

Harmonization of Labour Legislation in ILO Member States¹ of the English- and Dutch-speaking Caribbean

Summary of project

The Context

Harmonization of labour law/legislation in the countries of the Caribbean has been on the agenda of the ILO and the Caribbean Community (CARICOM) for a number of years². The ILO provided technical support in drafting four (4) model legislation in the areas of termination of employment; registration, status and recognition of trade unions and employers' organizations; equality of opportunity and non-discrimination in employment; and occupational safety and health and the working environment.

At the CARICOM Standing Committee of Ministers responsible for Labour (SCML) held in April 1995, model legislation was accepted in the areas of; a) termination of employment, b) registration, status and recognition of trade unions and employers' organizations and c) equality of opportunity and non-discrimination in employment. A model law on occupational safety and health and the working environment was subsequently accepted by the SCML in April 1997.

As part of its recommendations, CARICOM requested that member States consider model legislation as a basis for tripartite consultation at the national level with the view to legislative enactment, where appropriate, as either new legislation, in whole or in part, or as a basis for updating existing legislation.

CARICOM has continued to request reports from Governments concerning the extent to which there is consistency between national legislation and the model legislation. The received reports, however, are of a general nature and most often consist of lists of titles of laws that Governments consider to be relevant or that they indicate are substantially or minimally consistency with the model legislation.

Ratification of International Labour Standards

Over the past several years, there has been a significant increase in the number of ratifications by CARICOM members of ILO fundamental standards as well as other key standards affecting the rights and conditions of work of CARICOM working people. As shown in Table 1 below, ten of the thirteen member States in the English- and Dutch-speaking Caribbean have ratified all eight of ILO Fundamental Conventions. Two of the remaining countries have ratified all but one, and the third has ratified five of the eight. This commitment must also be accompanied by a legislative framework that ensures effective application of the standards. Furthermore, the ILO's Committee of Experts on the Application of Conventions and recommendations has also called for legislative revision in some areas of the law to ensure consistency with ratified Conventions.

¹ Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago

² It should be noted that there are many different interpretations of the concept of "harmonization". Within the scope of this project, the term harmonization is used to mean that the scope and the enforcement of the legislation comply with the provisions of the CARICOM model, as well as the relevant ILO international labour standards ratified by the countries concerned. The bodies responsible for the application of the legislation and the actual language of the legislation will reflect the unique national situation and thus differ from country to country.

**Table 1:
Ratification of the eight fundamental Conventions
in the English- and Dutch-speaking Caribbean**

	Freedom of association and collective bargaining		Elimination of forced and compulsory labour		Elimination of discrimination in respect of employment and occupation		Abolition of child labour	
	Conv. 87	Conv. 98	Conv. 29	Conv. 105	Conv. 100	Conv. 111	Conv. 138	Conv. 182
Antigua and Barbuda	02/02/1983	02/02/1983	02/02/1983	02/02/1983	02/05/2003	02/02/1983	17/03/1983	16/09/2002
Bahamas	14/06/2001	25/05/1976	25/05/1976	25/05/1976	14/06/2001	31/10/2001	14/06/2001	14/06/2001
Barbados	08/05/1967	08/05/1967	08/05/1967	08/05/1967	19/09/1974	14/10/1974	04/01/2000	23/10/2000
Belize	15/12/1983	15/12/1983	15/12/1983	15/12/1983	22/06/1999	22/06/1999	06/03/2000	06/03/2000
Dominica	28/02/1983	28/02/1983	28/02/1983	28/02/1983	28/02/1983	28/02/1983	27/09/1983	04/01/2001
Grenada	25/10/1994	09/07/1979	09/07/1979	09/07/1979	25/10/1994	14/05/2003	14/05/2003	14/05/2003
Guyana	25/09/1967	08/06/1966	08/06/1966	08/06/1966	13/06/1975	13/06/1975	15/04/1998	15/01/2001
Jamaica	26/12/1962	26/12/1962	26/12/1962	26/12/1962	14/01/1975	10/10/1975	13/10/2003	13/10/2003
Saint Kitts and Nevis	25/08/2000	04/09/2000	12/10/2000	25/08/2000	25/08/2000	25/08/2000	03/06/2005	12/10/2000
Saint Lucia	14/05/1980	14/05/1980	14/05/1980	14/05/1980	18/08/1983	18/08/1983	Not yet	06/12/2000
Saint Vincent and the Grenadines	09/11/2001	21/10/1998	21/10/1998	21/10/1998	04/12/2001	09/11/2001	Not yet	04/12/2001
Suriname	15/06/1976	05/06/1996	15/06/1976	15/06/1976	Not yet	Not yet	Not yet	12/04/2006
Trinidad and Tobago	24/05/1963	24/05/1963	24/05/1963	24/05/1963	29/05/1997	26/11/1970	03/09/2004	23/04/2003

