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Speaking up about the labor code: A survey of employed and unemployed in Panama

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Working Paper No. 263

Speaking Up About the Labor Code
- A Survey of Employed and Unemployed
in Panama -

by

Dean Spinanger

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Preface

In a children's book about a trip to an unknown country, the situation in said country - actually Panama - was described as being "just beautiful". Unfortunately for those unemployed in Panama today and all those with jobs in which they are underemployed, it is not beautiful. This study, the second in an attempt to portray the situation in the labor market in Panama, explores the issue from the labor supply side. Surveys of employed and unemployed were carried out to sound out what those people who were faced with reality in labor markets actually thought about the benefits the Labor Code has bestowed upon them. It is intended to distill out of their answers - together with the answers in the first survey - recommendations for making Panama "more beautiful" for all concerned.

This study has profitted from the cooperation and assistance of many people in the Republic of Panama. First and foremost Isabel Atencio provided unrelented support for virtually every aspect of the survey. Furthermore, Juan Luis Moreno, Pedro Videla and Daniel Wisecarver all provided valuable assistance and suggestions whenever problems arose. As in the first study Jorge Fábrega, Arturo Hoyos and Yauda Kuzniecky helped to contribute to my better understanding of the Labor Code. Thanks is also due to the over 250 persons who agreed to answer a rather tedious questionnaire - without their consent and without the statistical assistance of Michaela Rank as well as the cryptographical/typing skills of Christiane Schröder nothing would have been accomplished. The author would like to hold them responsible for the contents of this study, but relents to apply the usual waiver.

Financial assistance was provided by US AID - the study itself was carried out for the "Economic Studies Program" under the auspices of US AID/Panama.

References made to the Labor Code in this study refer to the English version published by the ILO (Legislative Series, 1971-pan.).

Dean Spinanger
Kiel, Germany
June 1986

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I. INTRODUCTION

In the first part of this project¹ the Labor Code (LC) in Panama was analyzed with respect to its impact on the demand for labor. This entailed firms (i.e., employers) being surveyed² in connection with their views about the implications of the LC. Specifically they were requested to respond to the following general questions:

- How has the LC affected their employment/remuneration policies?
- How did they perceive specific parts of the Code?
- How would they react to certain hypothetical changes in regulations/policies?
- What would they themselves suggest in the way of modifications to or radical changes in labor market policies in Panama?

The results culled out of the information provided by the firms and the conclusions drawn therefrom were wide-sweeping enough to give credence to the idea of extending the analysis to the labor supply side. In other words to survey the reactions of employed, unemployed and unions to the LC using the same basic framework of questions as answered by the firms³. By doing so it would then be possible to interface the results from the supply side with those from the demand side in order to determine where common ground exists and/or rather which major barriers keep a possible consensus from being achieved. With such information it is intended to outline a strategy with which labor market distortions - inherent in an economic system where inflexibility in factor markets has been legislated - can be efficiently reduced or eli-

¹ See Spinanger (1984) or for a spanish version Spinanger (1985).

² The survey was intended to cover 250 companies, about 280 companies were sent questionnaires and 54 responded in a fashion to allow their answers to be incorporated in the study.

³ For background information see Appendix II.

minated, while at the same time trying to avoid social disturbances.

The following study begins by recalling key results gathered in initial survey before briefly sketching the political economy (in connection with the Labor Code) as it has developed since the end of 1984. Particular stress is placed on the ramifications of regulating factor markets for the coming years and on correctly delineating the impact of existing regulations with respect to the groups benefitting from or disadvantaged by them. In Section III the actual analysis of the survey will be presented, incorporating thereby the results of the employers' survey as well. The structure of this section corresponds with that applied in the first survey, namely in accordance with the thrust of the policies instituted. The final section of the study summarizes the results and draws conclusions as concerns a more efficient operation of labor market policies in Panama. This section also attempts to interface information on the demands of all socio-economic groups so as to map out a route of least resistance leading to a more efficient policy framework.

II. SETTING THE STAGE - THE PANAMANIAN POLITICAL ECONOMY IN 1985

In the first part of this project the employers explicitly expressed interest in having three major aspects of the LC revised, namely as concerns

- hiring/firing conditions,
- wage costs/inflexibilities and
- provisions related to union activities.

In particular it was revealed that changing provisions relating to hiring/firing conditions would be accompanied by savings amounting to almost one third of wages paid (see Table 1). Given this sizeable monetary impact it was hardly surprising that in trying to prompt changes from the other side, employers expressed a definite willingness to allow greater participation in decisions concerning the employees' immediate work environment. It was furthermore suggested that profit sharing or other means of allowing employees to benefit from the positive impact of their actions on a company's performance could be considered as due compensation for relenting on the above LC issues. Given such a constellation there would seem to be adequate room to allow an efficient trade-off to be effected.

