in two phases. In a first phase, the FRG Executive and the FRG-controlled Legislature cornered the Big Boys and their followers, who had always opposed such labor reforms and who were represented by the peak business organization CACIF's labor commission, into participating in the reform negotiations. The CACIF labor commission, comprising lawyers and businessmen, was the traditional private sector representative body in tripartite labor negotiations. The FRG government presented the Big Boys and their followers represented by the CACIF labor commission with two options: they could participate in the tripartite negotiations and have a voice in the legal reform to the Labor Code seeking

to address the CEACR negotiations, or they could simply watch as the FRG Executive implemented its own reform. Additionally, the FRG administration included the largest union confederations, the Union Guatemalteca del Trabajo (UGT) and the Unidad de Accion Sindical y Popular (UASP) in the negotiations. Together, the CACIF labor commission and the unions submitted a legal reform proposal approved by Congress as Decree 13-2001. The Decree centered on facilitating the formation and organization of unions.

However, because Decree 13-2001 only addressed some of the CEACR observations, the FRG Executive proceeded unilaterally with a second phase of legal reform. In this second phase, the FRG Executive presented a proposal that not only addressed the remaining CEACR observations, but more importantly improved the State's tools to enforce labor regulation and set minimum wages yearly. The FRG Executive proposal obtained Congressional ratification as Decree 18-2001, despite Big Boy and CACIF opposition.

Decree 13-2001

On May 17, 2001, the FRG-controlled Executive, through newly elected President Alfonso Portillo, submitted a Labor Code reform initiative to Congress¹⁸ which sought to change forty Labor Code articles. In addition to the CEACR observations, it included other important revisions to the Labor Code, such as the transfer of fining responsibilities

¹⁸ Legal initiative 2279.

from the Labor Courts to the Ministry of Labor's Inspection (Portillo, 2000).¹⁹ Until then, inspectors presented their reports of noncompliant firms to Labor Courts which would then determine whether firms were in fact breaking the law, and if so, how much they should pay in fines. Virtually all sectors of society agreed that this fining process was slow and inefficient (Spohn 2002; Expediente Decreto 18-2001).²⁰ In defense of the fining capacity transfer from the Labor Courts to the IGT, the draft initiative argued that

“the procedure proposed is contemplated in Convention 129 of the International Labor Organization (ILO), which is a law for Guatemala because it was ratified by the Guatemalan Congress in 1972, and which explains in one of its articles that persons who violate or fail to comply with the legal dispositions under the supervision of the labor inspectors, must be submitted immediately, without previous notice, to a judicial *or* administrative procedure...” (Expediente Decreto 18-2001, 24; italics added).

The Executive's reform initiative was enacted by newly appointed Minister of Labor Juan Francisco Alfaro with the acquiescence of Vice President Francisco Reyes Lopez after the Minister negotiated it with unions (Portillo, 2000).²¹ The main Big Boy labor representatives, the CACIF labor commission, did not partake in the negotiations. The Big Boys and their followers were boycotting all tripartite committees following the FRG government's unilateral decision to increase minimum wages on January 26, 2000 (Spohn 2002; Banco de Guatemala).

After receiving the Executive's Labor Code reform initiative on May 17, 2000, an FRG-controlled Congress presided by FRG leader Rios Montt debated it on June 7, 2000. Due

¹⁹ As Spohn explains, the judicial procedure involves the Labor Courts, while the administrative procedure involves the Labor Inspection (Spohn 2002).

²⁰ Interview with Alejandro Argueta, August 8, 2006; interview with Ricardo Changala, July 13, 2006; interview with Francisco Mendoza, July 14, 2006; interview with Anonymous Labor Unionist 7, July 19, 2006; and interview with Carlos Arias, July 31, 2006.

²¹ Interview with Francisco Reyes Lopez, March 19, 2007; and interview with Anonymous FRG Minister, March 16, 2007.

to technical errors, however, it was quickly removed from Congressional consideration on that same day (Expediente Decreto 18-2001).

The Executive's effort, nonetheless, was not lost on the Big Boys and their followers, who realized that the FRG Executive would push for substantial labor reforms with or without their consent. In addition, as the Big Boys and their followers knew, Minister Alfaro was drafting a new reform initiative that closely resembled the one rejected by Congress. Thus, in September 2000, the representative body on labor issues of the Big Boys and their followers, the CACIF labor commission, returned to the tripartite bargaining table, a Labor Ministry body designed for government – union – private sector negotiations.

The Big Boys and their followers, represented by the CACIF labor commission, did not support the first reform initiative that the Executive had sent to Congress in May of 2000, and sought to negotiate a new one with the union sector. They believed that the most viable strategy, given the resolute position of the FRG government on the labor reform, was to present a less demanding Labor Code reform proposal than that of the FRG. As the Big Boy representative CACIF labor commission calculated, their alternative proposal would quell the FRG's labor reform "hunger." In this effort however, obtaining the allegiance of an independent but weak labor union sector²² through bipartite

²² As Mendoza (2005) argues, currently there are 1541 registered labor organizations in the Ministry of Labor, with 804 of them currently active. Of them, less than 200 are found in traditional enterprises or economic sectors, as most of these labor organizations are found in the private sector or among independent workers. Additionally, the author explains that the official rate of unionization is between 2% and 4% of the employed population.

negotiations was crucial as it would present an apparently united front against the FRG proposal. As Guido Ricci, a leading member of the CACIF labor commission noted,

“the political environment demanded [that we return to the bargaining table]. It was a completely adverse government that was willing to pass the reforms at their pleasure regardless of the CACIF position. Given the situation, the only tool left was to go for a bipartite agreement that would take the Executive out of the game and place the CACIF in direct negotiation with the workers... The idea was to deliver a final product based on a consensus, a product that reflected the desires of the people based on the participation of employers and workers, and that therefore would be difficult to reject by the Congress. Congress had to respect it.”²³

Pressures by the United States Trade Representative (USTR)²⁴ also played an important role in the Big Boys’ representatives’ return to the bargaining table. Because the USTR was expected to announce whether it would review Guatemala’s trade preferences under the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) trade programs²⁵ in October 2000, the Big Boys and their followers worried about losing the country’s benefits under the two trade programs: if after the review, the USTR found that Guatemala was not enforcing labor regulation, he could exclude the country from the GSP and CBI. They also feared that the Executive would take advantage of the crisis created by the USTR pressures to move Minister Alfaro’s reform initiative through Congress. As the CACIF labor commission representative Ricci continued,

“There was an important risk of losing GSP and CBI [trade] benefits... So, on the one hand, we had the GSP pressure, but we also had the pressure of [reacting to] an opposing, highly antagonistic government. The only way out was to negotiate with the workers in order to force the Congress to respect what the people demanded.”²⁶

²³ Interview with Guido Ricci, August 25, 2006.

²⁴ At the time, the USTR was Robert Zoellick.

²⁵ See Chapter 3 for a more detailed explanation of this revision procedure.

²⁶ Interview with Guido Ricci, August 25, 2006.

As many expected, in October 2000 the USTR decided to place Guatemala's GSP/CBI trade preferences under revision. The USTR gave the government of Guatemala until the end of April 2001 to address the CEACR observations.

Between the USTR's October 2000 decision and March 15, 2001, the CACIF labor commission and representatives of the two largest unions in the country, the UASP and UGT, negotiated, but the two parties could not reach an agreement on how to reform the Labor Code to address the CEACR observations. In light of this impasse, the Executive presented Congress with a second initiative of reforms on March 15, 2001 (Expediente Decreto 18-2001).²⁷ Like the first reform initiative, this second initiative was drafted by Minister Alfaro with the support of Vice President Reyes Lopez. It was very similar to the first initiative that the Executive had presented to Congress in May 2000. As the first reform initiative, this second initiative went beyond addressing the CEACR observations, focusing on issues of labor regulation enforcement and minimum wages setting.

The Executive's second reform initiative encountered strong opposition from both the Big Boys and their CACIF followers and, ironically, the unions. Unions felt that it did not fulfill the demands that they had negotiated with the Minister in early 2000, especially those concerning strikes in the public sector. At the same time, the Big Boys and their followers, as well as opposition parties in Congress, opposed the proposal because, they argued, it was not consensual: it was a similar version of the first reform initiative, but the CACIF labor commission had not participated in the

²⁷ Legal initiative 2428.

first reform initiative's negotiations in 2000. Thus, both the Big Boys and the opposition parties complained that not all actors affected by the new reform initiative had been involved in their enactment.

Notwithstanding these objections, Congress held two debates on the new initiative on March 27 and 28, 2001, but did not ratify it. Given the FRG's control of Congress and of the Executive, the Legislature's failure to ratify the initiative is explained by internal divisions within the governing FRG party. As an interviewee who served in the FRG government explained, the FRG party was divided into two camps: the Rios Montt and Reyes Lopez camps. On the one hand, the Reyes Lopez camp, led by Vice President Reyes Lopez, held most of its power in the Executive. On the other hand, the Rios Montt camp, headed by President of Congress Rios Montt, fully controlled Congress. As this interviewee argued, "In Congress, Rios Montt held the final word and no FRG Congressmen moved unless he was ordered to do so by the General [Rios Montt]." Thus, the interviewee continued, in late March 2001 Congress did not ratify the second reform proposal because Minister Alfaro and Vice President Reyes Lopez were unable to convince Rios Montt of the importance of doing so. Rios Montt feared the reactions to the reforms of the Big Boys and their followers in the CACIF.²⁸

²⁸ Interview with Anonymous FRG Minister, March 16, 2007.

In light of his misgivings, President of Congress Efraín Ríos Montt presented the CACIF labor commission and the unions²⁹ with a compromise in early April 2001: instead of immediately approving the Executive's second reform package, he would give them until April 20 to reach an alternative agreement (Spohn 2002). As Ríos Montt reminded both parties, the USTR would deliver his verdict concerning Guatemala's trade preferences under the GSP/CBI in late April 2001. Moreover, as he informed the CACIF labor commission and the labor unions, if they did not submit an alternative, Congress would approve the Executive's second thirty seven-point reform initiative.

At the bargaining table, the CACIF labor commission and the unions held diametrically opposite positions. Unions based their negotiation position on the forty-point first reform initiative that the Executive presented to Congress in May 2000. The CACIF labor commission focused solely on fulfilling the less demanding ILO CEACR observation requirements (Spohn 2002). Surprisingly, the two parties reached an agreement despite their divergent initial positions, and delivered their final product on April 20, 2001. Their agreement was approved by Congress on April 25, 2001 as Decree 13-2001.³⁰ Because Congress defined it as a matter of national urgency given the impending USTR decision Guatemala's GSP and CBI trade preferences, the Legislature did not even debate the content of the

²⁹ Represented by the two largest confederations, the Unión Guatemalteca del Trabajo (UGT) and the Unidad de Acción Sindical y Popular (UASP).

³⁰ Proposed as legal initiative 2441. Many of the reforms proposed in this initiative had also been included in both of the previous Executive initiatives.

joint CACIF labor commission-union reform initiative, approving it immediately (Expediente Decreto 13-2001).

As it appears from Table 2-1 below, the CACIF labor commission representing the Big Boys and their followers gained the upper hand in the negotiations. The joint eight-point reform proposal only addressed some of the CEACR observations and did not extend beyond them, as unions had hoped. Most of its changes targeted unions, seeking to facilitate their formation and organization by eliminating requirements such as the Guatemalan nationality for union leaders and the two thirds majority vote of firm workers to call a strike (see Table 2-1). It also reduced government supervision of union activities as the State was no longer a guardian of unions, but only had to ensure that conditions were adequate for union formation. Additionally, the State's meddling in union's financial accounting was also prohibited. However, one of the main sticking points in the labor union – CACIF labor commission negotiations was agricultural workers' right to organize during harvest season, which the final agreement did not legalize.³¹ CACIF labor commission members, representing the Big Boys, were ecstatic with the results of the negotiations,³² while the union leadership expressed its disappointment “because [the reform did] not attempt to modify [the Labor Code] in a substantial and profound way, as [the labor movement] expected” (Jose Pinzón, LH 04/26/01). However, unions chose to sign the agreement because they were skeptical that the

³¹ The right to strike of government workers was also at issue, but would never get resolved because the FRG administration continually blocked it.

³² The agreement was truly “historic” as a CACIF representative pointed out, given that unions and the CACIF labor commission were able to present a joint proposal.

FRG would obtain support for a more ambitious reform. Minister Alfaro echoed the union leadership's disappointment, chastising Congress for failing to ratify neither one of the two reform initiatives presented by the Executive (Diario La Hora 2001).

Table 2-1. Decree 13-2001: Articles changed to address ILO CEACR Observations

ILO CEACR Observation	Labor Code articles changed
1. the strict supervision of trade union activities by the Government (section 211(a) and (b) of the Labour Code);	211, 221, 234
2. limiting the possibility of participating in the establishment of a provisional trade union executive committee or to be elected a trade union official to Guatemalan nationals (new paragraph, sections 220(d) and 223(b));	220, 223
3. the requirement for the members of the provisional trade union executive committee to make a sworn statement to the effect that, amongst other matters, they have no criminal record and that they are active workers in the enterprise or self-employed workers (new paragraph (d) of section 220);	220
4. the requirement of being active workers at the time of election and that at least three are able to read and write (section 223(b));	223
5. the obligation to obtain a two-thirds majority of the workers of the enterprise or workplace (section 241(c)) and of the members of a trade union (section 222(f) and (m)), to be able to declare a strike;	222, 241
6. the prohibition of a strike or suspension of work by agricultural workers during the harvests, with several exceptions (sections 243(a) and 249);	
7. the prohibition of a strike or suspension of work by workers of enterprises or services, whose interruption would, in the Government's opinion, seriously affect the national economy (sections 243(d) and 249);	
8. the possibility of calling upon the national police to ensure continuity of work, in the event of an unlawful strike (section 255);	255
9. the detention and trial of persons who try to publicly call an illegal strike or suspension of work (section 257);	
10. the imposition of a prison sentence ranging from one to five years for persons who carry out acts intended not only to cause sabotage or destruction (which do not come within the scope of the protection offered by the Convention), but also to paralyse or disrupt the functioning of enterprises which contribute to the economic development of the country with a view to jeopardizing national production (section 390(2) of the Penal Code);	
11. the imposition of compulsory arbitration without the possibility of having recourse to strike action in public services which are not essential services in the strict sense of the term, in particular public transport and services related to the supply of fuel (section 4(d) and (e) as amended by Order 35-96 of 27 May 1996).	

Decree 18-2001

Even after Congress approved Decree 13-2001, Minister Alfaro and Vice President Reyes

Lopez did not give up on the second, thirty seven-point reform initiative that the

Executive had submitted to Congress on March 15, 2001 and which had the primary objective of enhancing the State's regulation of the labor market. Thus, they set out to convince the Rios Montt camp in the Legislature of the importance of ratifying the Executive's initiative. In this endeavor, Alfaro was especially well-placed given his long, friendly relationship with Rios Montt, which dated back to the early 1980s.³³ Moreover, Minister Alfaro and Vice President Reyes Lopez found support for their effort in the U.S. ambassador to Guatemala, Prudence Bushnell.

On May 3, 2001, shortly after Congress' approval of Decree 13-2001, Ambassador Bushnell, with the blessing of the State Department, visited Rios Montt and the Congressional leadership. Her demands were straightforward: the USTR would extend the revision of Guatemalan trade preferences under the GSP/CBI trade programs, which was supposed to end in April 2001, until late May 2001. By then, she explained, the Guatemalan Congress was expected to have approved those reforms in the Executive's second initiative which had not been included in Decree 13-2001. If not, the USTR would likely revoke Guatemala's trade preferences (Spohn 2002).

The Ambassador's visit to Congress triggered a litany of complaints by the Big Boys and their followers in the CACIF, who allegedly objected to the Ambassador's "imperialist" interventions in the domestic affairs of the sovereign nation of Guatemala, but in reality worried about the effects her visit might have on the Legislative decision regarding the

³³ As Goldston (1989) explains, Alfaro had been Rios Montt's personal attorney. In 1983, while he was Chief of State, Rios Montt countenanced the formation of the Confederacion Guatemalteca de Unidad Sindical (CUSG), the oldest union confederation still in existence. Alfaro was asked by Rios Montt to become its first leader.

Executive's reform package. For instance, in an interview Carlos Arias, head of the CACIF labor commission, characterized Ambassador Bushnell as a "daughter of [an unsavory woman]... who got it into her common-law-framed American head that we needed to modify the Labor Code."³⁴ The disdain was evident among the Big Boys and their followers, and so was their concern that Congress would ratify the extended Executive reform package and increase the State's presence in the labor market.

Simultaneously, Minister Alfaro and Vice President Reyes Lopez worked within the confines of the FRG party to obtain support for the initiative. In this task, they could find comfort in Rios Montt's past experience. As one interviewee eloquently explained, "Ever since [most of the strongest groups in the private sector] failed to back him after his 1982 coup, Rios Montt had held a deep-seated resentment against [them]."³⁵ Alfaro and Reyes Lopez could work on Rios Montt's pride, convincing him to "punish" these private sector representatives, most of them connected to the Big Boys and their followers, through the legal labor reform.

In addition, Alfaro and Reyes Lopez could also use Rios Montt's interest in creating an electoral base for his party to obtain his support for the second Labor Code reform initiative. Since the beginning of the FRG term, the FRG administration and Rios Montt had expressed their interest in helping "the poor." As a labor unionist described, "The

³⁴ Interview with Carlos Arias, July 31, 2006.

³⁵ As Dosal (1995) claims, Rios Montt began on a good footing with the "oligarchs" in 1982, but soon lost their support after he reprimanded them in a series of speeches for not paying their taxes and more importantly, imposed the Value Added Tax. Valdez and Palencia (1998) corroborate this finding in their discussion of the fiscal history of Guatemala. What was different at this point with the 1982 experience was that economic elites would not organize a coup against the FRG government.

FRG had a populist rhetoric that attracted the support of many,”³⁶ a trait which, as Piore and Schrank (2006a) recognize, is to be found in many Latin American countries where, in recent years, candidates have run on a platform of anti neo-liberalism.

Moreover, Rios Montt had a track record in this respect: although he directed a genocidal campaign in the countryside during his period as Chief of State between 1982 and 1983,³⁷ he also implemented some important labor reforms in the urban areas (Goldston 1989; Ambruster-Sandoval 2004; Homero Fuentes 1998). Most importantly, he accepted the formation of the oldest labor confederation still in existence, the Confederacion Guatemalteca de Unidad Sindical (CUSG). As Goldston (1989) indicates,

“So long as unions avoided confrontational tactics and contentious political questions that might threaten the Army’s institutional power, substantial portions of the armed forces became persuaded in the early 1980s that somewhat increased worker organization could serve as a symbol of tolerance both at home and abroad... On May 1, 1983 this new policy of controlled openness was concretized when, with the blessing of the government, a new labor confederation, CUSG, formed and president Rios Montt’s personal attorney, Juan Francisco Alfaro Mijangos,³⁸ agreed to take charge of the new group” (10).

