

PROGRAM TO STRENGTHEN LABOR DISPUTE NEGOTIATION AND MEDIATION

BRAZIL

(TC-96-07-08-9-BR)

EXECUTIVE SUMMARY

EXECUTING AGENCY: Federative Republic of Brazil through the Ministry of Labor (MTE) through the Department of Labor Relations

BENEFICIARIES: Union associations of entrepreneurs and workers as well as academic institutions and public officials in the Ministry

OBJECTIVE: The program will help transform the culture of labor relations by introducing new ways to resolve disputes based on free collective bargaining, independent mediation, and self-determination of employers and workers.

DESCRIPTION: To achieve the proposed objective, a highly participatory process involving stakeholders associated with the country's labor relations will be followed during all the phases of design and implementation. The following activities will be financed: technical assistance for the development of methodologies, work seminars, technical visits to countries with relevant experience in collective bargaining and/or mediation, design of a public domain information system, publications, training courses to upgrade the professional profile of negotiators, and awareness and communication campaigns.

FINANCING:

Modality:	grant
Beneficiary:	US\$ 720,000 (46%)
MIF:	<u>US\$ 841,000 (54%)</u>
Total:	US\$1,561,000 (100%)

EXCEPTIONS TO POLICIES AND PROCEDURES: None

SPECIAL CONTRACTUAL CONDITIONS: The conditions precedent to the first disbursement are: (i) establishment of the Federal Council; (ii) appointment of the General Coordinator of the Management and Oversight Unit of the MTE; and (iii) presentation of the budget, showing local counterpart resources (see paragraph 9.1).

I. COUNTRY AND PROJECT ELIGIBILITY

- 1.1 Brazil was declared eligible for all MIF financing modalities by the Donors Committee at its meeting of February 9, 1995. The proposed program is consistent with the MIF's general purposes and particularly with the Human Resources Facility, which gives priority to the financing of activities aimed at training individuals who can perform essential functions in the operation of a market system.

II. BACKGROUND

- 2.1 Labor relations in Brazil have historically been characterized by State interventionism. Starting in the 1930s, the State played a key role in the resolution of labor disputes. This paternalistic role was played by the Ministry of Labor and Employment (MTE), which limited labor law by defining the existence and makeup of unions, decided a series of issues and made them compulsory, and played a unique regulatory role through the labor courts. This model, in which the State controlled and monitored labor relations and acted as arbitrator in labor disputes was in place until the early 1980s, when far-reaching changes were introduced.
- 2.2 These changes were driven by internal and external factors. Chief among the external factors are the impact of economic globalization on political and economic institutions and the resulting changes in the production models arising from technological advances. Internal factors emanate from changes in the profile of the labor movement when the so-called "new trade unionism" emerged as well as from the process of democratization that the country experienced, to which this new form of labor organization contributed significantly.
- 2.3 In this context, the role of the State in labor relations changed dramatically. Increasingly, the State is withdrawing from its role as direct agent in socioeconomic relations to take on the functions of catalyst and regulator. This new situation came up against the labor relations model in force in the country. Most of the legal labyrinth that characterized the legislation ("*Consolidação das Leis Trabalhistas*" [Compendium of Labor Laws]) has become outmoded and the culture of dependence on the power of the State has turned into an obstacle to the adjustment of social actors to the new circumstances.
- 2.4 In view of the above, the Brazilian government is adopting a set of measures and policies aimed at generating and preserving jobs and modernizing labor law. In this regard, the government has submitted a proposal to Congress amending three articles of the Constitution in order to strengthen the right to organize and

eliminate the union representation monopoly established in current legislation. The adoption of these reforms will result in the democratization of labor relations and an enhanced status for the collective bargaining process, shrinking opportunities for the State's arbitrary involvement in negotiations on wages and working conditions and increasing the autonomy of the parties in a legal framework geared towards preserving equity.

- 2.5 For its part, the MTE, in the area of human resources development, has been carrying out a series of awareness and training activities with which it seeks to change the culture of dispute resolution and disseminate the practice of free negotiation. However, in the dialogue with the other actors – the businessmen and union leaders – it has become obvious that this effort needs to be carried further and should be expanded to cover all stakeholders. The proposed program responds to this demand since it will carry out its activities in a participatory manner in a collegiate institutional framework and contributes to the development of methodologies and information systems consistent with the development of labor mediation and negotiation in the country.