However, the situation seemed to change in the course of 1985. Employers officially via public statements (and unofficially in private discussions) began to reject the idea that the LC should be changed. They thus seemed to have made an about-face, a contention backed up by proclamations that they can actually live quite well with the LC. This, of course, should actually not be surprising, as the Labor Code has been in existence for over a dozen years and those who have survived have in the meantime adjusted their employment and production facilities accordingly. Nonetheless, given the evidence gathered in the first survey as well as evidence from other sources, it cannot be denied that firms in Panama are subjected to higher costs and are producing less efficiently than they would without such labor market interventions.

Table 1 : Reforming the Labor Code - Provisions Firms¹ Want Changed and Expected Savings Therefrom

LC provisions relating to	No. of responses ²	Share in all responses ²	Expected savings ³
Hiring/firing conditions	40	30.8	31.5
Union activities	35	26.9	10.7
Wage costs/inflexibilities	31	23.8	11.4
Sick/maternity leave	8	6.2	1.0
Total	130	87.7	28.9

¹ Survey covered 54 firms. - ² Listing of provisions not complete hence responses do not add to 130 and shares do not add to 100%. Since each firm had the possibility of listing 5 answers in order of importance, the number of answers exceeds the number of firms. - ³ Estimated savings in % of average wage which could be achieved if corresponding changes in Labor Code were made.

Source: Tables 5 and 6 in Spinanger (1984).

The shift in the employers' stated position still cannot be interpreted as reflecting a negation of what they voiced in the first survey. It must rather be seen as an attempt to react to a more immediate and pressing threat to their own interests, namely the protection issue being broached in connection with IMF and World Bank negotiations. Thus "unfair competition" - in the form of imports - is seen by many employers as something which cannot be condoned. Similar argumentation applies to allowing new competition - in the form of foreign direct investment in Panama - to settle in Panama, perhaps receiving special incentives or special exemptions from the Labor Code.

Although such reactions are but little more than ploys in the realm of political economy, they usually engender similar responses from the counterparts. Leaders of unions have thus withdrawn even the vaguest of suggestions that they might be willing to discuss changes in the LC. For sure it could even be asked for what actual reasons would union leaders be interested in sitting down and discussing changing a code from which they themselves profit? Since any significant change in the LC could very well mean a change in the perceived sphere of influence of the unions, their best strategy - in light of the absence of pressures from outside - would seem to be to continue upholding their legal obligations.

Given this constellation of self-reinforcing mutual interest groups, the publication (in mid 1985) of the government's intention to enact changes in the Labor Code was destined to meet resistance from both organized business and union interests. A possible national dialogue was thus doomed to fail before it could begin, even though the proposed changes in the LC were at best nominal and in some cases even extended beyond the existing framework (see Appendix I for description of changes). For sure it could not have been expected from the proposed changes that they would inject the necessary degree of flexibility into the LC so as to solve the employment problems in Panama already faced by so many today and promising to affect an increasing number in remainder of the century.

If, after more than a decade of discussions about the negative side-affects of the LC, changes are proposed which in essence can be construed as not being adequate to effectively reduce employment problems and create an internationally more competitive economy, then the following question must be asked:

How long must the unemployed wait or rather how many more people must become unemployed before all those groups looking after their own interests, but openly stating that they are deeply concerned about the economic situation in Panama, realize that forceful actions must be quickly taken?

That forceful policies are needed can be easily verified by glancing at Diagram 1 which portrays the growth in the labor force through the year 2000. For the extrapolations beginning in 1980 two different assumptions were made based on the medium estimate of population growth:

- (A) Labor force participation rates remain throughout the remainder of the century at 1980 levels - this can be considered to be a lower level estimate for most of the cohorts.
- (B) Labor force participation rates are assumed to revert back to 1970 (ergo pre Labor Code) levels - this can be considered to be an upper level estimate for most of the cohorts. This assumption was extrapolated beginning in 1970 so as to reveal the amount of those already not in the labor force in 1980.