Thus, as former Vice President Reyes Lopez argued, Rios Montt faced intense pressure.

In the former Vice President’s words,

“It was really like there were two prongs pressuring General Rios Montt [to approve the second Executive initiative in 2001]. One of them was the U.S. Ambassador. The other was the Executive through Minister Alfaro and me. The pressure was significant.”³⁹

³⁶ Interview with Anonymous Labor Unionist 8, July 18, 2006.

³⁷ This thesis is in no way trying to defend Rios Montt’s genocidal actions during his period as chief of state, but is instead trying to underline that he also had a few positive policies, among them his labor policy.

³⁸ FRG Minister of Labor Alfaro.

³⁹ Interview with Francisco Reyes Lopez, March 19, 2007.

Yet, despite the latent risk for Big Boys and their followers of these two prongs possibly convincing Rios Montt to approve the Executive's reform initiative, the CACIF labor commission was unable to reach an agreement with labor union representatives on an alternative, less demanding proposal than that of the Executive's. Instead, the CACIF labor commission attempted to present its own proposal on May 10, 2001 which only added minor changes to Decree 13-2001, for instance proposing that new Labor Courts be created instead of transferring the fining responsibility to the IGT (Expediente Decreto 18-2001).

However, in light of the absence of a second *joint* CACIF labor commission – union movement reform initiative, Congress passed what had come to be termed the “Alfaro Project” – the Executive's second, thirty seven-point reform initiative⁴⁰ – as Decree 18-2001 on May 15, 2001. Instrumental in this decision was the support for the Decree of FRG head and President of Congress Efrain Rios Montt, who was finally convinced by the two prongs: Alfaro and Reyes Lopez in the Executive, and the U.S. Ambassador. As directed by Rios Montt, the entire FRG congressional block voted in favor of approving Decree 18-2001 (Spohn 2002).

A majority of Decree 18-2001's reforms focused on strengthening the State's labor market regulatory apparatus, namely the Labor Inspection (IGT). The most important reforms of Decree 18-2001 focused on articles 113, 269, 272, 292, 379 and 415 (see Table 2-2). Reforms to articles 415, 292 and 269 transferred the responsibility to fine

⁴⁰ Congress only approved 26 of these reforms through Decree 18-2001, as the eight reforms agreed to by CACIF and union representatives, and approved by Congress as Decree 13-2001, were also included in the Executive initiative; and Congress rejected reforms to another 3 articles.

noncompliant firms from the Labor Courts to the IGT. Specifically, the reform to article 415 withdrew this responsibility from the courts; the reform to article 292 endowed the IGT with this responsibility; and the reform to article 269 delineated the fining process for the IGT and ruled that all collected fines were to fall directly into the Ministry of Labor's (MTPS) budget to modernize and equip its offices. Although, as Minister Alfaro explained, the possibility of labor inspectors fining directly instead of going through Labor Courts is contemplated in the ILO Conventions, most of the Latin American countries utilize the Labor Court system. Thus, the reform was significantly progressive in the region.

The reform to article 272, meanwhile, increased the amount of fines for noncompliant firms, indexing these amounts to minimum wages in order to prevent them from losing their real value with inflation.⁴¹ For instance, failure by owners to pay workers their salaries or work compensation was now punishable with six to eighteen monthly minimum wages, equivalent to Q. 6,660 - 19,980. Before, the maximum punishment for this offense was Q. 5,000 and the minimum was Q. 500. As Spohn (2002) explains, fines increased by a minimum of 200% and a maximum of 13,000%.

In addition, the reform to article 113 required the State to revise minimum wages yearly.⁴² This was already required by an Executive Accord, but previous governments

⁴¹ As the Executive's draft initiative argued, it is necessary to "change in the form of establishing the fines [from fixed quantities to indexed quantities], so that sanctions do not lose their value and become updated as minimum wages are updated" (Expediente Decreto 18-2001). Goldston (1989) provides a dramatic example of the depreciation of fines amounts when he describes how "the Code-specified amounts for [employer resistance to labor inspections]... are from US\$4 to 200, not nearly enough" (149).

⁴² Until then, this was an Executive Accord (Acuerdo Gubernativo), but the reform included it in the Labor Code. As explained above, after the reform to this article the Executive had to set minimum wages yearly.

did not follow it because it was not included in the Labor Code. Finally, the reform to article 243 legalized agricultural workers' right to strike during harvest season. This was one of the CEACR observations which Decree 13-2001 had failed to address because the Big Boys and their followers represented by the CACIF labor commission strongly opposed it. However, after some time the Big Boys and their followers came to accept this major advance in Guatemalan labor history for two reasons: first, the agrarian sector, especially the coffee sector, was in a sharp decline as the economic foundation of the country, and thus opposition of landowners behind the Big Boys was weaker; and second, there were few unions in the rural areas, and thus strikes by agricultural workers were almost nonexistent even if they were legalized.

Table 2-2. Decree 18-2001: Important reforms to the Labor Code

Labor Code Articles Reformed	Resulting Changes
269, 292, 415	Transfer of fines from Labor Courts to Labor Inspection
272	Increase fines for noncompliant firms
243	Agricultural workers' right to strike in harvest season
113	Yearly revision of minimum wages

As observed by labor lawyers linked to government, labor unions and the international community, the transfer of fining responsibilities from the Labor Courts to the IGT, proposed by Alfaro and Reyes Lopez, was the most important piece of Decree 18-2001.⁴³ This piece essentially expanded the reach and enhanced the capacity of the State's labor market regulatory apparatus. Until then, State punishment for noncompliance with labor regulations was highly ineffective. Labor Courts were severely backlogged and

Although it could not lower the minimum wage set the previous year, the Executive could maintain it at the same level and not increase it, which the GANA administration following the FRG, did.

⁴³ Interview with Alejandro Argueta, August 17, 2006; and interview with Ricardo Changala, July 13, 2006.

inefficient, since labor judges were few in number highly corrupt. For the Executive, which proposed the reform, attempting to reform the Courts was extremely difficult because it was beyond its purview of action, given the Courts' location in the Judicial branch. Focusing on its own Ministry of Labor was simpler, and in addition, the fines collected were directly added to the Labor Ministry's budget. Before, they had accumulated in the coffers of the Labor Courts. In the presentation of the law, the Executive argued that,

“With the reforms... we solve the grave problem of the inefficiency to solve cases [by the Labor Courts] and by creating an administrative process [for the IGT], we ensure that the fines will in fact dissuade noncompliance with the law...” since “cases of noncompliance with labor law are [currently] sent to the Labor Courts where they are processed with excessive inefficiency, taking on average three years to be resolved” (Expediente Decreto 18-2001).

With the new legislation, labor inspectors could deliver fines directly to firm owners instead of having to send their reports to labor judges who would then decide the punishment. This change radically improved the efficiency of labor regulation enforcement. At the same time, the legal reform to the Labor Code explicitly stated that firms could only appeal fines through the “contentious-administrative” process if the fines exceeded Q.5,000. For fines below Q.5,000, employers were forced to pay without a recourse for appeal. As a strategy to avoid these contentions-administrative processes which were financially costly for the Ministry of Labor since it had to pay for legal defense, inspectors were instructed by the first and second FRG Labor Ministers, Alfaro and Godoy, to fine firms at most Q.5,000, even though the new regulations allowed them to fine higher amounts.⁴⁴ However, this changed during the period of the third FRG

⁴⁴ Interview with Victor Moreira, August 9, 2006; interview with Victor Hugo Godoy, August 22, 2006; interview with Alejandro Argueta, August 17, 2006; and interview with Guido Ricci, August 28, 2006.

Labor Minister, Moreira, as he instructed inspectors to fine according to the regulation violation even if the fine exceeded Q.5,000. Moreira’s decision shows the growing regulatory strength of the Ministry of Labor, as it began increasing its fine collection and could afford to engage in legal processes with firms.

Not surprisingly, this transfer of fining responsibilities met the staunchest resistance from the Big Boys and their followers in the CACIF. Although they accepted that a reform of the old Labor Court fining mechanism was necessary, the Big Boys and their followers complained that the mechanism created through Decree 18-2001 was unconstitutional since, as one CACIF labor commission member argued, “according to legal jurisdiction, the only ones who can fine are the courts and tribunals.”⁴⁵ Many firms represented by the Big Boys and CACIF chose not to pay the fines, and thus the collection rate was low, reaching a maximum of 20% (see Table 2-3). Opposition to this specific reform was such that CACIF labor commission representatives continued to complain in the mass media and in interviews even after they accepted the rest of the reforms included in Decree 18-2001, among them agricultural workers’ right to strike in harvest season.⁴⁶ Instead of the IGT fining procedure, CACIF labor commission favored the creation of new labor courts.

Table 2-3. IGT Fine Collection Rates, 2001 – 2003

	Percent collected of fines imposed
2001	5.92%
2002	13.23%
2003	20.17%

Source: Ministerio de Trabajo y Previsión Social

⁴⁵ Interview with Carlos Arias, July 31, 2006.

⁴⁶ Interview with Carlos Arias, July 31, 2006.

Given the scarce results obtained from lobbying the Executive and Legislative branches of government to block the reforms, the Big Boys and their followers represented by the CACIF labor commission moved to the third branch of government, filing a series of unconstitutionality appeals before the Constitutional Court (CC)⁴⁷ shortly after Congressional ratification of Decree 18-2001 in May 2001. The CC is the highest court in the country and its judges are appointed every five years. Interestingly, the appeals of the CACIF labor commission focused mainly on the reform to article 269, which as explained above, delineated the process that IGT inspectors had to follow in order to fine. The appeals did *not* address articles 292 and 415, which removed the responsibility to fine from courts and transferred it to the IGT (Valenzuela 2005).

Although the CACIF labor commission filed the appeals in 2001, an FRG-friendly CC⁴⁸ maintained them in limbo until 2004, when it made its final decision to declare the reform to article 269 unconstitutional. By then, the FRG government had finished its period and the new, Big Boy and CACIF-friendly government of the GANA had taken control of the Executive and Congress. The CC decision is examined in the last section of this chapter.

⁴⁷ Schneider asserts that in the Latin American state there is a "...continued dominance of the executive branch... However, as democracies consolidate and crises conditions fade, legislatures and judiciaries are likely to loom larger as mediators in economic policy making and therefore as sites for more active business participation." (Schneider forthcoming, 30). As seen above, this also applies to Guatemala.

⁴⁸ A Washington Office for Latin America (WOLA) document describes how the President of the Constitutional Court at the time was Judge Mario Guillermo Ruiz Wong, a childhood friend of Rios Montt. As the WOLA document explains, "Ruiz Wong was named Interior Minister by President Portillo and served from January to July 2000. He became the president of the Constitutional Court (Corte de Constitucionalidad) on April 14, 2003" (Beltran and Peacock 2003, 87). The WOLA document also emphasizes that "It is noteworthy that the Congress and the president play a major role in appointments to both the Constitutional Court and the Supreme Court." (Beltran and Peacock 2003, 43). Unlike the U.S. Supreme Court, CC judges in Guatemala are not appointed for life, but rather change every five years. Thus, the influence from the Executive and the Legislative branches on the Constitutional Court is undeniable.

The Administrative Reform of the Labor Inspection (IGT)

To complement and reinforce the fining responsibility assigned to the Labor Inspection (IGT) of the Ministry of Labor (MTPS) by the legal reform to the Labor Code, and more generally to strengthen the State's labor market regulatory apparatus, Minister Alfaro initiated an administrative reform of the Inspection to improve its capacity to enforce labor regulation. Fortunately, the Minister's untimely death on February 6, 2002 did not halt this administrative reform as his successors, Ministers Godoy and Moreira, continued with it. The IGT administrative reform had five parts: first, a 40% increase in the IGT budget; second, an increase in the number of inspectors from 160 to 292; third, a publicity campaign designed to inform workers about their labor rights; fourth, the creation of two specialized inspector units for underage, and garment and textile work; and fifth, an internship program for San Carlos University (USAC) last-year law students.⁴⁹ These reforms are described in detail below.

Unlike the legal reforms to the Labor Code, the administrative reforms of the IGT did not require Legislative approval, making it politically easier to implement them. Most of the reforms came in the form of Executive and Ministerial Accords,⁵⁰ which only needed ratification by the President and his Ministers. Because Congress was not involved, representatives of the Big Boys had less room to oppose and block these reforms. This difference in the available avenues for Big Boy pressures was reflected in a much lower level of contention in the process of administrative reform to the IGT relative to the legal

⁴⁹ There were a number of other reforms, most importantly the creation of a Labor Defense Attorney's Office within the confines of the IGT (until 2003, when it became independent). However, this thesis does not include these reforms since they did not directly address the new demands created by Decrees 13-2001 and 18-2001.

⁵⁰ In Spanish, these are called *Acuerdos Gubernativos* and *Acuerdos Ministeriales*.

reform of the IGT. The Big Boys realized that they could do little to obstruct reforms taking place within an FRG Executive over which they had little control. However, as explained above, the Big Boys and their followers did limit the effect of the reforms by shirking payment of a large percentage of the fines imposed by labor inspectors.

The budget of the Labor Inspection

As Minister Alfaro understood, the first step of the IGT administrative reform was to increase its budget significantly. In the previous government, the Executive and Legislative branches were under the control of the Big Boy and CACIF-friendly PAN party (1996 – 2000), which closely resembled the GANA administration (2004 – 2008) that followed the FRG. During this time, the IGT's budget remained below Q. 8 million in real terms (see Table 2-4).⁵¹

In the first year of the FRG government (2000), the budget remained fairly similar to the budget of the last year of the PAN government (1999). This is explained by the national budget determination and electoral processes' design in Guatemala: the first year FRG budget was set by a PAN-controlled Executive and Legislature during the last months of 1999, before the FRG government took over in January 2000. However, for the second year of the FRG government (2001) – the first year in which the FRG-controlled Executive and Legislature determined the National Budget – the budget of the IGT increased by almost 40%.⁵²

⁵¹ This is little more than \$1 million. The base year is 1999.

⁵² USAID program PROALCA also provided some extra funding for the IGT in 2001 (Frundt 2002, 30), although most of the new funds for the Ministry came from the Guatemalan government's national budget.

The budget of the IGT did not fall substantially despite Minister Alfaro’s death in 2002 and the selection of new individuals as Ministers of Labor, proving that the IGT administrative reform was a project of the FRG-controlled Executive, not just of Minister Alfaro. As Table 2-4 shows, the IGT’s budget remained fairly constant in both real Quetzales terms⁵³ and as a percentage of the total national budget, throughout the next three years. However, it is also clear from Table 2-4 that there was a slight decrease in the IGT budget for 2003. As interviewees explained, this decrease responded to the differences between Minister Godoy, who negotiated the 2003 budget, and Vice President Reyes Lopez, who did not support Godoy as strongly as he had supported Alfaro or as he would support Moreira.⁵⁴ Godoy was loyal to President Portillo, and his refusal to align with Vice President Reyes Lopez limited his Ministerial tenure to one year (2002).

Table 2-4. Budget of the Labor Inspection

Year	Governing Party	Minister of Labor	IGT budget in real terms (1999 base year)	IGT budget as a percentage of the National Budget
1999	PAN	Linares	Q7,846,210.00	0.04%
2000	FRG	Alfaro	Q8,326,362.02	0.04%
2001	FRG	Alfaro	Q11,696,489.48	0.06%
2002	FRG	Godoy	Q11,960,244.59	0.06%
2003	FRG	Moreira	Q11,325,444.34	0.05%
2004 (Assigned)	GANA	Gallardo	Q15,794,988.57	0.07%
2004 (Adjusted)	GANA	Gallardo	Q7,803,221.63	0.04%

Source: Ministerio de Finanzas Públicas

As Table 2-4 also shows, in 2004 the IGT budget fell substantially. The original IGT budget negotiated by the FRG Executive’s Vice President Reyes Lopez and Minister of

⁵³ The base year is 1999.

⁵⁴ Interview with Victor Hugo Godoy, August 22, 2006; interview with Victor Moreira, August 8, 2006.

Labor Moreira, however, was Q. 15,794,988.57 or 0.7% of the National Budget. Yet, because Congress did not approve the National Budget in time (due to internal FRG divisions) before the GANA took over, the GANA administration “adjusted” the budget to a low of Q. 7,803,221.63.

The number of inspectors in the Labor Inspection

The second axis of reform involved the number of inspectors in the IGT. Until 2001, the number of inspectors did not surpass 200. As PAN Labor Minister Luis Linares explained,

“the emphasis [of the PAN administration] was the qualitative improvement by providing inspectors with cars, training, etc. In addition, we increased inspector wages through a bonus.⁵⁵ We required new inspectors to have completed half of their law studies, since by then they had already taken courses on labor legislation.”⁵⁶

However, the number of inspectors remained the same during the PAN administration.

Between 2000 and 2002, FRG Minister Alfaro increased the number of inspectors sharply, almost doubling their total number to 292, as Table 2-5 indicates. Table 2-6 shows that the effect of rising inspector numbers on the number of cases attended by the Visits Section of the IGT⁵⁷ was dramatic. Attended cases grew by almost 50% between 2000 and 2001.

⁵⁵ Acuerdo Gubernativo 215-1999

⁵⁶ Interview with Luis Linares, July 27, 2006.

⁵⁷ The IGT’s Visits Section (Visitaduría) is charged with visiting firms to ascertain that they are complying with labor regulations. Visits may originate in workers’ complaints (de parte) or from inspectors’ initiatives (de oficio).

Table 2-5. Total Number of Inspectors, 2000 – 2003

Year	Number of Inspectors	% Increase
2000	160 ⁵⁸	–
2001	277 ⁵⁹	73%
2002	292	5%
2003	292	0%

Source: Ministerio de Trabajo y Previsión Social

Table 2-6. Cases Attended by the Visits Section of the IGT, 1995 – 2001

Year	Cases	% Change
1995	6,564	
1996	8,037	22%
1997	8,387	4%
1998	14,568	74%
1999	8,232	-43%
2000	14,172	72%
2001	20,788	47%

Source: Boletines Estadísticos 11, 12 and 13, Ministerio de Trabajo y Previsión Social

Minister Alfaro also created a new monthly bonus to be added to inspector monthly wages indefinitely – the Bonus for Professional Responsibility – which raised inspectors' monthly wages by between 31% and 45%. The bonus was assigned based on the rank of inspectors. For inspectors ranked under the Professional Assistant I – IV bracket, the bonus was of Q. 1,000 per month. For inspectors under the rank of Technical Head II, the bonus was of Q. 600 per month (Acuerdo Ministerial 128 – 2001). Table 2-7 presents the final monthly wages for each inspector rank after adding the new bonuses.⁶⁰

Table 2-7. Monthly Inspector Wages

⁵⁸ Calculated based on interviews, as Ministry of Labor Statistics were not forthcoming (Interview with Victor Moreira, August 8, 2006; interview with Francisco Reyes Lopez, March 19, 2007; interview with Anonymous Labor Inspector 1, August 2, 2006; interview with Luis Linares, July 27, 2006).