III. OBJECTIVE OF THE PROJECT AND BASIC COMPONENTS

A. Objective

- 3.1 The objective of the program is to help transform the culture of labor relations, characterized by dependence on and direct involvement of the State in the resolution of disputes between capital and labor, by introducing other ways to resolve disputes based on free collective bargaining and self-determination of employers and workers.

B. Description

- 3.2 To achieve the proposed objective, during all design and implementation phases, a highly participatory process will be adopted that includes representatives of agents involved in the country's labor relations, i.e., labor unions, business associations, the MTE, and the academic community.
- 3.3 Program resources will be used to finance: technical assistance for the development of collective bargaining and/or mediation methodologies, publications, work seminars, technical visits and sharing of experiences, training courses to upgrade the professional profile of negotiators, development of a public domain information system, awareness campaigns, and effective use of the communications media. Three components will be executed to ensure the program's success: (i) methodology and design development; (ii) awareness and dissemination; and (iii) training courses.

1. Methodology and design development component (US\$619,500)

- 3.4 Through this component, the process of cultural change will speed up, with identification of successful experiences with negotiation in the resolution of labor conflicts and consensus-building between social actors to choose methods that best match the country's situation. The activities are described below.
- 3.5 **Identification of methodologies and design.** Activities will be financed to share ideas and experiences in the area of labor negotiation and mediation with a heterogeneous range of representatives of social actors. The following will be carried out: (i) an international seminar to present major trends in labor relations and negotiation, in order to create a homogeneous base of knowledge among the actors participating in the program, thereby enabling a critical analysis of relevant national and international experiences involving collective bargaining practices; (ii) technical visits by tripartite groups (workers, entrepreneurs, and MTE staff) to four countries with pertinent experiences and processes in the areas of collective bargaining, nongovernment mediation, management information systems, labor relations statistics, etc., that can be used to adjust and/or develop a methodology or methodologies for the country (it is proposed that the visits take place in the United States, Japan, and two European countries); (iii) after the technical visits, a national seminar will take place during which the experiences gathered during the visits will be presented and discussed, to establish a consensus regarding the options that could best fit the Brazilian situation; and (iv) six regional workshops the purpose of which will be to disseminate information on the methodology or methodologies adopted during the aforementioned national seminar and discuss it/them. For the workshops, reports will be commissioned and financed that will summarize and reflect the viewpoints of each region (problems, potentialities, maturity of actors, etc.).
- 3.6 **Development of the statistical database.** The goal is to strengthen the database operated by the Labor Relations Department (*Secretaria de Relações do Trabalho* - SRT), so that it can keep better pace with the country's labor dispute negotiation and resolution process. To this end, a diagnostic assessment of the current system will be conducted and a new one designed which, among other characteristics, will provide access to social actors for research, monitoring, and policy design. In addition, for the migration to the new system, training will be provided for specialists from the *Delegacias Regionais do Trabalho* [Regional Labor Offices] (DRTs) and the MTE which feed the system. Lastly, the equipment that the DRTs need to administer the system to be installed will be purchased.

2. Awareness and dissemination component (US\$312,500)

- 3.7 Under this component, the benefits and advantages of alternative dispute resolution and negotiation mechanisms will be disseminated by making available to social actors the information on experiences identified during execution of the activities provided for under program components I and III. The activities included in this component are: (i) quarterly publication, *Cadernos do MTE* [MTE journal], with a run of 2,000 issues, whose target population is diverse (academics, professionals, trade unionists, public employees, etc.) and the purpose of which is to disseminate successful experiences in the field of collective bargaining and labor mediation; (ii) publication of a *Boletim da Negociação Coletiva* [collective bargaining bulletin], which is journalistic in style and will be published once every two months; its purpose is to promote program activities such as seminars, workshops, courses, etc.; (iii) production of *Cartilhas de Negociação Coletiva* [collective bargaining primers], to be used to publicize negotiation methodologies adopted locally as well as selected statistics, thereby fulfilling the dual role of increasing awareness and educating social actors active in the dispute resolution and negotiation processes; and (iv) preparation of a "teaching kit" to be used for the program courses, which will be distributed free of charge to institutions representing the social actors for use in training their members and partners. The kit is comprised of two videos, a compact disk, and graphic material.
- 3.8 The products and materials resulting from this component will serve as tools that will be available to associations and organizations representative of the social actors - members of the Federal Council - to strengthen and support their information and dissemination activities in the area of alternative labor dispute resolution and negotiation.