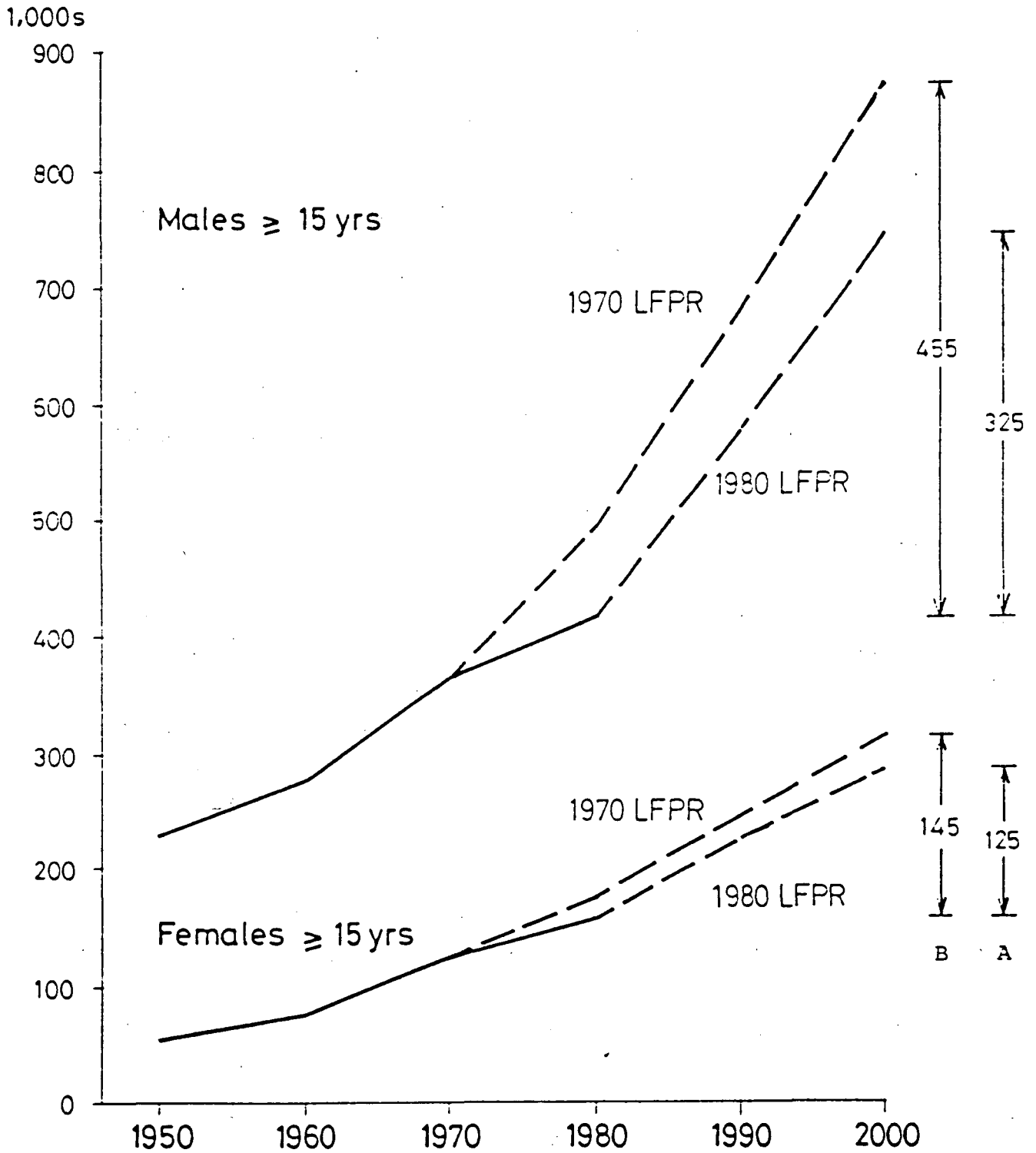
Based on assumption (A) we find that about 420,000 additional persons will be in the labor force by the turn of the century. Under assumption (B) almost 600,000 new entrants will have joined the labor force - in other words more than a doubling within a period of twenty years. The decrease in the labor force participation rates between 1970 and 1980 meant that already 100,000 persons fewer were economically active in 1980¹.

It thus becomes obvious that a solution to today's as well as tomorrow's employment problems requires far more than mere cosmetic changes to the existing Labor Code. Needless to say proclamations, resolutions and demonstrations by the employed and organizations purportedly representing their interests about

¹ See Appendix Table IV.1 for a disaggregation of the labor force to the year 2000 by sex and age groups.

Diagram 1:

Labor Force Growth in Panama by Sex: 1950-2000



LFPR = Labor force participation rate.

Note: The numbers on the right hand side represent the growth in the labor force based from 1980 to 2000 on 1980 LFPRs (A) or 1970 LFPRs (B). See Spinanger (1986), pp. 6-9.

Source: Own calculations based on Spinanger (1984), Table A1 and Contraloria General (1983).

possible injustice inflicted by proposed changes in the LC should not be interpreted as meaning that only minimal changes are possible, but rather that only those who profit from the existing framework are - logically - venting their dissatisfaction about possibly losing privileges.