⁵⁹ Calculated based on an interview with former Labor Minister Luis Linares, as Ministry of Labor statistics were not forthcoming (Interview with Luis Linares, July 27, 2006).

⁶⁰ As Anonymous Labor Inspector 1 explained, inspector wages have not changed since then (Interview with Anonymous Labor Inspector 1, August 2, 2006). This is a decline of 57% in the purchasing power of their wages between 2000 and 2007 (Banco de Guatemala 2007).

Position	Base Wage	Flat Bonus (standard for all)	Professional Responsibility Bonus (Acuerdo Ministerial 128-2001)	Total Wage
Professional Assistant I	Q1,960.00	Q250.00	Q1,000.00	Q3,210.00
Professional Assistant II	Q2,120.00	Q250.00	Q1,000.00	Q3,370.00
Professional Assistant III	N/A	Q250.00	Q1,000.00	N/A
Professional Assistant IV	Q2,441.00	Q250.00	Q1,000.00	Q3,691.00
Technical Head II	Q1,649.00	Q250.00	Q600.00	Q2,499.00

Source: Ministerio de Trabajo y Previsión Social

The publicity campaign

A third initiative to improve the functioning of the Labor Inspection centered on informing workers about their labor rights through a broad publicity campaign, with the objective of motivating workers to present complaints of firm labor regulation non-compliance. In 2000, Minister Alfaro began the campaign with two projects. First, the Ministry distributed the “Cartilla Laboral,” a bulletin that informed workers about their rights. Second, the Ministry financed a Radio show entitled “El Catedratico Laboral,” which taught workers about their rights and was transmitted by more than twenty stations throughout the country (Portillo, 2001). In 2001, the same programs continued, but the Ministry added a third project: the distribution to workers of 20,000 informative tables on minimum wages to let them know the pay to which they were entitled (Portillo, 2002). In 2002, under Minister Alfaro’s successor, Victor Hugo Godoy, a new program was added to the publicity campaign which focused on informing women of their labor rights (Portillo, 2003). In 2003, during the last year of the FRG government, and under the third government Minister of Labor, Victor Moreira, the publicity initiative increased substantially in coverage and project-number. Minister Moreira’s administration distributed forms and books to help workers calculate wages, financed television and radio spots to inform women about their labor rights, and used megaphone-equipped

vehicles to inform rural dwellers about their labor rights and distribute flyers (Portillo, 2004).⁶¹ Unfortunately, no evaluation by the Ministry of Labor could offer results on these efforts.

The Specialized Inspector Units

In October of 2003, during the tenure of Victor Moreira as FRG Minister of Labor, the Ministry created two new special inspector units focused on underage, and garment and textile workers. The first unit became responsible for “the attention and supervision of the compliance with labor and social welfare laws in all those places and work centers where it is known that boys, girls and teenagers work” (Acuerdo Ministerial Número 435 “B” – 2003). This meant that inspectors visited these workplaces to ensure proper compliance with underage labor regulation. The second unit was charged with “the attention and supervision of the compliance with labor and social welfare laws in the enterprises that are dedicated to assembly in the garment and textile industry” (Acuerdo Ministerial Número 435 “C” – 2003). This unit visited garment and textile firms to ensure that they were following labor regulation. Both of the areas of concentration of these units – underage and garment and textile workers – usually receive an especially high level of domestic and international scrutiny, which probably influenced the Ministers’ decision to create the two units. The Ministry assigned five inspectors to each unit. In each, one of the inspectors became the Coordinator and Supervisor.

Little information exists on the achievements of the Underage Special Unit. However, the Garment and Textile Special Unit has received more attention. Pipkin (2006)

⁶¹ Interview with Victor Moreira, August 9, 2006.

highlighted the role that one of the unit members, Cesar Gatica, had played in the organization of the Cimatextiles and Choi Shin garment firm labor unions (Pipkin 2006).⁶² Similarly, data from the Ministry of Labor demonstrates that in 2003 and 2004 more than 35% of all firm visits by inspectors were to garment and textile firms (Ministerio de Trabajo y Previsión Social), a very high number since less than 3% of the Guatemalan workforce is employed in this sector (ENEI 4; Vestex 2006). Additionally, Schrank and Piore (2006a) explain that the Garments and Textile Unit has taken

“an active approach to labor standards and labor relations more broadly. To facilitate collective-bargaining agreement, for instance, inspectors have actually designed in-plant experiments on the effect of shortening the work week and lengthening the work day on labor productivity and worker satisfaction” (Piore and Schrank 2006a, <http://bostonreview.net/BR31.5/pioreschrank.html>).

The student internship program

The last reform of the IGT came in the shape of an internship program for students completing the last year of their law degree in the National University (USAC). On April 8, 2003, Minister Moreira signed an agreement with the Department of Legal Studies of the USAC for students to support the Ministry of Labor by complementing the work of different Ministry Departments. The IGT partially coordinated this internship program (Acuerdo Ministerial 200-2003). Shortly after Minister Moreira signed this agreement,

⁶² The organization of these firms came before the creation of the Unit, but as Pipkin (2006) explains, “The success of Gatica’s empowerment and efforts, if not already clear to authorities earlier, was shown to be recognized by the Ministry in late 2003 when the Inspector General added four more inspectors alongside Gatica as specialists in the maquiladora sector” (57). Former United Nations observer Ricardo Changala also observed that such a unit had existed, albeit without a name, since early in the Portillo administration (Interview with Ricardo Changala, July 13, 2006)

the first class of 75 interns⁶³ began their work. As a leading labor lawyer and professor of the internship described,

“The internship lasted approximately six months. It began and concluded with two 2 to 3 day classroom-based courses. The courses focused on the structural organization of the Ministry of Labor; substantive, collective and procedural labor law; and institutional administration. Presenters came from the USAC and the Ministry of Labor... In the IGT, students ordered files, attended hearings and accompanied inspectors in visits, and organized data and statistics.”⁶⁴

As this same interviewee explained, about 50 of the new interns worked in the IGT at one time.⁶⁵ In the classroom section of the internship, the students were divided into two groups: those who received classes in the morning and those who received them in the afternoon. During the job-based section of the internship, students were further divided and rotated around different Ministry of Labor Departments, including the Visits, Conciliation and Sanction Sections of the IGT. Table 2-8 shows a sample distribution of students among the different IGT sections during the second round of internships.

Table 2-8. Distribution of Students in IGT Departments in Second Round of Internships, January 2004

IGT Section	Number of Students in the Morning Group	Number of Students in the Afternoon Group	Total
Visits	14	4	18
Conciliation	12	0	12
Sanctions	11	6	17
Total	37	10	47

Source: Taller de Inducción y Capacitación, Ministerio de Trabajo y Previsión Social 2004

⁶³ In an interview, Minister Moreira argued that 135 students participated in the first internship program, but no data corroborates this claim (Interview with Victor Moreira, August 9, 2006).

⁶⁴ Interview with Alejandro Argueta, March 27, 2007.

⁶⁵ This is a significant number considering that there are less than 300 inspectors country-wide (see Table 2-5).

Results of the legal and administrative labor reforms

The legal and administrative labor reforms had effects in two areas: 1) worker wages and collective rights and; 2) the State's capacity to enforce labor regulation. The latter area displays the most dramatic results. First, the increase in the number of fines imposed and collection rates was substantial. Table 2-9 shows that between 2001 and 2003, the amount of fines imposed increased more than seven-fold and the amount of fines collected rose more than twenty five-fold. Although no verifiable statistics exist on the collection rates of Labor Courts in the pre legal reform period (1947⁶⁶ – 2001), an internal document from Minister of Labor Godoy to President Portillo indicates that in 2002 alone, the IGT collected more than ten times the value of fines that the Labor Courts had collected in total between 1947 and 2001 (Godoy 2002). Observations by interviewees from various different sectors corroborated these figures.⁶⁷ This dramatic increase was not only due to improved collection capabilities of the State, but also to the increased fine values as determined by Decree 18-2001.

Table 2-9. Fines imposed and collected by the IGT, 2001 – 2003.

Year	Fines Imposed	Fines Collected
2001	Q911,911.15	Q53,956.50
2002	Q4,618,692.80	Q611,179.60
2003	Q7,442,102.56	Q1,501,253.55

Source: Ministerio de Trabajo y Previsión Social

Second, the number of settled labor cases of firms found in non-compliance with labor regulation skyrocketed, complementing the affirmation made in the internal document

⁶⁶ The Labor Code was enacted by President Juan Jose Arevalo in 1947.

⁶⁷ Interview with Guido Ricci, August 25, 2006; interview with Alejandro Argueta, March 27, 2006; and interview with Victor Hugo Godoy, August 22, 2006.

from Minister Godoy to the President in 2002. In a letter sent to President of Congress Rios Montt in May 2001, FRG Vice President Reyes Lopez expressed that in 2000 the Labor Courts received 2,393 cases, but only settled 136 in *total* (Expediente Decreto 18-2001). This number pales in comparison to the 923 cases⁶⁸ settled in fines by the IGT in 2002 (the year the document was sent from Minister Godoy to President Portillo). This change represents an increase of 272% in cases solved per inspector, from 0.85 to 3.16 cases per inspector, even though the number of active inspectors also increased significantly between 2000 and 2002.

Third, collected fines became an increasingly important fraction of the IGT budget, representing almost 10% of it by 2003 (see Table 2-10). As explained above, following the legal reform, all collected fines directly entered the budget of the Ministry of Labor (MTPS) as opposed to the Labor Court coffers, and most of the fines collected were then channeled to the IGT. The table below shows that as fines collected increased, their contribution to the total IGT budget also grew.

Table 2-10. Fines Collected as a Percentage of IGT Budget, 2001 – 2003

Year	IGT Budget	Fines Collected	% Fines of IGT Budget
2001	Q13,386,556.00	Q53,956.50	0.40%
2002	Q14,554,396.00	Q611,179.60	4.03%
2003	Q14,588,829.00	Q1,501,253.55	9.33%

Source: Ministerio de Trabajo y Previsión Social

Turning to worker wages and rights, the effect on minimum wages – which according the legal reform were to be set every year – was staggering in nominal and real terms (see

⁶⁸ Although Ministry of Labor statistics do not detail the number of firms fined per year, a crude estimation is possible. Taking the fact expressed by several interviewees that inspectors only fined firms Q.5000 or less in order to avoid firm appeals,⁶⁸ and dividing the total amount of Quetzales imposed in fines in 2002 by this number (Q. 5,000), gives about 923 cases resolved *in fines*.

Table 2-11). During the FRG period, minimum wages increased substantially as the FRG became the only government in Guatemalan history to raise them every year of the administration: on January 6, 2000; on November 29, 2000; on December 18, 2001; on November 28, 2002 and on November 27, 2003 (Banco de Guatemala). No administration had achieved this before the FRG administration, and no administration has replicated it since. The FRG's increases also raised the purchasing power of minimum wages to its highest point since at least 1991⁶⁹ (see Table 2-12). Additionally, as Figure 2-1 shows, the FRG government pursued a strategy of agricultural and non-agricultural wage convergence, as it narrowed the gap between the two wages.⁷⁰

It is also important to note that the minimum wage increases of the FRG came at a time when GDP per capita was practically stagnant (see Figure 2-2). This contrasts sharply with the trend before and after the FRG administration (2000 – 2004), when GDP per capita was rising, but the real value of wages was stagnant or even decreasing.

⁶⁹ It is harder to compare minimum wages before 1991, since during that time agricultural and non-agricultural wages were subdivided into categories such as cotton picking, coffee picking, cattle herding, bakery, textile industry, etc.

⁷⁰ Interview with Francisco Reyes Lopez, March 19, 2007.

Table 2-11. Daily minimum wages in real terms (base year 1990) and nominal terms

Year	Agricultural Daily Wage (Nominal)	Agricultural Daily Wage (Real)	Non Agricultural Daily Wage (Nominal)	Non Agricultural Daily Wage (Real)
1991	Q10.00	Q9.09	Q11.60	Q10.54
1992	Q10.00	Q7.96	Q11.60	Q9.23
1993	Q10.00	Q7.13	Q11.60	Q8.27
1994	Q14.50	Q9.26	Q16.00	Q10.22
1995	Q14.50	Q8.53	Q16.00	Q9.41
1996	Q15.95	Q8.46	Q17.60	Q9.34
1997	Q15.95	Q7.90	Q17.60	Q8.72
1998	Q17.86	Q8.23	Q19.71	Q9.08
1999	Q19.65	Q8.63	Q21.68	Q9.52
2000	Q21.62	Q9.03	Q23.85	Q9.97
2001	Q25.08	Q9.62	Q27.67	Q10.62
2002	Q27.50	Q9.92	Q30.00	Q10.83
2003	Q31.90	Q10.88	Q34.20	Q11.66
2004	Q38.60	Q12.05	Q39.67	Q12.38
2005	Q38.60	Q11.10	Q39.67	Q11.40

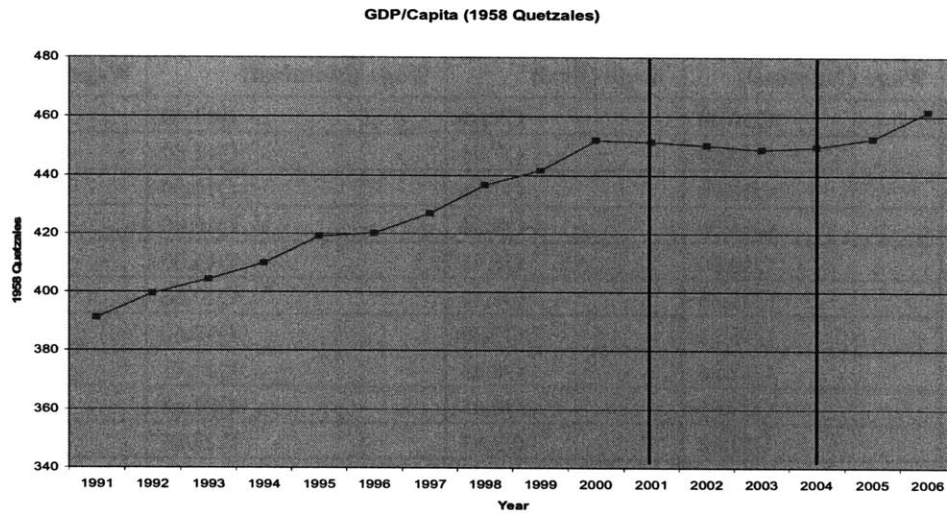
Source: Banco de Guatemala

Table 2-12. Purchasing Power of Minimum Wages (1991 = 100)

Year	Agricultural	Non Agricultural
1991	100	100
1992	88	88
1993	78	78
1994	102	97
1995	94	89
1996	91	89
1997	87	83
1998	91	86
1999	95	90
2000	99	95
2001	106	101
2002	109	103
2003	120	111
2004	133	117
2005	122	108

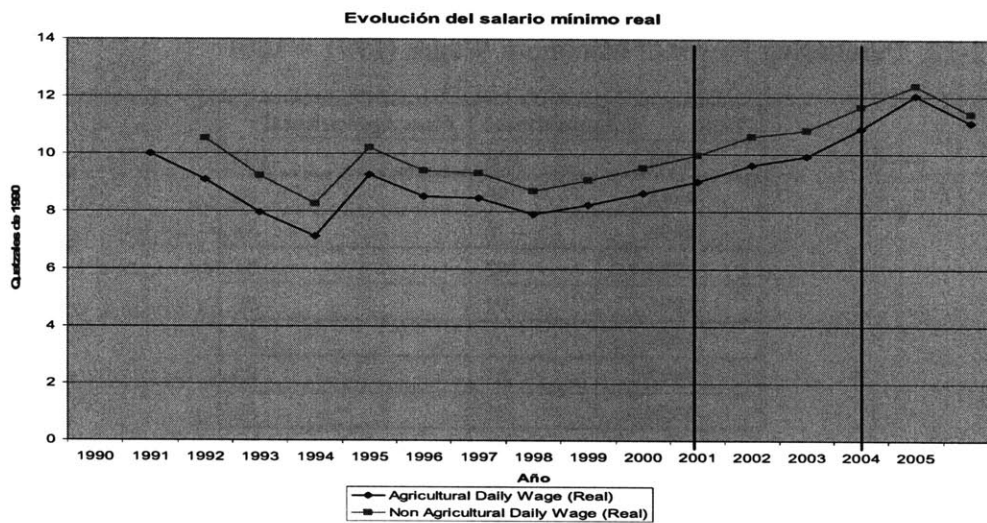
Source: Banco de Guatemala

Figure 2-1. Daily minimum wages in 1990 Quetzales, 1990 – 2006



Source: Banco de Guatemala

Figure 2-2. GDP per Capita in 1958 Quetzales, 1991 – 2006



Source: Banco de Guatemala

Quantifying the effects of the legal and administrative labor reforms of the Portillo government on workers' actual wages (as opposed to the minimum wage floor) and collective rights is more complicated. At the time of the reforms, other important changes were taking place in the country, most significant among them the coffee crisis beginning in late 1999. These changes evidently affected workers' wages, obscuring the

results of the reforms (see Figure 2 above). Similarly, attempting to distill the net impact of the legalization of agricultural workers' right to strike in harvest season, and the reinforcement and streamlining of the laws governing labor unions, runs into the same problems. In both cases, it was not only the Executive actions which affected worker mobilization and organization, but also economic and political conditions.

With that caveat, the estimated effect of the reforms on worker collective rights does not appear to be substantial. In terms of agricultural workers' right to strike, the effect appears to be minimal. Yet, this effect is contingent on other important characteristics of the agrarian economy. As Minister of Labor Moreira argued, "In terms of agricultural workers' strikes in harvest season, the requirements appear almost impossible. For starters, workers must have formed a union, but how many unions are there in the fincas?"⁷¹ Ministry of Labor (MTPS) statistics are unclear on the number of agricultural worker unions, as they also include cooperatives and informal worker unions. However, as a labor unionist from the largest peasant union confederation in the country, Confederacion de Trabajadores del Campo (CTC) explained, over the last few years the number of CTC unions in two of the largest agricultural sectors, coffee and banana, decreased substantially.⁷² In the case of banana, the decline became especially pronounced after Hurricane Mitch hit Guatemala in 1998 and firms such as Chiquita and the Del Monte subsidiary BANDEGUA abandoned many of their formerly organized

⁷¹ Interview with Victor Moreira, August 9, 2006.