Caribbean Single Market and Economy – Regional integration process

The Heads of Governments of the Caribbean Community (CARICOM) have expressed their determination to work towards establishing a single market and economy.

One of the main objectives of the CARICOM Single Market and Economy (CSME) is the full use of labour (full employment) and full exploitation of the other factors of production (natural resources).

The key elements of the CSME include: free movement of goods and services, right of establishment, a common external tariff, free circulation, free movement of capital, a common trade policy and of particular importance to the ILO, free movement of labour.

Ambassador Lolita Applewhaite, Deputy Secretary General of CARICOM, addressing the USAID Guyana Trade and Investment Seminar on “Trade and Labour: The right to Decent Work,” 17 March 2005, stated, “an integral part of the CARICOM Single Market is a regional labour market since the free movement of skills and labour is now one of the key pillars of the CSME. The free movement of skills and labour gives CARICOM nationals, for 5 selected categories at present, the right to move to that part of the single economic space where the opportunities for productive employment, whether as a wage earner or a non-wage earner, are the greatest.”

The Problem

Recognizing the need to move forward with the harmonization of labour legislation in the light of the coming on line of the CSME, CARICOM has requested assistance from and collaboration with the

ILO in carrying out a labour legislation audit in the region. The scope of the current proposal will concentrate on the four areas covered by the CARICOM model legislation as a first priority.

While it may be considered “normal” that national labour laws will vary in their wording and in their enforcement mechanisms from country to country, it should not be considered normal or appropriate that the national labour laws vary significantly from the nationally ratified ILO Conventions or from the scope and intent of the CARICOM model legislation, endorsed by the Ministers of Labour.

In addition to the variance of labour laws, there are also differences in the nature and extent of the process of legislative review that has been undertaken in reference to the CARICOM models.

As the Free Movement Regime comes into effect in 2006, workers will become more concerned with equality of treatment throughout CARICOM and the level of protection offered under national labour law. Employers and investors are also interested in the consistency of the content and application of labour laws. There is a growing need for citizens, workers and investors to have access to accurate and complete information about national labour legislation so that they can make informed decisions about their migration or investment opportunities. There is also a growing need for the tripartite partners to have a complete understanding of the various national legislative frameworks so that they can properly advise their constituents. For these reasons, there is an increasing need to assess the progress that has been made and to identify in which areas of the model legislation, countries have adopted legislation and where there are significant gaps and to identify other areas where pressure will rise as the CSME comes into effect.

DEVELOPMENT OBJECTIVE	To contribute to the effective application of Fundamental principles and rights at work at national level and to ensure that they are taken into consideration in the regional integration process of the Caribbean Community (CARICOM) Single Market and Economy (CSME)
Immediate Objective 1	At the end of the project, national labour legislation, in the areas of the four CARICOM agreed model labour legislation, will have been reviewed and gaps identified.
Immediate Objective 2	At the end of the project, member States and the social partners will have been trained on, a) the provisions of their national legislation in the four areas where CARICOM model labour legislation exists, b) the provisions of other Caribbean national labour legislation and c) the steps needed to be taken at national level to bring their national labour legislation in line with international labour standards and the intent of the four CARICOM model labour legislation.
Immediate Objective 3	At the end of the project, member States and the social partners will have reached a consensus at the national and subregional level on areas where further guidance on labour legislation might be developed to assist the regional integration process.

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