3. Training component (US\$122,500)

- 3.9 The main objective of this component is training of human resources nationwide in collective bargaining and labor mediation. The activities under this component should be implemented at the start of year two, once the methodology design phase has been completed and the initial information dissemination activities have begun.
- 3.10 Particular emphasis will be placed on the training of multipliers (training for instructors in training institutions), who will be in charge of updating the curricula at their institutions based on the methodologies and tools identified under the program. The training consists of technical visits to other countries to learn about and gain familiarity with modern practices in the area of private mediation of labor disputes, since this is a method of learning that allows for rapid acquisition of knowledge and enables the student to interact with their peers and experience real situations similar to those they face in Brazil.

- 3.11 Candidates from the MTE, business associations, and workers will be selected based on selection procedures approved in advance by the Bank. ^{1/} In addition, the program implementation manual will include the criteria to be used in the selection of candidates, approved in advance by the Bank.

IV. EXECUTION

A. Institutional framework

- 4.1 The program will be executed over a 24-month period with a disbursement period of 30 months. To facilitate program execution, an institutional framework made up of the following three structures is proposed: a Federal Council (FC), a Management and Oversight Unit (MOU), and an Executing Unit (EU).
- 4.2 The institution responsible for program implementation will be the Federative Republic of Brazil through the MTE and its Labor Relations Department (SRT). The SRT will set up an MOU that will be comprised of a full-time coordinator, two technical advisors, and a secretary. The MOU will have the following responsibilities: (i) provide technical advice, through progress and financial reports to the FC; (ii) prepare reports for the Bank; (iii) serve as liaison between the FC and the EU; and (iv) provide technical support to the decentralized offices of the MTE, such as the DRTs.
- 4.3 The MOU will have a tripartite FC comprised of representatives of the unions, entrepreneurs, and the MTE. The main function of the FC is to participate in the search for consensus on the guidelines that will govern program actions. In other words, the FC is not to become an execution or administration unit. Once the guidelines have been announced, the FC's functions will be limited to monitoring program progress and ensuring adherence of the actions undertaken to what was previously arranged. It will also ensure transparency of actions by validating the selection of entities and private individuals interested in participating in the proposed activities. Lastly, it will be monitoring and providing information on the program's development and achievements on an ongoing basis.
- 4.4 The MOU will hire a consulting firm, university center, or foundation to serve as program executing unit. The selection of the EU will take place during the first meeting of the FC on the

^{1/} It is anticipated that Bank approval of the candidates, institutions, and individuals to be visited will be done jointly by the Country Office and the MIF.

basis of proposals submitted by the MTE. ^{2/} The proposals received are the result of a call for proposals made by the MTE to academic institutions and nongovernmental organizations of recognized standing in the administration and execution of research and education projects, that have human resources qualified in the areas of project administration and labor relations. This call for proposals was discussed and agreed upon with the Bank's project team.

- 4.5 The EU will be responsible for program execution and will accomplish the objectives (distribution of resources by component, invitations to workshops and seminars, drafting, printing, and distribution of teaching materials, etc.), in compliance with the guidelines established by the FC (regional distribution of funds, regional actions, etc.). The EU will also provide administrative and managerial support for activities such as accounting, contracting and payment of consulting services, travel and per diem, and the quarterly production of reports.
- 4.6 In consideration of the amount of the operation and the funding requirements and to facilitate meeting expenses during program execution, it is recommended that a revolving fund of up to the equivalent of 10% of the total amount of the funding be set up.

V. FINANCING

- 5.1 The total amount of the program is US\$1,561,000, of which 54% will be financed with MIF resources and the remaining 46% from MTE resources from the Ministry's payroll and from the *Fundo de Amparo ao Trabalhador* [Worker Support Fund] (FAT).

^{2/} During the project design phase, the national team sought proposals from various universities and foundations with recognized experience in the field of labor relations. The MTE received proposals from the following institutions: Center for the Study of the Union Economy and Labor of the University of Campinas (CESIT/UNICAMP); Catholic University of Pernambuco (UNICAP); Economic Research Institute Foundation (FIEP); Databrasil; Post-Graduate and Administration Research Center of the Federal University of Minas Gerais (CEPEAD/UFMG).