⁷² Interview with Anonymous Labor Unionist 3, July 20, 2007.

plantations on the Atlantic coast. This view was echoed by leaders of another important banana-organizing confederation, UNSITRAGUA.⁷³

In the coffee sector, the coffee crisis of the late 1990s and early 2000s severely undermined coffee unions, as thousands of workers lost their jobs. Although Lucas did not refer to unions in the third of the three largest traditional agrarian sectors in the economy, sugar, Oglesby (2004) explains that today “There are no longer any independent labor unions in the sugar sector, although a few mills have a sort of solidarity association” (568). Moreover, many agricultural workers are not organized in unions, but rather in peasant and Indigenous organizations such as the Coordinadora Nacional Indígena y Campesina (CONIC), which mostly address land tenancy for peasants rather than workers’ rights. As two CONIC leaders explained, CONIC focuses on providing members with access to land, technical support to cultivate this land, and financial means to pay for the land.⁷⁴

In terms of worker wages in the sectors most intensively visited by IGT inspectors, there seem to be some positive outcomes over the last years of the FRG administration, but the results are open to debate and require further research. As shown in Tables 2-13 and 2-14, inspectors focused on urban workers, especially in the commercial, manufacturing (mostly garments) and service sectors. As Tables 2-15 and 2-16 show, for urban workers in these sectors, the Guatemalan economic stagnation of the late 1990s and early 2000s (see Figure 2-2 above) eroded their wages by up to 21.6% between 1998 and 2002.

⁷³ Interview with Anonymous Labor Unionist 8, July 18, 2006; and interview with Anonymous Labor Unionist 9, July 27, 2006.

⁷⁴ Interview Anonymous Peasant Organizer 1 and Anonymous Peasant Organizer 2, July 26, 2006.

However, wages increased substantially in all sectors between 2002 and 2003, after the legal and most of the administrative FRG labor reforms. In the case of garments, the most intensively inspected industry, the wage increase between 2002 and 2003 even made up for the value of wages lost between 1998 and 2002. Although in rural agriculture – where fewer inspections occurred – wages also partially recovered between 2002 and 2003, their recovery was less pronounced than in all the other sectors. Furthermore, as Table 19 shows, mean wages in the rural agricultural sector had not reached the floor set by minimum wages in 2003, reflecting the low level of regulation enforcement.

Table 2-13. Inspector Visits by Economic Sector, 2003 and 2004

Sector	2003	2004
Agriculture	0.72%	0.71%
Commerce	21.21%	35.00%
Manufacturing (approx. 35% in garments)	45.08%	47.82%
Services	29.28%	15.68%
Other	3.72%	0.79%
TOTAL	100.00%	100.00%

Source: Ministerio de Trabajo y Previsión Social

Table 2-14. Workforce Allocation by Area

Activity	Urban	Rural
Agriculture	9.93%	90.07%
Industry	51.65%	48.35%
Commerce	55.77%	44.23%
Services	67.34%	32.66%
Other	56.72%	43.28%

Source: ENEI 4, 2003.

Table 2-15. Urban Mean Monthly Wages (1998 Quetzales)

	Garments (35% of inspections)	Manufacturing	Services	Commerce
1998	Q1,204.12	Q1,641.71	Q1,949.35	Q1,709.22
2002	Q1,019.12	Q1,418.89	Q1,527.97	Q1,427.89
2003	Q1,221.89	Q1,550.73	Q1,608.84	Q1,535.31

Source: ENIGFAM 1998; ENEI I 2002; ENEI 4 2003.

Table 2-16. Difference in Means 1998 – 2003

	Garments		Manufacturing		Services		Commerce		Agro Rural	
	Difference in Means	Percent change	Difference in Means	Percent change	Difference in Means	Percent change	Difference in Means	Percent change	Difference in Means	Percent change
1998 - 2002	-Q185.00	-15.36%	-Q222.82	-13.57%	-Q421.38	-21.62%	-Q281.33	-16.46%	-Q119.64	-16.97%
t-statistic	-40.26702507		-56.28033883		-56.69740251		-51.59674618		-107.5629449	
1998 - 2003	Q17.77	1.48%	-Q90.98	-5.54%	-Q340.51	-17.47%	-Q173.91	-10.17%	-Q95.85	-13.60%
t-statistic	5.374473838		-20.54796495		-47.57024993		-31.61149751		-90.70877521	
2002 - 2003	Q202.77	19.90%	Q131.83	9.29%	Q80.88	5.29%	Q107.42	7.52%	Q23.79	4.06%
t-statistic	51.33189803		32.15298073		16.93201258		24.64268457		21.5902097	

Table 2-17. Agricultural Minimum and Mean Wages 1998 – 2003

Year	Mean Wage Rural Agriculture	Minimum Wages Rural Agriculture
1998	Q704.98	Q428.64
2002	Q585.34	Q640.00
2003	Q609.13	Q698.64

Source: ENIGFAM 1998; ENEI I 2002; ENEI 4 2003.

Thus, inspections seem to have affected wages in different sectors. As is made clear by Figure 2-2 and Table 2-16 above, although GDP per capita remained stagnant until 2005, wages in the three sectors in urban areas where inspections were most intensive experienced a recovery between 2002 and 2003 (unfortunately, no similar surveys exist for 2004 and 2005). It is true that IGT inspections only reached a small portion of all workers in urban areas in these three sectors, yet it is arguable that they had an effect extending beyond the confines of inspected firms, motivating non-inspected firms to comply in order to avoid the risk of getting caught and fined. As argued above, however, further research is suggested to obtain more accurate estimates of the effects of the FRG labor reforms on worker wages.

The Aftermath of the FRG Administration

On January 14, 2004 Oscar Berger, from the Gran Alianza Nacional (GANNA) party, assumed the Presidency of Guatemala. In his acceptance speech, President Berger called for “unity, security, justice, work, health and education for all” and for an end to the confrontation between the Big Boys and their followers, and government representatives, a hallmark of the previous FRG administration (Berger 2004). Most of the support for President Berger and the GANNA had come from the Big Boys and their followers in the CACIF.

Given this support from most of the Big Boys and their followers in the CACIF, it was no surprise that the GANNA administration partially overturned some pieces of the labor reforms of the FRG government, most importantly the reformed Labor Code article (269)

delineating the fining process of the IGT. At the same time, it is noteworthy and surprising that many other pieces of the FRG labor reforms were not overturned, despite the Big Boys' belligerent opposition to them. As explained below, the decision of the GANA to stop short from overturning all the FRG labor reforms was directly related to the impending U.S. Congressional decision on the United States – Dominican Republic Central American Free Trade Agreement (US – DR CAFTA or CAFTA) which partly rested on the evidence of whether the State's regulatory enforcement capacity had improved in Guatemala.

The legal reforms to the Labor Code

Between 2004 and 2007, the GANA kept most of the FRG legal reforms to the Labor Code. The reformed articles involving the yearly setting of minimum wages, increased fine amounts for non-compliant firms, harvest-time strikes for agrarian workers, and mechanisms facilitating union formation and organization are still in effect in Guatemala. In fact, these reforms were utilized by the GANA administration as proof of Guatemala's improved State labor market regulation capacity. However, the GANA did target the fining capacity of the IGT.

Shortly after the FRG-controlled Congress approved Decree 18-2001 in 2001, CACIF labor commission representing the Big Boys and their followers filed a series of unconstitutionality appeals. An FRG-friendly Constitutional Court (CC) did not resolve these appeals for three years despite the intense Big Boy pressures, and thus Decree 18-2001 was in force during the entire FRG administration. However, eight months after

President Berger assumed control of the Executive, the Constitutional Court (CC) upheld the CACIF labor commission's unconstitutionality appeals and overturned a series of Decree 18-2001 reforms. Of them, the most important upheld appeal overturned the reform focused on the fining capacity of the IGT: the CC overturned the reform to article 269, which delineated the fining procedure for the IGT (Soto et.al. 2005).⁷⁵ Because the sentence of the CC did not overturn the reforms to articles 292 and 415 which transferred the responsibility of fining from the Labor Courts to the IGT, it left a legal void: the IGT was still responsible for fining but had been deprived of the necessary procedure to do so (Maldonado 2005).

The pressures of the GANA Executive on the CC played an important role on the CC decision to declare article 269 unconstitutional. It is important to note that although the Judiciary and Executive branch are in theory completely independent from each other, pressures from the Executive on the Judiciary are widespread in Guatemala. In a document published in 2004, the Washington Office for Latin America (WOLA) explains that,

“After a visit to Guatemala, Param Kumaraswamy, the UN Special Rapporteur on the Independence of Judges and Lawyers, concluded that corruption, influence-peddling and their associated ills remained widespread, fed by the political factors which continued to influence the tenure, appointment and dismissal of judges. It is noteworthy that the Congress and the president play a major role in appointments to both the Constitutional Court and the Supreme Court” (Peacock and Beltrán 2004, 43).

Similarly, in an interview, a United States Embassy labor attaché to Guatemala explained that, although the United States would never advocate for the Executive branch to

⁷⁵ Of the articles reformed presented in Table 2-3 above, only article 269 was substantially changed by the CC unconstitutionality ruling.

interfere with the workings of the Judiciary, he was “not naïve” and knew that such things happened in Guatemala *all the time*.⁷⁶

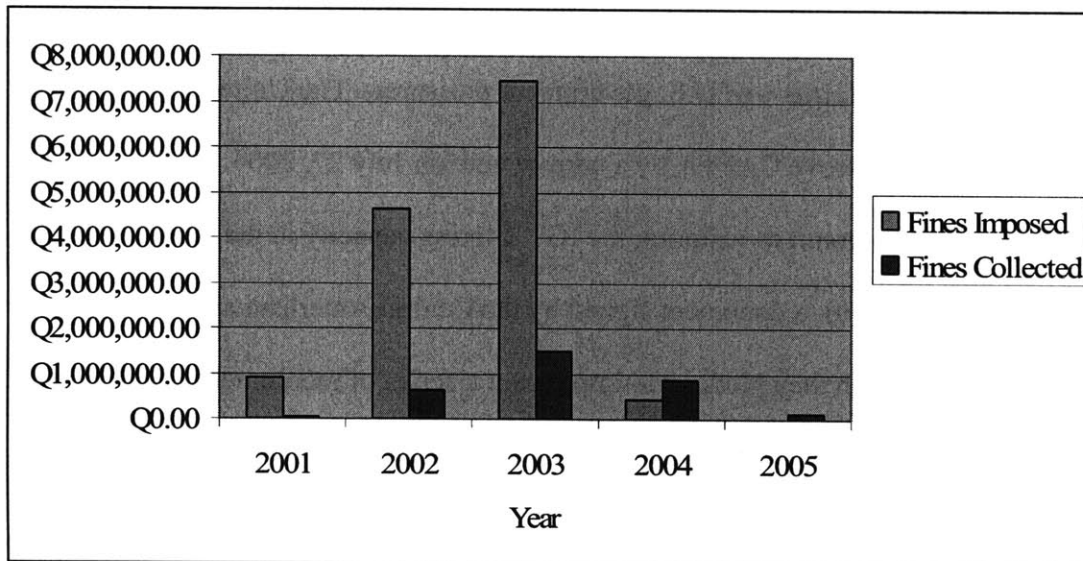
Thus, as a series of interviewees argued, it seems evident that the GANA-controlled, Big Boy-friendly Executive exerted pressure on the CC to uphold the CACIF unconstitutionality appeals. What is less clear is why the CC, which was still FRG-friendly, bowed before the Executive’s pressures. Explanations by interviewees seem purely speculative and vary enormously, with no hard evidence existing to back any of them.⁷⁷

Returning to the CC decision, the legal void it left after it removed the reform that outlined the IGT’s fining procedure could have been filled by an Executive Accord, as recognized by the GANA Ministry of Labor (Documento interno Ministerio de Trabajo 2005). This Executive Accord could have provided a new procedure for the IGT’s fining. Instead, the Ministry of Labor of the GANA administration immediately stopped its fining activities and never attempted to resume them. Some remaining fines were collected, but all activities related to fines concluded in 2005 (see Figure 2-3). Despite this setback, however, it is crucial to highlight that the option of enacting an Executive Accord to outline the fining procedure of the IGT is still available, since in theory the IGT is still responsible for fining.

⁷⁶ Email interview with Anonymous U.S. Labor Attaché, July 20, 2006.

⁷⁷ Some interviewees argued that the CC judges had found “new bosses” in the GANA and thus chose to follow their directions. Others explained that the CC judges were still loyal to the FRG and thus wanted to hurt the GANA by tarnishing its image with workers and, more importantly, endangering U.S. approval of CAFTA. Still a third hypothesis argued that the CC had walked a middle ground, looking to leave the business-friendly GANA content while at the same time making sure that the IGT could recover its fining capacity through a Executive Accord.

Figure 2-3. Fines Imposed and Collected by the IGT, 2001 – 2005



Source:
Contabilidad de la UDAF y Sección Estadística de la
IGT, Ministerio de Trabajo y Previsión Social

It is also important to mention that the CC's overturning of the reform to article 269 of the Labor Code came in the midst of the United States Congressional decision on the United States – Dominican Republic Central America Free Trade Agreement (US – DR CAFTA, or CAFTA). In 2004, State labor regulation enforcement in Guatemala in terms of wages, labor conditions, and unionization and bargaining rights among others, was of central importance in Washington. At the time, U.S. labor groups, trade associations and consumer groups were furiously lobbying to block the agreement, using Guatemala's poor labor regulation enforcement record as an anti-CAFTA argument.⁷⁸ Moreover, as explained above, in 2001 the United States Ambassador to Guatemala Prudence Bushnell supported the ratification of legal reform (Decree 18-2001) that included the reform to article 269. Yet despite the importance of CAFTA for Guatemala and of the risks for its ratification entailed in any kind of change to the 2001 legal reform, the CC, with pressure

⁷⁸ Interview with Anonymous Labor Unionist 11, July 9, 2006.

from the Executive, upheld the CACIF's unconstitutionality appeal of the reform to article 269, highlighting the limitations – albeit not complete futility given the other upheld FRG labor reforms – of U.S. government pressures. The United States Congress would eventually approve CAFTA by a narrow vote on July 27, 2005. Additionally, Guatemala would commit to restoring the IGT's fining capacity in the White Book (White Book 2005, 50), a document signed by the Central American and Dominican governments in which they pledged to implement a series of recommendations in order to meet the requirements of the Labor Chapter in CAFTA.⁷⁹

The Administrative Reforms to the IGT

The administrative reforms would also suffer partial setbacks under the GANA administration. Between 2003 and 2005, the budget of the IGT declined by about 16% (Ministerio de Finanzas Públicas) and the number of inspectors fell by 11.6%, from 292 in 2004 to 258 in 2006 (Ministerio de Trabajo y Previsión Social).⁸⁰ Similarly, inspector wages would remain unchanged between 2001 and 2007 despite the accumulated 57% increase in inflation (Banco de Guatemala).

At the same time, the GANA kept most of the FRG administrative reforms. For instance, an important number of the projects of the publicity campaign still exist, including the

⁷⁹ Specifically, Guatemala's White Book commitment reads: "To emit a decree that legally restores the authority to fine of the Ministry of Labor" (White Book 2005, 50). However, although CAFTA is now in full effect, the Guatemalan Executive has yet to resume the IGT's fining activities, even though it can do this at any time through an Executive Accord.

⁸⁰ IGT officials explained that some of this reduction responded to the GANA administration's interest in reducing corruption and "cleaning out" the IGT. However, IGT inspectors were also keen in recognizing that many of the posts created during the FRG administration were converted into "plazas fantasma" (ghost posts) during the GANA administration, as they were used by persons who were not working as inspectors but were being paid as such (Interview with Anonymous Labor Inspector 1, August 2, 2006).

use of radio stations to inform workers of their rights. The special inspector units for underage, and garment and textile work also continue to operate, as does the internship program for last-year law students from the National University (USAC). Thus, despite its Big Boy and CACIF ties, the GANA administration did not overturn all the FRG labor reforms.

The reticence of the GANA administration to roll back all of the FRG reforms is mostly explained by the ongoing discussion on the ratification of CAFTA by the U.S. Congress at the time. Although the GANA administration calculated that it could partially overturn the fining responsibilities of the IGT without having much of an effect on the U.S. Congressional decision on CAFTA, it realized that it could not revoke most of the administrative and legal reforms. In fact, many of these reforms were included by the GANA administration Minister of Labor in Guatemala's advances in the White Book of the Inter-American Development Bank. As a labor attaché to the U.S. Embassy in Guatemala summarized it, "2005 [U.S.] attention -- which was significant, to beat back the business community's gutting of the labor inspectorate -- was due to CAFTA."⁸¹

⁸¹ Email interview with Anonymous U.S. Labor Attaché, July 20, 2006.

Chapter 3

A Shielded Executive Opens a Political Window for Labor Reform

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In November 1999, the Frente Republicano Guatemalteco (FRG) government was elected with 68% of the vote in a runoff against the incumbent Big Boy and CACIF-friendly Partido de Avanzada Nacional (PAN) party. With this victory the FRG captured the Executive and a majority block in the Legislature. The Big Boys and their followers in the CACIF, however, rejected the FRG during the campaign and after the election. Many of the Big Boys and CACIF businessmen remembered how General Efraín Ríos Montt, leader of the FRG party and President of Congress during the FRG government (2000 – 2004), had excluded them from economic and social policymaking while he was Chief of State between 1982 and 1983. Yet, there was a group, a “renegade” economic elite differentiated from the Big Boys and their CACIF followers by status (i.e. the Big Boys and CACIF looked down on the renegade elite), which did support the FRG election campaign and government. In addition, the military also converged behind the FRG party and its leader, Ríos Montt. Support from these two groups allowed the FRG to win the elections and to exclude the Big Boys and their followers in the CACIF from influencing and controlling the Executive. This Executive *shielding* from Big Boy and CACIF pressures and influence differentiated the FRG administration from the governments preceding (since at least 1986) and following it, as these other governments were permeated by the Big Boys and their followers.

This exclusion of the Big Boys and the CACIF from the FRG Executive, however, allowed the FRG to implement the legal and administrative labor reforms, with the important support of the U.S. government represented by its Ambassador. Earlier reform attempts by previous governments, which sought to increase State regulation of the labor market, had been blocked by the Big Boys and their CACIF followers. In these governments, the Big Boys and the CACIF utilized their many sources of influence (e.g. positions in Ministries and government offices, meetings with top government officials, etc.) to restrain reform attempts which would expand the presence of the State in the labor market. For instance, they kept Ministry of Labor budgets extremely low, even by Central American standards. Because the FRG excluded the Big Boys and their CACIF followers from the Executive, these private sector groups could not use these channels to block the FRG legal and administrative reforms.

The Rise of a Shielded Executive

The election campaign and government of the FRG was marked by a “rich versus poor” rhetoric which alienated the Big Boys and the CACIF. Not only did the Big Boys and their followers in CACIF reject the FRG rhetoric, but they also opposed the FRG party leader, Rios Montt. Rios Montt, one of the worst human rights violators in Guatemalan history, had excluded the Big Boys and the CACIF from economic and social policymaking during his time as Chief of State because they opposed his government plans. While in this position, Rios Montt raised taxes, created a Value Added Tax of 10% and opened a window for urban labor mobilization by allowing the formation of a

few unions⁸² (Goldston 1989; Dosal 1995; Valdez and Palencia 1998; Fuentes 1998; Beard 2001; Ambruster-Sandoval 2004). In addition, he carried out one of the most brutal scorched land campaigns in Latin America “that killed an estimated 75,000, razed a proclaimed 440 villages, and displaced over one million refugees” (Schirmer 1998, 1). At the time, the Big Boys and the CACIF had strongly opposed Rios Montt’s fiscal and labor reforms, and this experience led them to oppose the FRG.

However, in the late 1990s, a “renegade” elite arose which parted file from the Big Boys and their followers in the CACIF, and came to support the FRG. Most of the renegade elite’s support came through campaign contributions. As one interviewee explained, these groups provided so much funding for the FRG campaign, that its total campaign expenditures surpassed those of the Big Boy and CACIF-friendly PAN campaign.⁸³ For instance, a leading newspaper claimed that one of the main FRG supporters, a powerful banker, provided Q. 40 million, or more than \$5 million, in campaign funding (Prensa Libre 2001). Today, the maximum campaign funding allowed by the Electoral Board (Tribunal Supremo Electoral, TSE) is Q. 44.7 million. The renegade elite also staffed Ministries and other Government offices during the FRG administration, and made important mass communication outlets, such as television stations, available to FRG politicians.

⁸² Rios Montt came to power in 1982 through a coup organized by the “reformist” factions of the military (Beard 2001). These “reformist” factions followed policies which “entailed a shift from a national security strategy that framed the conflict as total (100 percent) polarization of the population – you’re either with us or against us – to one that focused 70 percent of its effort on recovering war refugees through development projects (‘Beans’) while using 30 percent of the effort for repressive methods (‘Bullets’) against those the army viewed as ‘lost’” (Schirmer 1998, 23).

⁸³ Interview with Anonymous Academic 1, July 26, 2006

Led by the FRG Vice President Reyes Lopez, a truck company owner, the renegade elite included a powerful banker; the second largest fertilizer importer in the country and the owner of almost all Guatemalan television channels, among others (Palencia 2002).⁸⁴ All of these businessmen were “self-made men” (Cammett forthcoming) since they did not belong to the traditionally powerful Guatemalan families (e.g. Castillo, Novella, Herrera, Paiz and Gutierrez) and had made their fortunes starting from more modest backgrounds. Additionally, most of the renegade elite were involved in more capital intensive industries than agriculture (e.g. banking, telecommunications, fertilizer imports, etc.). Furthermore, some of the renegade elite had ties to the military. For instance, Vice President Reyes Lopez was a former member of the armed forces and spoke fondly of his military training in Chile. Finally, as Palencia (2002) mentions, some of the renegade elite were involved in illicit activities.

Yet, what most clearly distinguished the renegade elite from the Big Boys and their followers was status: the Big Boys and their followers in the CACIF looked down on the renegade elite as a second-class elite because of the latter’s non-oligarchic, military-linked background and illicit dealings. The clearest example of this status divide involves Vice President Reyes Lopez. A highly successful businessman in transportation and other industries, Reyes Lopez could not participate in any chamber other than the Commercial chamber of the CACIF because, as interviewees explained, “only [the

⁸⁴ Only one large conglomerate, owned by the Gutierrez Bosch family and rooted in poultry production and distribution, joined the “renegade” elite in supporting the FRG, yet as interviewees quickly added, the Gutierrez Bosch family provided financial support to *all* parties running in the election (Palencia 2002).

Chamber of Commerce (which is recognized as a more democratic chamber) would take the transportation businessmen as its members.”⁸⁵ Other chambers refused to accept him.

Therefore, the renegade elite looked to the FRG government as an opportunity for enrichment which would circumvent the entrenched and much greater power of the opposing Big Boys and their CACIF followers. From the FRG administration, they hoped to obtain Ministry positions, government contracts and beneficial tariffs, among other privileges, which Big Boy and CACIF-friendly governments had denied them. As one interviewee explained, the Big Boys and their CACIF followers had used the State to their advantage for many years, and now the renegade elite was simply following their example.⁸⁶

The FRG government, in turn, wanted to create an alternative economic elite to the Big Boys and their followers in the CACIF. Neither President of Congress Rios Montt nor Vice President Reyes Lopez, leaders of the two camps in the FRG government, looked well upon the Big Boys and the CACIF.⁸⁷ As an interviewee who participated in the FRG government commented,

⁸⁵ Interview with Anonymous FRG Minister, March 28, 2007; and interview with Anonymous Businessman, March 28, 2007.

⁸⁶ Interview with Anonymous FRG Minister, March 28, 2007.

⁸⁷ As explained above, due to the support of the CACIF for the coup that deposed him in 1983, Rios Montt did not look well upon the Big Boys and the CACIF. Regarding Vice President Reyes Lopez, the causes for his opposition to the Big Boys and the CACIF are not as clear. Interviewees argued that he disliked the Big Boys and the CACIF because, while he was on the board, other CACIF members did not treat him well. He came from the transportation sector and most of the Big Boys and CACIF members looked down on the businessmen operating in this sector. In addition, Vice President Reyes Lopez was not from one of the Big Boys and thus disdained their monopoly over private sector channels of influence over government (Interview with Anonymous FRG Minister, March 28, 2007; and interview with Anonymous Businessman, March 28, 2007).

“The leaders of the FRG used the power of the State to endow economic power on their supporters... They told [the Big Boys], ‘you should know your place. There is an alternative political power [to yours].’ They used the State as a ‘grabbing hand’ to try to create an alternative capitalist class at the shadow of the government.”⁸⁸

The relation between the renegade elite and the FRG administration can best be described as a case of “vertical political integration” (Haber and Maurer et.al 2002). As Haber and Maurer et.al (2002) explain, under vertical political integration, a government pledges not to engage in “predatory behavior” against a specific economic elite faction, promising instead to benefit this elite through the State. In return, the economic elite faction credibly commits to supporting the government. Vertical political integration can be “backward” when the government allows the economic elite to “write and enforce the rules governing their own activity” or “forward” when politicians “directly engage in productive and lucrative economic activity” (Haber and Maurer et.al 2002, 28). The FRG administration appears to have integrated mostly backward: the FRG leaders provided the renegade elite with political positions and power; benefited them with changes in tariffs which enhanced their competitive ability (e.g. if they were importers, they lowered import tariffs); and selected members them as contractors for public projects.⁸⁹

The military also chose to back the FRG.⁹⁰ Not only did it support Rios Montt, a General in the Armed Forces and a teacher to many of the military leaders, but it also opposed the

⁸⁸ Interview with Anonymous FRG Minister, March 16, 2007.

⁸⁹ Interview with Anonymous FRG Minister, March 16, 2007.

⁹⁰ Like the “renegade” economic elite, the military supported the FRG through campaign funding. However, the military also provided important political backing, as it was the only institution in the country with enough political power (i.e. ability to influence politicians and the electorate) to act as a counterweight to CACIF political power.

incumbent Big Boy and CACIF-friendly PAN party for at least two other reasons.⁹¹

First, the PAN government (1996 – 2000) negotiated the Peace Accords, which, as the military leadership recognized, placed most of the blame and costs of the war on the Armed Forces (Beard 2001).⁹² The Big Boys and the CACIF emerged from the Accords practically unscathed despite their shared responsibility for the atrocities committed during the war. As explained by Beard (2001), the Big Boys and the CACIF broke their alliance with the military when they refused to back the armed forces during the Peace Accord negotiations of 1996.⁹³ Because of this Big Boy and CACIF – military break, the military shared the FRG objective of weakening the Big Boys and their followers in the CACIF, and creating an alternative economic elite, possibly linked to the military.⁹⁴

The second reason why the military favored the FRG was the PAN government's policy of weakening the Armed Forces. The PAN administration lowered the budget of the Ministry of Defense and removed some of its leadership.⁹⁵ Moreover, the PAN government placed a member of the Air Force as Minister of Defense, something to

⁹¹ As an interviewee explained, a third choice was the UNE party led by presidential candidate Alvaro Colom. However, this party had strong links to the former guerrilla organized into the URNG, and thus the military, still weary of the former guerrillas, chose not to back the UNE (Interview with Anonymous FRG Minister, March 16, 2007).

⁹² Interview with Anonymous Academic 2, July 19, 2006.

⁹³ In the words of Beard (2001), "The manifest lack of interest of the Guatemalan elite in the military accord (one of the Peace Accords) reveals a notable lack of support for the military... Getting rid of the military not only removed a source of economic competition [since the military had enriched itself throughout the years in power], but also gave both elites a way of getting rid of the past and presenting a clean face to the international community... elites regularly blame the social injustices that led to war, as well as the massive human rights violations during the wars, solely on the Armed Forces." The tensions between the military and the CACIF began during the mid to late 1970s, and the final break came with the 1996 signing of the Peace Accords.

⁹⁴ As described by a series of documents, the military had initiated a process of enrichment of its members as far back as the 1970s. By the 1980s, the military elite had become a competing economic elite to the CACIF (Beltran and Peacock 2003; Dosal 1995; Beard 2001). Especially during the period of General Lucas Garcia (1978 – 1982), military leaders used the state to enrich themselves. As explained by Beard (see footnote above), one of the reasons why the CACIF withdrew its support for the military during the negotiation of the Peace Accords was precisely because it feared the military's economic power.

⁹⁵ Interview with Anonymous FRG Minister, March 16, 2007.

which military leaders objected furiously because “the Guatemalan army is by far the most prominent and powerful of the three branches of the armed forces” (Schirmer 1998, 7).⁹⁶ With the FRG, the military hoped to regain some of its lost political legitimacy, and more importantly, increase the budget of the Ministry of Defense. This latter objective contravened the Peace Accords, which stipulated that defense spending was to decrease steadily after 1996. In addition, the military hoped to maintain its access to political power through the Estado Mayor Presidencial (EMP), a military structure supposedly in charge of the President’s security.⁹⁷ The military strongly opposed the Peace Accord stipulations that this structure be dismantled (Beltrán and Peacock 2003).

The Shielded FRG Executive Pursues Labor Reform

Therefore, the FRG administration initiated its term with the support of both the military and a renegade elite, and with the strong opposition of the Big Boys and their followers in the CACIF. The support of the renegade elite and the military enabled the FRG’s exclusion of the Big Boys and their followers in the CACIF from the Executive. Unlike the governments which preceded (since at least 1986, e.g. PAN) and followed it (i.e. the Gran Alianza Nacional (GANNA) government), the FRG administration did not depend on the Big Boys and the CACIF for campaign financing, did not place Big Boy and CACIF representatives in government positions, and did not hold continuous meetings with the

⁹⁶ Interview with Anonymous FRG Minister, March 16, 2007.

⁹⁷ Many of the EMP members were accused of serious human rights violations during and after the Civil War (1960 – 1996)

heads of the Big Boys.⁹⁸ This allowed the FRG administration to act more independently of the Big Boys and CACIF. As Segovia (2004) explains,

“The rise to State power of the Frente Republicano [FRG] (control of the Executive and principle force in the Legislature) between 2000 and 2003, signified in practice a substantial loss of influence of the Guatemalan private sector in the design and implementation of public policy, especially economic policy, where historically, businessmen had enjoyed an significant incidence” (Segovia 2004, 22).

The exclusion of the Big Boys and CACIF from the Executive, in addition to the FRG’s control of a majority block in the Legislature, proved crucial for the FRG labor and administrative reforms. In past governments (e.g. PAN), as well as in the GANA administration the succeeded the FRG, the Big Boys and their CACIF followers had blocked labor reform efforts using their influence in government, i.e. meeting with top government officials and convincing them to withdraw their support for reform; utilizing their Ministry and government positions to limit the budget of the Ministry of Labor; and lobbying and garnering support in the Legislature to turn down reform initiatives. Because the FRG Executive was shielded from the Big Boy and CACIF influences and pressures, such practices were much more limited during the FRG government. As explained below, this enhanced the capacity of the U.S. government and the FRG Ministers of Labor to influence and carry out labor reforms respectively.

The role of U.S. trade pressures

U.S. trade pressures played a central role in the FRG labor reforms. The exclusion of the Big Boys and their CACIF followers from the FRG Executive allowed U.S. pressures to

⁹⁸ Interview with Eduardo Weyman, July 28, 2006; and interview with Anonymous FRG Minister, March 16, 2007.

traverse domestic government channels (e.g. the Minister of Labor, the Vice-President, etc.) which, during previous governments (e.g. PAN) and during the succeeding Big Boy and CACIF-friendly GANA administration, remained almost completely closed. In these past governments and in the GANA administration, the Big Boys and their governments selectively used nationalist rhetoric and refused to bow before U.S. demands, thus limiting the effectiveness of U.S. trade pressures. By contrast, during the FRG administration, when the Big Boys and their followers were excluded from the Executive, these channels remained open to U.S. government trade pressures, enhancing their effectiveness in influencing labor policy.

Much of the literature on the effects of international trade on developing country labor conditions draws a direct connection between trade pressures and State regulation of the labor market, arguing that trade pressures are a necessary and sufficient condition to explain enhanced State labor market regulation enforcement. Specifically, authors such as Ambruster-Sandoval (2004), Frundt (1998 and 2002), Goldston (1989), and Spohn (2002) center on U.S. government trade pressures under two preferential trade programs – the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI) – as the explanatory variable. Both of these programs are regulated by a mechanism created under the Trade and Tariff Act of 1984,⁹⁹ according to which parties with interest in labor could request that the United States Trade Representative (USTR) revise a country's trade preferences if it failed to protect worker rights. The USTR could respond

⁹⁹ The International Labor Rights Fund (ILRF) and AFL-CIO participated in drafting the legislation. Ohio congressman Donald Pease introduced the main areas of focus of the legislation (organizing, bargaining, prohibitions on child labor, forced or slave labor, and humane conditions) in the renewed GSP (Frundt 1998).

to these petitions in one of three ways: first, he could reject the request; second, he could accept the request but not cancel the country's trade benefits if it perceived that the country was "taking steps" to solve the problem; and third, he could accept the request and cancel the country's benefits after review.¹⁰⁰ As these authors argue, only USTR announcements of GSP and CBI trade preference revisions brought about labor reforms to enhance the State's labor market regulation enforcement in Guatemala.

Interviewees in Guatemala also presented the trade pressure – improved State labor market regulation enforcement argument when referring to the FRG labor reforms: they claimed that the reforms responded solely to United States trade pressures. For instance, when referring to the legal reforms to the Labor Code, the United States Embassy labor attaché in Guatemala argued that

"International pressure (i.e., US pressure) has been the ONLY thing to enhance labor law enforcement. The 2001 reforms were in direct response to US government pressure... which was significant....No domestic pressures did anything and no other governments, international organizations, or labor organizations did anything"¹⁰¹

However, although the U.S. trade pressures explanation for the labor reforms seems convincing, it suffers from important limitations. First, Guatemalan history contains a series of cases of earlier crucial labor reforms coming at times of total U.S. government indifference with Guatemalan labor conditions and even aversion to the Guatemalan

¹⁰⁰ The USTR could revoke trade benefits for reasons other than labor. In 1993, for example, the USTR immediately cancelled Guatemala's trade benefits under the two programs after President Serrano dissolved Congress in what was termed a "self-coup" (auto golpe). Eventually, Serrano would step down, largely due to the Big Boys and CACIF fear of losing their access to the U.S. market (Dosal 1997; Valdez and Palencia 1998). This is the only instance when the USTR cancelled Guatemala's trade benefits, and it happened immediately after Serrano's self-coup, without any extended period of revision.

¹⁰¹ Email interview with Anonymous U.S. Labor Attaché, July 20, 2006.

government implementing the reforms. Two such cases of labor reforms came during the presidencies of Juan José Arévalo and Jacobo Arbenz (1944 – 1954) and General Kjell Laugerud (1974 – 1978).

In 1947, the administration of newly elected President Juan José Arévalo enacted the first Labor Code of the country, which

“...established collective bargaining rights, minimum wages, compensation for industrial accidents and regulation of work hours. It also outlined the right to an eight-hour day, to unionize, to bargain collectively, and to strike” (Yashar 1997, 128)

Yashar (1997) explains that in addition to enacting the new Labor Code the Arévalo government, and the succeeding Arbenz government, enforced the new regulations, leading to skyrocketing unionization rates and worker empowerment (Witzel de Ciudad 1995). Despite these advances, the U.S. did not look well upon these governments, especially after the Arbenz administration initiated an Agrarian Reform that was seen by American officials as Communist-influenced (Yashar 1997; Dosal 1997; Gleijeses 1991). The apprehension of a “Communist” intervention so close to U.S. soil would eventually lead the U.S. government to back the coup that overthrew the Arbenz government in 1954. However, what is important to underscore for the purposes of this thesis is that the labor reforms of the Arévalo and Arbenz governments, although eminent in Guatemalan history, received no support from the U.S. government.

A later period of labor reform without U.S. pressure came during the military government of Kjell Laugerud (1974 – 1978). At this time, the military elite created a political window for improved labor conditions as part of a new counterinsurgency strategy

emphasizing wealth redistribution. As the “modernizing” factions of the military in control of the government reasoned, improved labor conditions and enhanced labor regulation enforcement would redistribute wealth and sap support for the guerrilla (Dosal 1997; Levenson-Estrada 1994). During this time, important unionization drives by urban workers led to the creation of the Comité Nacional de Unidad Sindical (CNUS), the first autonomous union confederation since 1954, and the foundation of the Coca Cola union (Frundt 1987; Levenson-Estrada 1994). Although CNUS would practically disappear in the bloody repression of the late 1970s, over the next decade the Coca Cola union became an international symbol of Guatemalan unionism: the union successfully overcame the anti-union practices of the Coca Cola plant management in Guatemala to consolidate its position within the firm. In this process, the Coca Cola union in Guatemala received much support from labor and religious organizations from around the world (Frundt 1987, Levenson-Estrada 1994).