COST AND FINANCING
(in US\$000)

BUDGET CATEGORY	IDB/MIF	LOCAL	TOTAL	%
I. MANAGEMENT	107.50	324.00	431.50	27.6
I.1 Federal Council			98.00	
a. Travel and per diem		60.00		
b. Materials and general support	22.00	16.00		
I.2 Management and Oversight Unit			162.50	
a. Staff (MTE)		162.50		
I.3 Executing Unit			171.00	
a. Consultants	85.50	85.50		
II. METHODOLOGY AND DESIGN DEVELOPMENT COMPONENT	433.50	186.00	619.50	39.7
II.1 Development and information			269.50	
a. Consultants	23.00			
b. Travel and per diem	102.00	144.50		
II.2 Statistical database			350.00	
a. Consultants	180.00			
b. Equipment	73.50	31.50		
c. Travel and per diem	55.00	10.00		
III. AWARENESS AND DISSEMINATION COMPONENT	139.25	173.25	312.50	20.1
a. Publication of materials	84.25	173.25		
b. Consultants	55.00			
IV. TRAINING COMPONENT	85.75	36.75	122.50	7.8
Subtotal	766.00	720.00	1,486.00	95.2
V. EVALUATION	75.00		75.00	4.8
a. Consultants	75.00			
TOTAL	841.00	720.00	1,561.00	100.0

VI. PROGRAM RATIONALE AND RISKS

6.1 The proposed program is consistent with the Bank's country strategy, which includes, among its four basic areas: (i) development of social sectors, by providing basic services, thereby contributing to poverty reduction; and (ii) modernization of the productive sectors. Specifically, the proposed program would support reform and modernization in labor relations, thereby affirming the growing democratic pluralism among social actors involved in collective bargaining. In addition, while the program diminishes the paternalistic role of the State in labor relations, it strengthens the federal government's constitutional role in formulating and coordinating a national policy aimed at developing collective bargaining.

- 6.2 **Risks.** The program's effectiveness in generating a change in the culture of employers and employees by encouraging the use of collective bargaining and labor mediation without State involvement is the most significant risk of the operation. However, the risk could be reduced in view of the aforementioned existence of a generalized consensus among social actors regarding the advantages of negotiations with less public sector involvement and the alternative participatory mechanism adopted for implementation of the operation. In fact, the greatest obstacle is related to the existing legal framework which regulates labor relations, since the legislation itself (*Consolidação das Leis Trabalhistas* - Compendium of Labor Laws) allows either of the parties to call on the State for help in resolving a dispute. However, there is a clear possibility that this situation will change in the near future. One of the main objectives of the current administration of the MTE is to institute changes in the regulatory framework and several measures in this direction have already been taken, including the financing of this program.

VII. EVALUATION OF RESULTS AND INDICATORS

- 7.1 The logical framework and performance indicators appear in Annex VII-1. These indicators would be the benchmark for the mid-term evaluation of program results to be conducted 18 months after the first disbursement and the final evaluation at the end of implementation. In both cases, consulting services will be contracted.

VIII. EXCEPTION TO POLICIES AND PROCEDURES

- 8.1 This operation does not provide for any exception to the Bank's policies and procedures.

IX. SPECIAL CONTRACTUAL CONDITIONS

- 9.1 The conditions precedent to the first disbursement are: (i) establishment of the Federal Council; (ii) appointment of the General Coordinator of the Management and Oversight Unit of the MTE; and (iii) presentation of the budget, indicating local counterpart resources.

SIMPLIFIED LOGICAL FRAMEWORK AND INDICATORS

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
<p>of the program is to help transform labor relations, by introducing other disputes based on free collective self-determination of employers and</p>	<p>All the components aim towards the successful operation and maintenance of a national independent labor dispute resolution process.</p> <p>Reduction in the number of cases brought to the attention of the labor justice system (including reconciliation and judgment boards, regional labor tribunals, and the labor court)</p> <p>Growing demand for private negotiators and mediators.</p>	<p>Final evaluation of the program</p> <p>MTE statistical databases and labor justice system reports</p> <p>Information provided by private negotiators and mediators on number of requests.</p>	<p>The Brazilian Congress approved amendments to the labor law promoting the resolution of labor disputes through private mediation</p> <p>The labor justice system is slow and costly.</p> <p>Employers and workers support a fair mediation and negotiation system.</p>
<p>Methodology and design</p> <p>and disseminate international experiences in the area of labor mediation and negotiation, encouraging national debate at national and regional level.</p>	<p>1.1 Presentation of main trends in labor relations and negotiation during an international seminar to be attended by 65 professionals, creating a homogeneous foundation of knowledge; the seminar will take place during the second quarter.</p> <p>1.2 Technical visits by three tripartite groups representative of the social actors (total of 21) to four or five countries (in Asia, North America and Europe) to gather experience and collect documentation.</p> <p>1.3 National one-day seminar to disseminate the information gathered during the technical visits, in order to come up with a national methodology; 50 participants.</p> <p>1.4 Six regional two-day workshops (one per region) to disseminate and discuss the agreed methodology; 75 participants.</p>	<p>1.1 Report on the international seminar; seven papers (six international and one local) by experts, published in the first issue of <i>Cadernos do MTE</i> [MTE journal]; and attendance records.</p> <p>1.2 Reports on the visits by tripartite groups and their publication in the second issue of <i>Cadernos do MTE</i>.</p> <p>1.3 Report on the national seminar. Publication of the papers in issue 3 of <i>Cadernos do MTE</i> and presentation of a proposed methodology.</p> <p>1.4 Reports on the workshops and outcome of the discussions and publication in issue 4 of the <i>Cadernos do MTE</i>.</p>	