Yet, during the earlier Arévalo, Arbenz and Laugerud presidencies,¹⁰² U.S. concern over labor conditions in Guatemala was much more muted than it was after the 1984 Trade and Tariff Act. A second limitation of the U.S. pressure explanation for the labor reforms involves the period following the 1984 Act. As explained above, the Act created new,

¹⁰² As mentioned briefly in Chapter 2, while he was Chief of State (1982-2983) Rios Montt also accepted a series of labor reforms, most importantly the creation of the oldest labor union federation still in existence, the CUSG. As in the case of Arévalo and Arbenz, and Laugerud, Rios Montt’s reforms came at a time when the U.S. had a limited influence on the Guatemalan Executive: the Carter administration had placed an arms embargo on the country in 1976 – meaning the Guatemalan military was not dependent on the U.S. in its war against the guerrilla (which had been one of the main points of influence of the U.S. government over the Guatemalan government) – and exports to the U.S. under any kind of trade preference program were negligible (Frundt 1998) This latter point directly counteracts the assertion included in some studies on Guatemala (Goldston 1989; Ambruster-Sandoval 2004) that Rios Montt accepted the creation of the CUSG because the U.S. demanded it as a prerequisite to include Guatemala in the Caribbean Basin Recovery Act of 1983. This is not to say that the U.S. pressures did not play an important role in the creation of the CUSG, but rather that it was other, domestic conditions (to which I return later), which played the leading role.

more direct mechanisms of U.S. government policing of Guatemalan labor conditions. U.S. and Guatemalan labor-related parties used the new mechanisms extensively to address labor conditions in the country: between 1986 and 2001, Guatemala became the Latin American country with the most revisions by the USTR (Frundt 1998). As Table 3.1 shows, the USTR reviewed Guatemalan trade preferences seven times between 1986 and 2001.

Table 3.1. USTR revisions of Guatemalan trade preferences under the GSP/CBI Trade Programs

Year	Filing Labor Group	USTR action
1986	AFL	Accepted for revision
1987	AFL	Rejected for revision
1988	ILRF	Rejected for revision
1989	UE	Rejected for revision
1990	UE	Rejected for revision
1991	ILRF and AFL	Rejected for revision
1992	ILRF and AFL	Accepted for revision
1993	ILRF and AFL	Pended (cont'd review)
1994		Pended (cont'd review)
1995	ILRF and AFL	Pended (cont'd review)
1996		Pended (cont'd review)
1997		Removed from review
1998	US/Leap, UNITE, ILRF, AFL-CIO	Rejected for revision
1999	US/Leap, UNITE, ILRF, AFL-CIO	Rejected for revision
2000	AFL	Accepted for revision
2001		Removed from revision

Sources: Tsogas 2000; Frundt 1998; US/Leap Fact Sheet 2001

Moreover, pressures by the USTR became especially significant after 1993. Frundt explains that “USTR reviews up to 1993 were molded more by politics as well as embassy personnel inexperience.... But after 1993, the fall of the USSR and the end of the Cold War, made the USTR more ‘sensitive.’” (ibid, 69)

However, despite these new channels of pressure, no pre-2001 reform ascribed to these pressures effectively improved *national level* State enforcement of labor regulations in Guatemala.¹⁰³ In other words, the Guatemala government did not implement nor enforce these reforms. This failure of US pressures is closely related to the Big Boys and CACIF belief that the US would never remove Guatemala's trade preferences. As a leading CACIF labor representative argued,

“CACIF negotiated as a result of GSP/CBI pressures for ten years, until one day we said ‘enough, we won’t listen to this anymore.’ We knew that the United States would never remove our preferential trade access.”¹⁰⁴

Because, as explained before, the Executives before the FRG administration were permeated by Big Boy and CACIF pressures and influences (e.g. positions in Ministries and government offices, direct relations with top government officials), the position of the Big Boys and CACIF regarding the credible commitment of the U.S. government to remove Guatemala's trade preferences translated into the Guatemalan government's policy regarding U.S. trade pressures. In other words, the Big Boys and their followers in the CACIF successfully blocked almost all attempts to address U.S. trade pressures by the governments before the FRG, closing off most of the channels of influence that the U.S. could traverse to influence labor policy.

¹⁰³ However, a finding of this thesis, which requires further research, is that U.S. pressure, and more generally international pressure, is much more effective when targeted at specific firms, especially when the objective is to encourage or strengthen unionization. When international pressures come, it is much easier for the Guatemalan government to force a single firm to comply, than to require an entire industry or sector to uphold labor regulation. The opposition of a single firm is much easier to handle for the central government than the opposition of an entire sector. Previous research supporting this finding focuses on the unions at the Coca-Cola plant (Frundt 1987; Levenson-Estrada 1994), the Phillips Van Heusen (PVH) plant (Ambruster-Sandoval 2005), the INEXPORT plant (Frundt 1998), two ANACAFE coffee fincas (Frundt 1998), SITRABI (Frundt 1999; Interview with Anonymous Labor Unionist 10, June 1, 2006) and Choi Shin and Cimatextiles (Pipkin, 2006). No equivalent cases of success exist at the level of national labor policy (like the FRG legal and administrative reforms).

¹⁰⁴ Interview with Carlos Arias, July 31 2006.

Perhaps the most important (and one of the few) labor reform attempt resulting from U.S. pressures during the period included in Table 3.1 was the 1992 legal reform to the Labor Code. On that year, the USTR placed Guatemala's trade preferences under review. The 1992 legal reform to the Labor Code changed thirty two articles and "simplified union registrations, increased fines, and strengthened court procedures" (Frundt 1998, 150).¹⁰⁵ However, in spite of USTR pressures the Guatemalan State never fully implemented the reforms. Frundt (1998) explains that "Although it had revised its labor code, Guatemala had not implemented a single enforcement order in two years" (155). Instead, when pressured to implement and enforce the reform, "the Guatemalan government grew defensive. It employed three U.S. based law firms to file briefs on its behalf with USTR, none of which addressed labor-code compliance" (Frundt 1998, 150). The government's defensiveness underscores how the channels of influence for U.S. pressure during the FRG administration (e.g. the Minister of Labor, the Vice-President) were closed in 1992, thus limiting their effectiveness.

More generally, interviewees from the U.S. and Guatemalan union sectors, referred to all the GSP/CBI engendered labor reforms enacted between 1984 and 2001 as "cosmetic": like makeup on a face, the apparently substantial reforms covered a much less attractive reality of labor rights protection in the country, as the State failed to enforce the new reforms. Although these pre-2001 labor reforms would be better described as "partial" or "stunted," the central idea remains the same: the reforms solely driven by GSP/CBI

¹⁰⁵ In fact, this legal reform addressed many of the same CEACR observations that are the subject of the 2001 legal reform to the Labor Code described in the previous chapter. Recall that these observations were made starting in 1989.

pressures from the U.S. failed to attain their expected results when it came to State implementation and enforcement.¹⁰⁶ In other words, State implementation and enforcement of labor regulation did not improve as a result of U.S. trade pressures. For a leading U.S. labor advocate, for example,

“There has been a constant level of inadequate enforcement [by the Guatemalan State] with moments of time when it was better and others when it was considerably worse. But overall, it was consistently inadequate. Most of the time, when it improved was when it seemed like trade benefits would be threatened. Then there would be a whole flurry of effort... as in moments when there was a GSP petition...but then everything would return to the same level of inadequate enforcement.”¹⁰⁷

However, the question then becomes how one knows that the two FRG labor reforms were not “cosmetic,” “partial” or “stunted.”¹⁰⁸ Three facts answer this question. First, the value of fines imposed and collected by the IGT, as well as the number of cases attended soared after the FRG labor reforms, increasing seven, twenty five and seven-fold

¹⁰⁶ The inability of the US government to produce any important changes through its pressures can partly be explained by what Hirschman terms “disparity of attention.” “A country whose trade or investment is dominated by ties to a large and rich country is, at some point, likely to devote its attention with single-minded concentration to this uncomfortable situation and to an attempt to loosen or cut these ties. But the large rich country which carries only a small portion of its international economic relations with the country it dominates is normally preoccupied with its more vital *other* interests, for example, with its relations to the larger powers. Hence our basic economic disparity generates a disparity of attention... and this disparity now favors the *dependent* country: that country is likely to pursue its escape from domination more actively and energetically than the dominant country will work in preventing this escape” (47). I would like to thank Andrew Schrank for pointing this out to me. In addition, the Guatemalan state was especially independent, relative to the other Central American countries, of U.S. military support during the Civil War. It was the only Central American state that resolved its Civil War without much U.S. support, since in 1978 Carter had placed an embargo on U.S. military aid to Guatemala. This difference increased the relative independence of Guatemala from the U.S. government (Beard 2001, Segovia 2006, interview with Anonymous Academic 4).

¹⁰⁷ Interview with Anonymous Labor Unionist 10, June 1, 2006.

¹⁰⁸ As Frundt (2002) and Spohn (2002) correctly argue, the USTR revision process of Guatemalan trade preferences beginning in 2000 was exceptional, “In an unprecedented step in October 2000, the USTR bypassed its own petition process to target Central American compliance directly. The USTR placed Guatemala on probation...” (Frundt 2002, 41). This unprecedented step accelerated the Guatemalan Congress’ ratification of the legal reforms, underscoring the importance of U.S. pressures. However, it is also important to note that the first reform initiative of the FRG Executive was presented to Congress almost six months *before* the USTR announced its decision. The crucial role for U.S. pressure came in convincing part of the FRG cabinet and the Legislature, especially President of Congress Rios Montt, to ratify the legal reform to the Labor Code, and in ensuring that the GANA administration did not completely overturn the legal and administrative reforms.

respectively. Second, minimum wages increased yearly. Third, the decision of the Big Boy and CACIF-friendly GANA government to retreat on certain reforms, most importantly the IGT's fining capacity, further attest to the effectiveness of the FRG labor reforms. Had the labor reforms been purely cosmetic, partial or stunted, this business-friendly government would not have decided to roll them back.

The decision of the GANA administration to curtail certain reforms in 2004 also adds further evidence to the limits of U.S. pressures over Guatemala. In other words, it shows that government channels of influence traversed by U.S. pressures – which had been open during the FRG administration – were almost completely sealed by the new GANA government. The GANA Executive pressured the CC into upholding the unconstitutionality appeals presented by the CACIF representatives, and the GANA Ministry of Labor reduced the number of inspectors and the budget of the IGT during 2004. These actions came in the midst of the U.S. Congress' debate on the ratification of the United States – Dominican Republic Central America Free Trade Agreement (US DR-CAFTA or CAFTA). At the time, U.S.-based labor groups were feverishly lobbying to block the agreement, and many U.S. Congressmen were undecided.¹⁰⁹ However, in spite of these CAFTA-related pressures, the GANA administration rolled back some of the FRG reforms.

And yet, at the same time, U.S. pressures are not futile. Continuing with the aforementioned case, the GANA administration did not overturn most of the FRG reforms – only some of them – because of CAFTA and the associated U.S. pressures. In

¹⁰⁹ Interview with Anonymous Labor Unionist 11, July 9, 2006.

Washington, concern over labor rights in CAFTA's ratification was so significant that the Central American and Dominican governments were required to sign the White Book as a requisite for CAFTA's ratification. This White Book included a series of recommendations that signatory governments were expected to implement in order to meet the requirements of the Labor Chapter in CAFTA. In addition, the GANA administration included some of the FRG labor reforms in the White Book as Guatemala's advances in labor issues. As the U.S. Embassy labor attaché recognized, CAFTA played an important role in preventing the "emasculatation" of the IGT by the CACIF.¹¹⁰ It is important to underscore, however, that this was a unique situation where the negotiation of a trade agreement enhanced the influence and effectiveness of the U.S. government in Guatemalan labor policy.¹¹¹

More generally, this thesis argues that for U.S. pressures to be effective, they must traverse domestic government channels (e.g. the Minister of Labor, the Vice-President) whose openness varies from administration to administration. During the FRG administration these channels were more open because the Big Boys and CACIF were excluded from the Executive and thus the effectiveness of U.S. pressures was enhanced. These channels were almost completely closed during the Big Boy and CACIF-friendly GANA administration, reducing albeit not completely nullifying the effectiveness of the U.S. government pressures.

¹¹⁰ Email interview with Anonymous U.S. Labor Attaché, July 20, 2006.

¹¹¹ Interestingly, although one of the few Guatemalan government's commitments in the White Book was to return the fining responsibility to the IGT, the Guatemalan government has yet to meet this obligation.

Therefore, based on the available evidence, U.S. trade pressure was a necessary but not sufficient condition for the FRG labor reforms. On the one hand, U.S. pressures did play an important role in the labor reforms of the FRG: as explained in the previous chapter, they were instrumental in the Ministers of Labor and Vice-President's lobbying to obtain the Guatemalan Congress' approval of the legal reforms to the Labor Code, and in limiting the GANA administration's retreat from them. On the other hand, history and the process of reform described in the previous chapter show that U.S. government trade pressures alone cannot explain why the labor reforms of the FRG administration were implemented. U.S. pressures did not initiate the discussion on whether a Labor Code reform was necessary, nor did they ensure that the Executive would implement and enforce the legal reform through an administrative reform. To explain the Executive decisions, one must look elsewhere.

The role of a labor-embedded, Weberian bureaucracy

The Ministers of Labor of the FRG government also played a crucial role in the labor reforms. As interviewees correctly pointed out, two of the three FRG Ministers of Labor, Ministers Alfaro and Moreira, came from the labor union sector, the former being the first labor unionist in Guatemalan history to become Minister of Labor.¹¹² The third Minister of Labor of the FRG administration, Minister Godoy, although not from the labor union sector, had an extensive background in human rights activism.¹¹³ Moreover,

¹¹² Interview with Francisco Reyes Lopez, March 19, 2007.

¹¹³ Before becoming Minister of Labor, he had been the Secretary of State for Human Rights in Guatemala for the FRG government, and before that he had served in Congress and was part of the Congressional Labor Commission (1986-1990), which he presided from 1989 to 1990 (Interview with Victor Hugo Godoy, August 22, 2006). At the time of the interview for this thesis, he was also involved in human rights activism.

the three Ministers held close relations with key members of the FRG party and administration, and all of them had a vast experience working on labor issues. Minister Alfaro had been Rios Montt's personal lawyer since the early 1980s, and had also worked closely with FRG Vice President Francisco Reyes Lopez while they were both members of the Congressional Labor Commission in the early 1990s.¹¹⁴ Minister Moreira enjoyed ample support from both President Portillo and Vice President Reyes Lopez in the Executive, and President of Congress Rios Montt, and had led the National Electric Institute's (INDE) union for many years. Finally, Minister Godoy was closely linked to President Portillo, who had first placed him in the State Office for Human Rights and then moved him to the Ministry of Labor after Minister Alfaro's death. Godoy had also worked on and presided over the Congressional Labor Commission in the early 1990s. However, unlike Ministers Moreira and Alfaro, Godoy did not enjoy the full support of Vice-President Reyes Lopez. Because Reyes Lopez controlled the Executive, Minister Godoy could not fully advance his planned reforms nor increase the Ministry's budget, although he did continue with the Ministry line traced by Alfaro. Thus, the three Ministers' "embeddedness" (Evans 1989) in the labor and broader human rights movement provided them with a *motivation* to implement the labor reforms of the FRG administration. Their political connections within the FRG administration, and experience on labor issues – their "Weberianess" (Evans and Rauch 1999) – especially in the cases of Ministers Alfaro and Moreira, presented them with the *means* to implement them.

¹¹⁴ They both worked on the 1992 legal reforms to the Labor Code explained above. In an interview, former Vice President Reyes Lopez described how Minister Alfaro also served as an adviser to a union in one of Mr. Reyes' firms. Former Vice-President Reyes Lopez proudly claimed that it was him, and not Rios Montt, who had brought Alfaro, "the first labor unionist to become Minister of Labor," to the FRG government (Interview Francisco Reyes Lopez, March 19, 2007)

There is substantial literature on the importance of Weberian, embedded bureaucracies in reform processes. Evans (1989) underscores the importance of bureaucrats being linked to external networks, or being “embedded” in these networks. Although Evans is referring to networks connecting the “State and corporate elites” as part of a “developmental state,” the argument for embeddedness can be extended to Labor Ministers connected to the broader labor movement networks: their connection to these networks endows them with the necessary information and consensus-formation-capacity to enact and implement effective labor reforms. In terms of Weberianness, Evans (1989) and Evans and Rauch (1999) underscore the importance of long-term career paths and exceptional experience and knowledge. This literature appears to find support in the cases of the three FRG Ministers of Labor. The three Ministers were embedded in the labor and broader human rights movement. Additionally, they all had exceptional experience and knowledge on labor issues: the three Ministers boasted long careers with labor unions and in Congress, and had extensive leadership experience.

Nonetheless, this labor-embedded, Weberian bureaucracy explanation falls short from fully accounting for the FRG reforms for two reasons. First, many of the predecessors of the three FRG Ministers of Labor (see Table 3.2) were also embedded in the labor and broader human rights movement but could not implement significant reforms like the FRG Ministers. As FRG Minister of Labor Godoy recognized,

“Since at least the time of Lucas Garcia (1978 – 1982), there has been a preoccupation with having someone with social sensibility in the Ministry. The Ministry is seen as the soft side of the Executive. There we find

Solórzano, Ortiz Moscoso, Soberanis, Maldonado, Alarcón Monsanto,¹¹⁵
Linares and Cifuentes, among others.”¹¹⁶

Table 3.2. Labor Ministers 1986 – 2004

Minister of Labor	Years in Office	Number of Years in Office	President
Ana Catalina Soberanis	1986-1988	3 years	Cerezo (DCG)
Rodolfo Maldonado Ruiz	1988-1989	1 year	Cerezo (DCG)
Mario Solórzano	1990-1993	4 years	Serrano (MAS)
Gladys Morfin	1993-1996	3 years	De Leon
Arnoldo Moscoso Ortiz	1996	1 year	Arzú (PAN)
Hector Adolfo Cifuentes	1997-1998	1 year	Arzú (PAN)
Luis Linares	1998-2000	2 years	Arzú (PAN)
Juan Francisco Alfaro	2000-2001	2 years	Portillo (FRG)
Victor Hugo Godoy	2002	1 year	Portillo (FRG)
Victor Moreira	2003	1 year	Portillo (FRG)

Second, many of the predecessors of the FRG Ministers shared similar Weberian traits: they were experienced leaders with long careers and exceptional knowledge not only pertaining to labor, but also to other economic and social issues affecting workers. Minister Solórzano, for instance, was a presidential candidate for the Social Democratic Party in 1990 and one of the most influential Ministers in the Serrano (1991-1993) cabinet (Dosal 1995). Similarly, Minister Soberanis was the head of the Christian Democratic Party (DCG), would move on to become the first woman President of Congress in 1991, and would run for the Presidency of the country in 1999. A third

¹¹⁵ He was Minister of Labor from 1978 to 1982.

¹¹⁶ Interview with Victor Hugo Godoy, August 22, 2006.

example is Minister Gladys Morfin, who was Vice President of Congress before being named Minister of Labor.¹¹⁷

Therefore, this thesis claims that labor-embedded and Weberian FRG Ministers of Labor were a necessary but not sufficient condition for the FRG labor reforms. The three labor-embedded and Weberian FRG Ministers of Labor, especially Ministers Alfaro and Moreira, initiated discussions and pushed for the labor reforms within the Executive and in the Legislature. However, as the cases of several of the previous Ministers of Labor attest, such labor-embeddedness and Weberianness was not enough to advance labor reforms in Guatemala.

The role of the Big Boys and their Followers in the CACIF

In addition to U.S. trade pressures and labor-embedded, Weberian FRG Ministers of Labor, the commitment of the Big Boys and their followers in the CACIF to national-level democracy was central to the FRG's decision to implement the labor reforms. This democratic commitment meant that the FRG administration could enact and implement the labor reforms – and exclude the Big Boys and CACIF from the Executive – without fearing a Big Boy and CACIF-organized coup. Until the 1980s, the Big Boys and the CACIF used coup threats to deter military and elected governments from implementing economic and social policies that they did not support. However, in the 1980s and 1990s, they abandoned this coup-threat strategy for two reasons: first, throughout most of the period between 1954 and the 1980s, they had ruled the country in alliance with the

¹¹⁷ Frundt (1998) explains that “Although less experienced than Solórzano, Minister Gladys Morfin brought more competent administration to the Labor Ministry” (152).

military. However, in the late 1970s and early 1980s, their alliance came under intense pressure as the goal of the “modernizing”¹¹⁸ military faction in government of redistributing wealth to weaken popular support for the guerrilla conflicted with the interests of the Big Boys and the CACIF, who wished to maintain their economic power. During this period, the military governments (i.e. Kjell Laugerud (1974 – 1978) and Efraim Rios Montt (1982 – 1983)) consistently excluded the Big Boys and the CACIF from government policy-making. Given this experience, the Big Boys and their CACIF followers understood the risks of an alliance with the military (Mersky1988; Beard 2001). This understanding cemented their commitment to democracy as they concluded that democracy allowed more channels of influence over government policy. The Big Boys and their followers in the CACIF continued influencing political and economic government decisions through positions in government ministries (as a result of campaign financing); participation of CACIF chambers in a variety of government bodies (Beard (2001) argues that “CACIF had representation on the boards on 27 government bodies, including the Monetary Board, the Guatemalan Social Security Institute, and the National Salary Commission.”); direct contact of the most powerful businessmen with influential public servants in the three branches of government; control of mass media; and outright bribery (Segovia 2006; Schneider forthcoming, Palencia 2002). Moreover, even if these channels of influence for the Big Boys and their followers were not open during democratically elected government, at the very least democracy ensured that

¹¹⁸ As explained before, the “modernizing” factions of the military supported a 70/30 view of the internal conflict: it focused “70 percent of its effort on recovering war refugees through development projects (‘Beans’) while using 30 percent of the effort for repressive methods (‘Bullets’) against those the army viewed as ‘lost’” (Schirmer 1998, 23).

“hostile” administrations (i.e. administrations implementing economic and social policies opposed by the Big Boys and their CACIF followers) would change after four years.

The second reason why the Big Boys and their followers in the CACIF favored a return to democracy follows from the changing economic conditions of the country. With the collapse of the Central American Common Market (CACM) in the early 1980s, the governments of the mid 1980s and 1990s, with the support of most of the economic elites (i.e. Big Boys, industrial elites, commercial elites, financial elites, and to a lesser extent agrarian elites – all of them represented in the CACIF), replaced the Import Substitution Industrialization (ISI) model with an economic model based on economic liberalization and export orientation to markets beyond the Central American borders (Dosal 1995).

Democracy was prerequisite for access to these markets, especially in the case of the U.S. market. As the 1993 Serrano dissolution of Congress, usually referred to as a “self-coup,” proved, the U.S. market was not open to the country if it continued along a path of authoritarian rule (Dosal 1995; Palencia and Valdez 1998; Spohn 2002). When Serrano dissolved Congress and declared his self-coup, the U.S. immediately revoked Guatemala’s trade preferences under the GSP and CBI

The changes in the economic conditions which favored democracy, namely the collapse of ISI and the adoption of a new, export-oriented model, also accelerated a structural change that affected the Big Boys and their followers in the CACIF during the 1980s and 1990s: diversification from coffee production and a few protected manufacturing industries, into non-traditional exports, sugar production, and services and commerce.

The most important shift probably involved the collapse of the coffee-based economic elite, especially after 1999 (see Figure 3 -1),¹¹⁹ as one of the dominant economic elites in the country (some of the Big Boys originated in coffee); and the concurrent rise of the agro-industrial sugar,¹²⁰ non-traditional (including garment and textiles and non-traditional agricultural products such as fruit and horticulture)¹²¹ and commercial elites (see Figure 3-2)¹²² (Mersky 1988; Segovia 2004 and 2006). All of these new sectors are represented in the CACIF and many of them were captured by the Big Boys (most of the rest of the businesses in the new sectors follow the Big Boys). The Big Boys, which are family-held conglomerates originating in agriculture, began expanding and diversifying into industry, commerce and services during the period of import substitution industrialization (ISI) (1958¹²³ – 1980s). More recently, they entered non-traditional sectors such as garment and textile production. Today, the Big Boys (Segovia 2006) are

¹¹⁹ Between 1999 and 2001, exports of coffee from Guatemala declined by more than 40% (Banco de Guatemala 2007). The crisis responded to a sharp decline in world coffee prices. The coffee crisis severely undermined Big Boys and CACIF power, since, as several authors claim, a large majority of them originated in the coffee sector in the period following the Liberal Revolution of 1871 (Dosal 1995; Cambranes 1985).

¹²⁰ The sugar sector began its expansion in the late 1970s and early 1980s as a result of the confluence of two events. First, a modernizing group of recent university graduates took control of production of one of the largest sugar mills in the country, and implemented an aggressive expansion program (Interview with Anonymous Government Commissioner, July 25, 2006). Second, a massive strike broke out in the sugar plantations in 1980s and convinced the sugar barons that changes were necessary (Oglesby 2001). These two events resulted in a rapid, industry-wide production upgrading process which by the late 1990s had tripled production, doubled the amount of land dedicated to sugar growing, and situated Guatemala as the sixth largest producer of sugar in the world (Oglesby 2001). This sharp growth in production increased the power of sugar barons within CACIF, allowing them to become the first association to have a seat in the CACIF board (until then, only sectoral chambers, as opposed to industry associations, were represented).

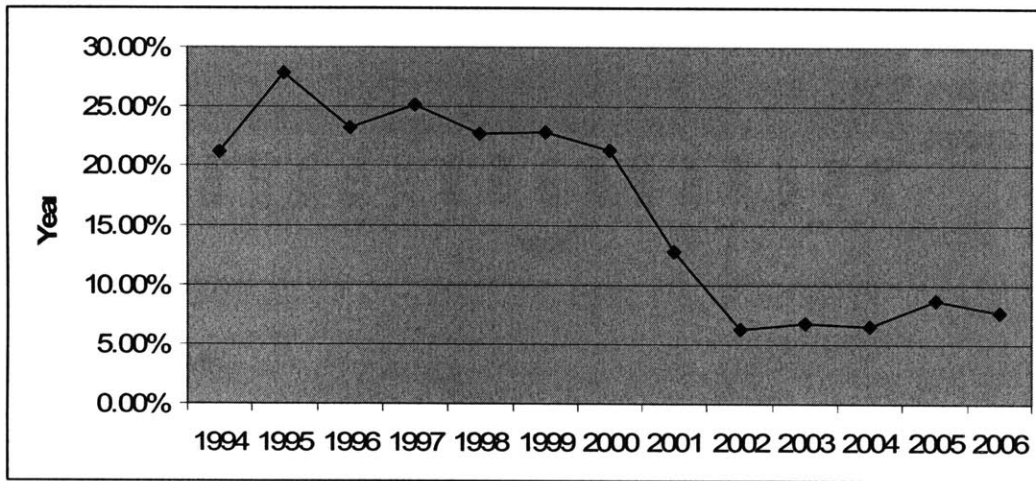
¹²¹ Non-traditional products received their first boost from the Caribbean Basin Initiative, approved by the U.S. in the early 1980s, which created preferential trade treatment for non-traditional exports (Frundt 1998). In addition, U.S. AID funded a series of programs to strengthen the non-traditional sector and its association, AGEXPRONT, in Guatemala (Escoto and Marroquin 1993; Valdez and Palencia 1998; Interview with Fernando Valdez, July 26, 2006). Finally, Decree 29-89, approved during the Cerezo administration (1986 – 1990), provided important fiscal incentives for exports, especially maquila (Ley de Fomento y Desarrollo de la Actividad Exportadora y de Maquila 1989).

¹²² The commercial sector greatly benefited from the dismantling of ISI and the associated reduction in import tariffs. As Dosal (1995) explains, the commercial sector constantly clashed with the industrial sector in the post 1950 period, since industrialists favored protection while commercial sector businesses imported many of their goods and thus opposed protectionism.

¹²³ The Central American Common Market (CACM) was created in 1958.

in a class of their own, apart from the rest of the business sector in Guatemala. They define CACIF positions¹²⁴ since they control most chambers,¹²⁵ and also affect government policy through informal channels (i.e. direct contacts with top government officials).

Figure 3-1 Coffee Exports as Percent of Total Exports

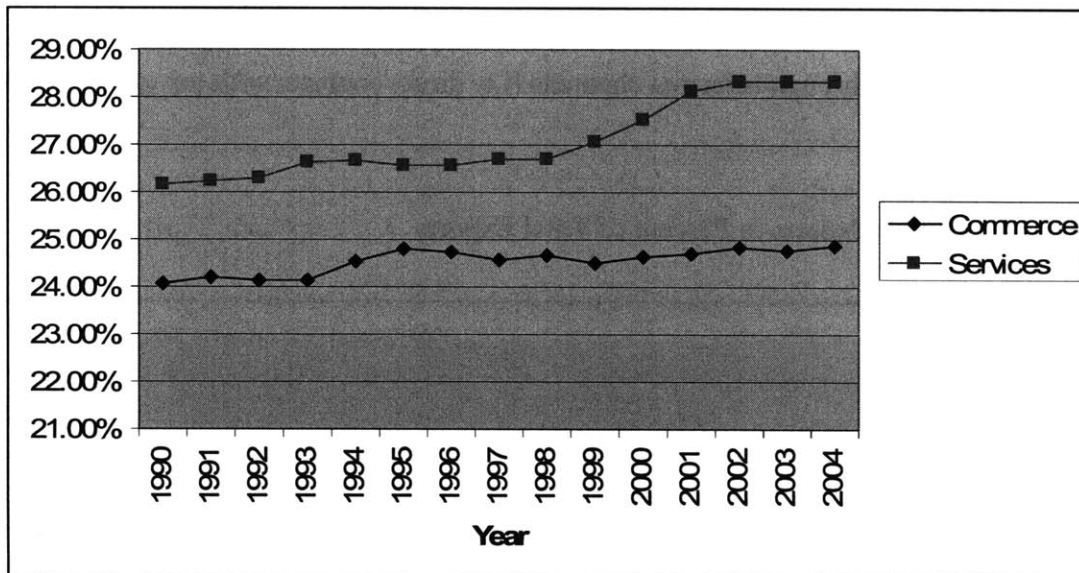


Source: Banco de Guatemala

¹²⁴ Small firms in Guatemala are generally unorganized and medium-sized firms represented in the CACIF simply have to follow the conditions defined by these large conglomerates (Interview with Francisco Reyes Lopez, March 19, 2007; interview with Anonymous Academic 1, July 26, 2006; Segovia 2004 and 2006).

¹²⁵ Although the Big Boys control the chambers, the day to day activities of these chambers are in the hands of Big Boy-friendly managers, rather than Big Boy family heads (Segovia 2004; interview with Francisco Reyes Lopez, March 19, 2007; interview with Anonymous Academic 1, July 26, 2006).

Figure 3-2 Services¹²⁶ and Commerce as Percent of GDP



Source: Banco de Guatemala

Returning to the process of diversification, much of the literature on production upgrading and labor conditions describes diversification as leading to improved national-level economic conditions for workers. Paige (1975 and 1997) argues that that the transformation from agrarian production to agro-industrial production entails a move from zero-sum to positive-sum relation between employers and employees: in agrarian production, employers depended on control over land and peasants to maintain their position. Thus, agrarian employers could not allow labor condition improvements that could encourage “proleterianized” workers to challenge the status quo and the agrarian elite’s continued political domination over the land and workers (the type of worker mobilization that happened in El Salvador in the 1930s, resulting in the well-known “Matanza”). In agro-industry, such control is not necessary, since increased profits do not come from the land nor from low labor costs, but rather from increased productivity

¹²⁶ Not including banking and financial services.

and capital investments. Therefore, Paige argues, agro-industrialists can “indulge” in providing workers with better conditions. With this in mind, Paige predicted that labor wages and conditions would improve following the upgrading process from agrarian to agro-industrial production. This conclusion is partially true in Guatemala. Each of the economic elites in the new sectors displays more labor-friendly attitudes than the agrarian, coffee elites. Sugar producers, sustained by a highly productive workforce, pay the highest wages in the agrarian sector and provide workers with housing, and health, nutrition and literacy programs through their foundation, FUNDAZUCAR (Oglesby 2001).¹²⁷ Non-traditional agricultural producers, many of them organized in cooperatives, are seen by the leader of one of the largest peasant union organizations as having a better employer-employee relation.¹²⁸ Investors¹²⁹ in garment production or maquila, have an “exit” option that curbs their opposition to labor reform; because they are relatively footloose, if they disagree with labor policy, they can simply leave the country.¹³⁰ Finally, the commerce sector has been interested in improving wages as a way to expand domestic demand for their imported products since the 1871 Liberal Revolution (Cambranes 1985).

At the same time, despite the widespread understanding that the sugar, non-traditional and commercial sectors are more labor-friendly than their coffee-based predecessors, the rise of CACIF elites in these new economic sectors – and expansion of the Big Boys into

¹²⁷ Interview with Anonymous Government Commissioner, July 26, 2001; interview with Anonymous Labor Lawyer, August 16, 2006; and interview with Anonymous Businessman, August 15, 2006).

¹²⁸ Interview with Anonymous Labor Unionist 3, August 1, 2006.

¹²⁹ A majority of those investing in maquila are Korean (Pipkin 2006).

¹³⁰ An interviewee also explained that, while supporting the development of the non-traditional sector in Guatemala, U.S. AID also tried to instill a “modernizing” mentality in non-traditional exporters (Interview with Anonymous Academic 1, July 26, 2006).

these sectors – did not enhance national labor regulation enforcement, and certainly cannot explain the FRG reforms. First, important labor reforms did not precede nor follow the FRG administration, even though the process of elite restructuring started before the FRG government and has continued since. Had there been a true change in the position of the Big Boys and CACIF regarding labor, their rise to economic leadership would have translated into improved national policy on labor regulation enforcement. As a matter of fact, at least two of the new economic elites, those involved in sugar and non-traditional exports, as well as several of the Big Boys, openly supported both the Partido de Avanzada Nacional (PAN) administration that preceded the FRG government, and the Gran Alianza Nacional (GANAN) administration that followed it. Not only did the sugar and nontraditional sector elites, and the Big Boys, provide financial support for the GANAN and PAN electoral campaigns, but they also staffed many of the two administrations' Ministries. In the case of the GANAN administration, they even staffed the Ministry of Labor.¹³¹ However, neither the PAN administration that preceded the FRG administration, nor the GANAN administration that followed it implemented far-reaching labor reforms. On the contrary, the GANAN administration even rolled back some of the FRG administration's labor reforms.

A second reason why the Big Boys and the new economic elites of the CACIF were not behind the FRG reform concerns their lack of involvement in the FRG administration's

¹³¹ Minister Gallardo has been linked to one of the Big Boys, the Castillo conglomerate, as he worked with a leading Castillo businessman and politician (Interview with Anonymous Labor Lawyer, August 16, 2006).

policies. As attested by a number of interviewees¹³² and even by GANA President Berger in his 2004 acceptance speech (Berger 2004), the FRG administration and the Big Boys and the new economic elites in the CACIF constantly disagreed and clashed over economic and social policy, especially in terms of fiscal, trade and labor policy. In each of these policy areas the FRG implemented important reforms, and in each the Big Boys and the CACIF failed to participate. The Big Boys and the CACIF were not indulging in labor reforms, but instead consistently attacked the FRG Executive and Legislature for them.

Yet the fact that the Big Boys and new economic elites in the CACIF did not lead the FRG reforms does not mean that they did not play a role in their ratification. As described above, the Big Boys and the CACIF were important for the FRG reforms because of their commitment to democracy. Regardless of whether the Big Boys' and their CACIF followers' commitment to democracy was ideological or merely functional (i.e. they needed it to ensure access to export markets), it allowed the FRG Executive and Legislature to rest assured that the labor reforms would not elicit an armed coup. In the pre-democratic era, one of the simplest ways for the CACIF to pressure any administration to enact CACIF-friendly policies was to threaten with a coup. In fact, Rios Montt, the FRG leader and President of Congress, was himself deposed by a CACIF-backed armed military coup in 1983 after he refused to bow before CACIF pressures. However, as Rios Montt and the FRG leadership were keenly aware, this was no longer the case after the FRG's Alfonso Portillo became President in January 2000.

¹³² Interview with Guido Ricci, August 25, 2006; interview with Carlos Arias, July 31, 2006; interview with Eduardo Weyman, July 28, 2006; and interview with Victor Moreira, August 9, 2006.

The Big Boys and their CACIF followers would not disrupt the popularly elected government.¹³³

The Unifying and Enhancing Role of a Shielded FRG Executive

Therefore, U.S. trade pressures, a Big Boy and CACIF democratic commitment, and labor-embedded, Weberian Ministers of Labor were all present before, during and after the FRG administration. What differentiated the FRG government from its predecessors and successor was the exclusion of the Big Boys and CACIF from the Executive – the *shielded* FRG Executive. This shielding provided space for the Weberian, labor-embedded Ministers of Labor to enact and implement the labor reforms, and enhanced the effectiveness of the U.S. support for the reforms. Additionally, the commitment of the Big Boys and their followers to democracy ensured that the FRG administration could remain shielded from their influences and pressures without facing an armed coup.

Within the FRG shielded Executive, Weberian Ministers of Labor embedded in the labor and broader human rights movement could implement labor reforms if they successfully garnered the support of the majority of the cabinet and the Legislative majority block.