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
<p>tion of the MTE's statistical information system that makes it possible to monitor the collective bargaining process and its impact on social actors.</p>	<p>2.1 Setup and operation of the SRT's information system, made accessible to social actors.</p> <p>2.2 Two two-day courses to train up to 80 specialists from the DRTs as well as employer and employee representatives.</p> <p>2.3 Purchase of equipment for DRTs and trade union organizations (total of 35 computers and printers).</p>	<p>2.1 Reports by the consultants for modernization of the system and data accessibility.</p> <p>2.2 Course reports and participant registration.</p> <p>2.3 Computer and information centers installed at the DRTs and at trade union offices.</p>	
<p>Awareness and dissemination of information on successful experiences, papers and studies financed by the MTE, and reports on workshops and seminars.</p> <p>Dissemination of the <i>Boletim da Negociação Coletiva</i> [Collective Bargaining Bulletin] to trade union activities and describe program to a wide audience.</p> <p>Dissemination of <i>Cartilhas de Negociação Coletiva</i> [Collective Bargaining Primers] to trade union activities and statistics to increase awareness among and educate social actors.</p> <p>Dissemination of a "teaching kit" with information on the ground for holding training events.</p>	<p>1. Six issues of <i>Cadernos do MTE</i> with a run of 1,000, distributed every two months starting in month 5 of execution.</p> <p>2. 12 issues of the bulletin with a run of 1,000 distributed in even months (2, 4, 6, etc.) of program execution.</p> <p>3. 7,500 copies of the publication <i>Cartilhas de Negociação Coletiva</i> distributed at the start of the third six-month period of execution.</p> <p>4. 650 kits distributed at the start of the third six-month period of execution as follows: 27 kits to the DRTs; 27 to the state secretariats; 100 to universities and research centers; and 100 to business associations. The remainder will be kept by the MTE for eventual distribution and replacements.</p>	<p>1. Copies of the publication and distribution lists.</p> <p>2. Copies of the publication and distribution lists.</p> <p>3. Copies of the publication and distribution lists.</p> <p>4. Kits and distribution lists.</p>	

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
<p>Training courses to create a base of es capable of promoting alternative and negotiation models.</p> <p>training courses for the teaching e basic courses.</p> <p>ing courses to train a critical base of s and mediators.</p>	<ol style="list-style-type: none"> 1. Three three-day advanced courses for 120 professionals with proven theoretical and practical experience, who will be identified by the DRTs in coordination with trade unions and associations. They will take place during the third six-month period in the southeastern and southern regions and jointly for the western, northern, and northeastern centers. 2. Seven basic training courses for 350 representatives of the public sector, trade associations, and unions, to be held in the northeastern, northern and western center, southern center, and in the states of São Paulo, Minas Gerais, and Rio de Janeiro/Espírito Santo. They will be conducted during the fourth six-month period of the program. 	<ol style="list-style-type: none"> 1. Registration reports and participant participation. Teaching staff comprised of participants in the advanced course. 2. Registration reports and participant participation. Teaching staff comprised of participants in the advanced training or trainer training courses. 	

PROPOSED RESOLUTION

BRAZIL. NONREIMBURSABLE TECHNICAL COOPERATION FOR
A PROGRAM TO STRENGTHEN LABOR DISPUTE NEGOTIATION
AND MEDIATION PROCESSES

The Donors Committee of the Multilateral Investment Fund

RESOLVES:

1. That the President of the Inter-American Development Bank, or such representative as he shall designate, is authorized, on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the República Federativa del Brasil and to adopt such other measures as may be pertinent for the execution of the plan of operations incorporated in the donors memorandum referred to in Document MIF/AT-_____ with respect to a technical cooperation, the purpose of which is a Program to Strengthen Labor Dispute Negotiation and Mediation Processes.
2. That up to the amount of US\$841.000 is authorized for the purpose of this resolution, chargeable to the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above mentioned sum is to be provided on a nonreimbursable basis.