The three Labor Ministers of the FRG, especially Ministers Alfaro and Moreira, were able to obtain this support for at least four reasons: first, the constant clash between the FRG administration and the Big Boys and CACIF created a desire by FRG leaders to

¹³³ In addition to their commitment to democracy, the Big Boys and the CACIF faced an additional hurdle if they intended to carry out a coup: as explained above, the signing of the Peace Accords in 1996 signified a Big Boy and CACIF – military break. In the Accords, the majority of the Big Boys and the CACIF withdrew their support for the military elite even though both of them had worked together since the 1954 Counter-Revolution that deposed President Arbenz. Therefore, if the Big Boys and their followers in the CACIF had been interested in organizing a coup, they could not have counted with the support of the military.

punish these Big Boys and their CACIF followers. The labor reforms could be used for this purpose. As the U.S. labor attaché explained, “[The FRG administration and the Big Boys and CACIF] were adversaries and [the FRG] used the Labor Ministry as a politically motivated weapon... It was all politically motivated to harass [FRG] opponents.”¹³⁴

Second, the FRG could use the labor reforms to create an advantage for its protected renegade elite. As an interviewee who participated in the FRG government related, the FRG used the State as a “grabbing hand” to benefit its supporters.¹³⁵ Selective enforcement of the labor reforms increased the risks and costs for those opposing the FRG, since they were commonly targeted for inspections. It also benefited those who supported the administration because they did not have to fear the inspectors.¹³⁶

Third, the labor reforms could expand the FRG’s urban electoral base since they benefited urban workers, many of them impoverished by the Washington Consensus.¹³⁷ In this sense, the FRG reforms can be seen as an example of the second of Polanyi’s (1944) “double movement” (the first movement being the push toward a free market, especially in labor), which as Piore and Schrank (2006a) explain, “is an response, an attempt to protect society from [the pressures of the market]... the second movement is visceral, an instinctive effort to rescue society from the ravages of unfettered economic

¹³⁴ Telephone interview with Anonymous U.S. Labor Attaché, July 21, 2007.

¹³⁵ Interview with Anonymous FRG Minister, March 16, 2007.

¹³⁶ In addition, most of the renegade elite held investments in capital intensive industries which would not be as affected by increased labor regulation enforcement.

¹³⁷ As explained in the previous sections, while he was Chief of State between 1982 and 1983, FRG leader Rios Montt pursued a similar strategy to garner support for his military government.

competition and the constant redeployment of resources that destroys the context in which people understand themselves and create meaning and purpose in their lives” (Piore and Schrank 2006a, <http://bostonreview.net/BR31.5/pioreschrank.html>)

According to Ministry of Labor data, almost half of all inspections in 2003 and 2004 were carried out in Industry. The other half focused on Services and Commerce. In addition, data from the Encuesta Nacional de Empleo e Ingresos (ENEI) employment surveys shows that most urban workers are involved in industry, services or commerce. Thus, most of the inspections targeted urban work centers and benefited urban workers.

Finally, the FRG labor reforms ensured increased support from the international community, which hesitated to back a party directed by human-rights violator Rios Montt. For the U.S. government, the combination of a shielded Executive and a labor-embedded, Weberian Minister of Labor with support from the cabinet created the opportunity to obtain tangible improvements in labor enforcement. As detailed above, U.S. pressures played a crucial role in ensuring the labor reforms’ Legislative approval. The exclusion of the Big Boys and CACIF from the FRG Executive and the commitment of the Labor Ministers to labor reform opened new channels which U.S. trade pressures could navigate to multiply their effectiveness.

Also important, FRG supporters did not oppose the reforms. On the one hand, the renegade elite benefited from the increased costs and risks to the economic elite organized in the CACIF. The risks and costs associated with the reforms weakened the

Big Boys and their CACIF followers. Their weakening created new opportunities for increased economic and political influence for the renegade elites, which were also clustered in capital intensive industries and thus would not be severely hurt by increased labor regulation enforcement. On the other hand, the military was unaffected by the reforms, as a completely different set of labor regulations prevails within the Armed Forces. Additionally, the reforms mostly targeted the urban, non-Indigenous workers, not the rural workers. During the Civil War, most of the military repression took place in rural areas against Indigenous peasants, where the military strategy envisioned control over the population as the way to defeat the guerrillas. However, military control was much less in urban areas, and thus the military was not as sensitive to reforms that potentially enhanced worker mobilization in these areas. Most importantly, however, the military was focused on increasing its budget and ensuring the continued survival of the EMP, which the FRG administration guaranteed. Therefore, both groups of supporters went along with the FRG labor reforms.

Final Remarks

In sum, the success of the FRG administration in implementing the labor reforms is explained by the FRG's exclusion of the Big Boys and their followers in the CACIF from the Executive. The FRG was able to win the 1999 election and exclude the Big Boys and CACIF from the Executive because of the support of two groups – a renegade economic elite and the military. Each of these two groups had its own objectives which it sought to fulfill in the FRG government. Within this shielded FRG Executive, labor-embedded and Weberian Ministers of Labor succeeded in gaining the support for the labor reforms

because cabinet and Congress members wanted to punish opposing Big Boys and CACIF, benefit supporting renegade elites, obtain increased electoral backing in urban areas, and garner support from the international community. In fact, the Ministers of Labor's crusade was strengthened by the trade pressures of the U.S. government, which saw its influence magnified during the FRG administration. Moreover, FRG cabinet members did not fear a coup, as the Big Boys and CACIF were wholly committed to democracy and had broken their alliance with the military.

Conclusion

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The history of Guatemala until 2000 is filled with examples of the country's infamous inability to uphold labor rights and labor regulation. Until 1944, forced labor was legal. Between the 1950s and 1980s, employers and employer-friendly military governments consistently repressed workers and unions. From the 1980s through the 1990s, the so-called Washington Consensus was implemented in full force, leading to what Polanyi (1944) would have referred to as "social dislocation and the disruption of the fabric of society." During this time, Guatemala received continual international complaints regarding poor labor regulation enforcement by the State. For instance, between 1986 and 2001, the United States Trade Representative (USTR) revised Guatemala's trade preferences under the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) programs more times than any other Latin American country's preferences. His reviews came in response to petitions by labor-related organizations denouncing inadequate labor regulation enforcement and constant labor rights abuse in the country. In sum, the Guatemalan State's record on defending labor rights and enforcing labor regulation is far from satisfactory.

In the 1940s, Polanyi (1944) highlighted the role of the State in preventing the unbridled forces of the market from bringing social dislocation and the disruption of the fabric of society – what Polanyi refers to as the second movement of the "double movement." Polanyi argued that this second movement was important to protect the fabric of society,

and also showed that it was crucial in ensuring the creation of functioning national markets (Chauhdry 1993). More recently, literature on Latin America has focused on the region's governments' current push toward increased labor market State regulation not only to prevent social dislocation following the so-called Washington Consensus (Piore and Schrank 2006a and 2006b; Murillo and Schrank 2005), but also to promote economic development by seeking to "reconcile the public's demand for protection with the market's demand for efficiency" (Piore and Schrank 2006b, 4). As this literature shows, governments throughout Latin America are carrying both de jure and de facto labor reforms to enhance the regulatory capacity of the State apparatus in the labor market.

Yet, in Guatemala, the election of the government of the Frente Republicano Guatemalteco (FRG) in late 1999 did not seem to fit within this recent Latin America literature. Founded by former Chief of State and notorious human rights violator Efraín Ríos Montt, the FRG party was described by Jonas (2000) as "ultra-rightist" (44) because of its close links to the military. Moreover, through its political and economic decisions between 2000 and 2004 (e.g. tariff reductions, interference in military internal affairs, dramatic cabinet changes), the FRG government only seemed to lose supporters. Constant clashes with the seven or eight largest conglomerates in the country accounting for more than 20% of GDP, "the Big Boys," and their followers in the peak business organization *Comite de Organizaciones Agricolas, Comerciales, Industriales y Financieras* (CACIF) tarnished the FRG's public image. A severe economic recession, escalating crime rates and widespread charges of corruption eroded the FRG government's support.

Surprisingly, as this thesis has shown, despite its many problems the FRG administration enacted and implemented two far-reaching labor reforms, which not only resulted in significant improvements in the State's enforcement of labor regulation, but which, for the most part, also survived the transition from the FRG to the more Big Boy and CACIF-friendly Gran Alianza Nacional (GANANAL) government (2004 – 2008). Susan Jonas (2000) writes about Guatemala,

“Every time I catch a glimpse of a better future, my hopes will be dashed. And every time I begin the inevitable descent into despair, Guatemala will save itself, somehow, in the most unimaginable way” (Jonas 2000, 1).

Her words seem eerily appropriate to describe both the government of a party of which she is strongly critical, the FRG, as well as the survival of its reforms in the GANANAL period. At the same time, this thesis has shed light on the process of enactment, implementation and preservation of the FRG labor reforms, making the way in which Guatemala “saved itself” more “imaginable.”

The first of the two FRG labor reforms was a legal reform to the Labor Code which attained four large objectives: first, it legalized agricultural workers' right to strike; second, it strengthened the Labor Inspection's (IGT) enforcement capacity by endowing it with the responsibility to impose fines on noncompliant firms – a responsibility previously reserved for the Labor Courts – and by raising fine rates; third, it reinforced and streamlined the legal mechanisms governing the organization of labor unions, eliminating cumbersome Labor Code requirements for union formation and limiting State intervention in internal union affairs such as financial accounting; and fourth, it required

the central government to set minimum wages yearly. The second was an administrative reform to the IGT which increased the IGT budget by 40%; raised the number of labor inspectors by more than 80%, from 160 to 292; created a publicity campaign to inform workers about their labor rights; established two specialized inspector units for underage, and garment and textile work; and institutionalized an internship program for San Carlos University (USAC) last-year law students to work in the Ministry of Labor and the IGT.

Together, the FRG labor reforms resulted in a number of positive outcomes in terms of worker wages and the capacity of the State to enforce labor regulation. Regarding the latter, first, the amount of fines imposed by the State on noncompliant firms increased more than seven-fold between 2001 and 2003, from about Q.900 thousand to Q. 7.4 million. Second, in this same period, the amount in fines collected by the Guatemalan State multiplied by more than 25 times, from Q.50 thousand to Q.1.5 million. Third, during the FRG government, the number of cases of firms found in non-compliance settled by the Labor Inspection (IGT) rose almost seven-fold, from 136 to 923. In terms of worker wages, the most evident effect revolved around minimum wages. The FRG administration raised them every year of its term, increasing the real value of agricultural and non-agricultural minimum wages by 24% and 33% respectively between 2000 and 2004. No other administration has ever raised minimum wages in each of its four years in office.

This thesis explained how the FRG's unique exclusion of the Big Boy and CACIF from the Executive – the *shielding* of the Executive – played a crucial role in the labor reform process, since these economic elites opposed reform efforts to enhance the State's capacity to enforce labor market regulation. Unlike any of the other democratically-elected governments of Guatemala since 1986, the FRG Executive was not permeated by the influences and pressures of the Big Boys and their followers. In the governments preceding the FRG, as well as in the Gran Alianza Nacional (GANAN) government that followed it, the Big Boys had direct access to policy-making through appointments of their employees and of loyal CACIF representatives to Ministerial and high level Executive positions; and through informal meetings with the highest ranking government officials, including the President – what Segovia (2006) refers to as the “door-knocker right.” However, unlike its predecessors and successor government, the FRG placed these traditional Big Boy/CACIF – State practices on hold, refusing to open the Executive to the Big Boys' influences and pressures.

To exclude the Big Boys and the CACIF from the Executive, and counterweight their economic and, more importantly, political power, the FRG depended crucially on its two main sources of support: the military and the renegade elite. Both of these actors provided campaign funds as well as voters, and populated the FRG government offices. The military supported the FRG because it disagreed with many of the defense policies of the Big Boy-friendly PAN government (1996 – 2000) that preceded the FRG (the PAN was also the FRG's main opponent in the 1999 elections). The military was looking to increase its political power, which had been on the decline since the Peace Accords of

1996. Military leaders perceived that the FRG was a viable option to achieve these objectives, especially because FRG leader Rios Montt was a member of the Armed Forces. Meanwhile, the renegade elite looked to the FRG as a way to obtain valuable government benefits. Treated by the Big Boys and their CACIF followers as second class businessmen, and being economically much weaker than the Big Boys, the renegade elite hoped to obtain government benefits from the FRG not available to them in periods of Big Boy and CACIF-friendly governments: Ministerial positions, government contracts for public works, and beneficial tariff changes that hurt their competitors, among others.

In addition to the role of its two bastions of support, the FRG Executive could also rest assured that it could remain shielded from the Big Boys and their followers in the CACIF, because the Big Boys and the CACIF no longer resorted to a practice used in the past to affect government policy: the threat of an armed coup. The Big Boys and their followers could not organize a coup for two reasons: first, in contrast to the past, when production was less dependent on international markets, after the 1990s a break in democracy was incommensurable with the Big Boys' and CACIF export activities. Export markets such as the U.S. market would immediately be closed to Guatemalan products in the case of a return to authoritarianism (i.e. U.S. government credible commitment). Second, during the 1996 Peace Accords negotiations, the Big Boys and their followers severed their alliance with the military, and thus could no longer rely on the Armed Institution to organize a coup. Not only did the Big Boys and CACIF turn their back on the military during the Peace Accord negotiations, but they also reduced the

military's political and economic power during the Big Boy and CACIF-friendly PAN administration (1996 – 2000). Thus, the Big Boys and their CACIF followers succeeded in turning the Armed Forces into an opposing camp.

Therefore, while in government, the FRG Executive was practically impervious to Big Boy and CACIF pressures and influences. Within this shielded Executive, labor “embedded (Evans 1989), “Weberian” (Evans and Rauch 1999) Ministers of Labor, with the support of the Vice President, could push for the labor reforms, garnering support from both Executive and Legislative branch FRG leaders. Crucial in this regard was the support of the U.S. government through its ambassador: using the threat of U.S. trade sanctions, the U.S. ambassador helped the FRG Labor Ministers and Vice President convince the remaining members of the FRG Executive, and then the FRG representatives in Congress, most notably Congress President Rios Montt, of the importance of ratifying and implementing the labor reforms. As this thesis argues, although much of the literature on the effects of international trade on developing country labor conditions draws a direct connection between trade sanctions and improved labor conditions, the Guatemalan case shows that the relationship between these two variables is more complex: U.S. government trade pressures depend on domestic government channels (e.g. Ministers of Labor, the Vice-President, etc.) to effectively affect labor policy. In governments permeated by the Big Boys and CACIF, these private sector elites managed to almost completely seal these channels. However, because the FRG excluded the Big Boys and their CACIF followers from the Executive, U.S. trade pressures could navigate these government channels more effectively.

To conclude as noted previously, a second surprise of this thesis, in addition the FRG's enacting and implementing of the labor reforms, was most of the reforms' survival in the post-FRG government of the Big Boy and CACIF-friendly GANA. This thesis claims that to explain the GANA's decision to keep some of the reforms, one must look to the unique conjuncture at the time: the U.S. Congress was debating whether to approve the United States – Dominican Republic Central America Free Trade Agreement (US – DR CAFTA or CAFTA). Union groups, trade associations and consumer groups, who were furiously lobbying to block the agreement, were using Guatemala's labor record as an anti-CAFTA argument. Thus, the Guatemalan GANA government had to prove that labor conditions and labor regulation enforcement had improved in Guatemala. To show this, it kept some of the FRG labor reforms which ironically, the GANA's heavy-weight constituents, the Big Boys and their followers in the CACIF, had strongly opposed while the FRG Executive was pushing to implement them.

Appendix

Interviews

Name	Position	Affiliation
Francisco Reyes López	Vice-President	Frente Republicano Guatemalteco
Eduardo Weyman	Economic Minister and Finance Minister	Frente Republicano Guatemalteco
Víctor Hugo Godoy	Labor Minister	Frente Republicano Guatemalteco
Víctor Moreira	Labor Minister	Frente Republicano Guatemalteco
Anonymous Minister	Minister	Frente Republicano Guatemalteco
Anonymous Vice-Minister of Labor	Vice-Minister	Frente Republicano Guatemalteco
Anonymous Government Commissioner	Government Commissioner	Gran Alianza Nacional
Luis Linares	Labor Minister	Partido de Avanzada Nacional
Roberto Ardón	Director	Comité de Asociaciones Agrícolas, Comerciales, Industriales y Financieras
Carlos Arias	Labor Commission	Comité de Asociaciones Agrícolas, Comerciales, Industriales y Financieras
Guido Ricci	Labor Commission	Comité de Asociaciones Agrícolas, Comerciales, Industriales y Financieras
Anonymous Businessman	Businessman	Comité de Asociaciones Agrícolas, Comerciales, Industriales y Financieras
Anonymous Labor Unionist 1	Unionist	Federación Sindical de Trabajadores de la Alimentación y Similares
Anonymous Labor Unionist 2	Unionist	Centro para Acción Legal en Derechos Humanos
Anonymous Labor Unionist 3	Unionist	Confederación de Trabajadores del Campo
Anonymous Labor Unionist 4	Unionist	Federación Sindical de Empleados Bancarios y Servicios
Anonymous Labor Unionist 5	Unionist	Federación Sindical de Empleados Bancarios y Servicios
Anonymous Labor Unionist 6	Unionist	Confederación de Unidad Sindical de Guatemala

Anonymous Labor Unionist 7	Unionist	Confederación de Unidad Sindical de Guatemala
Anonymous Labor Unionist 8	Unionist	Unión Sindical de Trabajadores de Guatemala
Anonymous Labor Unionist 9	Unionist	Unión Sindical de Trabajadores de Guatemala
Anonymous Labor Unionist 10	Unionist	AFL Solidarity Center
Anonymous Labor Unionist 11	Unionist	AFL Solidarity Center
Alejandro Argueta	Labor Lawyer	
Anonymous Labor Lawyer	Labor Lawyer	Unions
Ricardo Changala	Labor Lawyer	International Community in Guatemala
Francisco Mendoza	Coordinator of Sociopolitical and Labor Union Areas	Friedrich Ebert Foundation
Anonymous Academic 1	Academic	Universidad Rafael Landívar
Anonymous Academic 2	Academic	Facultad Latinoamericana de Ciencias Sociales
Anonymous Academic 3	Academic	
Anonymous Academic 4	Academic	Friedrich Ebert Foundation
Anonymous Academic 5	Academic	Soros Foundation
Anonymous Peasant Organizer 1	Peasant Organizer	Coordinadora Nacional Indígena y Campesina
Anonymous Peasant Organizer 2	Peasant Organizer	Coordinadora Nacional Indígena y Campesina
Anonymous Labor U.S. Attaché	Labor Attaché	U.S. Embassy in Guatemala
Anonymous Labor Inspector 1	Labor Inspector	Labor Inspection
Anonymous Labor Inspector 2	Labor Inspector	Labor Inspection

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