However, those who bear the burden of inefficient policies - namely the unemployed, underemployed or those subjected to considerable involuntary job fluctuations - neither have been asked about what type of changes they would be interested in nor is their voice part of the chorus at the above mentioned demonstrations. In the following analysis it will be attempted to rectify this shortcoming - this would seem to be a necessity should the constitutional commitments to work and principals of freedom not be limited to those with jobs.

III. ANALYZING ATTITUDES OF THE EMPLOYED AND UNEMPLOYED TOWARDS THE LABOR CODE

In line with the approach used in the survey of the employers the analysis of the LC is structured in accordance with the intended thrust of the measures as follows:

- A. Policies directly influencing pay levels
 - legal minimum wages
 - contract minimum wages and lump-sum pay increases achieved via collective bargaining
- B. Measures directed toward job rights
 - employment security
 - antidiscrimination
- C. Actions aimed at job environment
 - work rules¹
 - job/occupational training
- D. Legislation embodying social aspects
 - maternity leave
 - paid sick leave
 - unemployment compensation
- E. Policies affecting the economic environment²
 - collective bargaining framework
 - bureaucratic and legal ramifications

Differing from the initial analysis will be an attempt to structure the answers using the personal background data on the individuals. This means that wherever it seems feasible answers to

¹ As in the case of the first survey answers to questions concerning safety and health regulations are excluded from this analysis, although the response rate this time was far better and some interesting insights could be gained.

² Discussion of this point is limited to the final chapter as specifics concern mainly employers and not employees. Furthermore, individual comments by employees were (perhaps because of the above point) not numerous enough to allow conclusions to be drawn.

questions will be cross-classified according to relevant economic variables for example by

- sex
- age
- level of education
- income
- union membership.

Such additional information should allow a better delineation of the problems to be solved.

A. Policies Directly Influencing Pay Levels

Legal Minimum Wages

As can be seen in Table 2 legal minimum wages in Panama, although supposedly set to permit every worker "to meet the normal material, moral and cultural necessities" of the household (LC, Section 172), have not been raised in a manner so as to compensate for inflation. Furthermore, since they have not been changed since 1983, real minimum wages must lie close to 20% below 1974 levels. Thus the extent to which they might initially have had a negative impact on the demand for labor has been mitigated considerably in the meantime. Remembering that the majority of employers expressed the viewpoint that a small (i.e. 10%) change in minimum wages - interpreted as being in real terms - would not affect the hiring or employment policies, it was assumed to be likely that the existing legislated wage levels have become minor barriers to entry in the official sector.

Despite this trend in minimum wages, this survey (see Table 3) shows that they are nonetheless viewed by the unemployed as being essential, whereby but a few were interested in having the system changed to income support policies instituted outside factor markets. As might be expected those with incomes in prior jobs closer to minimum wage levels were more in favor of them than those with higher incomes. This attitude is also reflected in the negative correlation with education and age levels.

Table 2 : Development of Hourly Wages and Minimum Wage Rates (B/.hr.): 1974 - 1983

<u>Wages and minimum wages</u>					
	Average ¹ hrly. wage (1)	Real ² hrly. wage (2)	Minimum wage (3)	Real ² minimum wage (4)	Relative ³ mi- nimum wage (5)
1974	1.23	1.23	.40/.55	.40/.55	32.5/44.7
1975	1.29	1.22		.38/.52	31.0/42.6
1976	1.41	1.29		.36/.50	28.4/39.0
1977	1.50	1.31		.35/.48	26.7/36.7
1978	1.54	1.29		.33/.46	26.0/35.7
1979	1.64	1.27	.50/.66	.39/.51	30.5/40.2
1980	1.80	1.23		.34/.45	27.8/36.7
1981	1.91	1.21		.32/.42	26.2/34.6
1982	2.00	1.22		.30/.40	25.0/33.0
1983	2.02	1.20	.59/.78	.35/.47	29.2/38.6
% Change 74-83	64.2	-2.4	47.5/41.8	-12.5/-14.5	-10.1/-13.6
<u>Minimum wage by regions</u>					
	Panama City, Colon and San Miguelito	David and La Chorrera	Chitré and Santiago	Puerto Armu- elles and Changuinola	Rest of the Republic
1974	.55	.50	.45	.45/.50	.40
1979	.66	.59	.54	.54/.59	.50
1983	.78	.69	.64	.64/.69	.59
% Change 74-83	41.8	38.0	42.2	42.2/38.0	67.8
<u>Minimum wage by sector</u>					
	Agriculture ⁴	Manufacturing ⁵	Construction ⁵	Trade/Banks ⁵	Services ⁵
1974	.35	.55/.72	.70	.55/.68	.55/.66
1979	.47	.66/.75	.79	.66/.75	.66/.75
1983	.55	.78/.88	.91	.78/.88	.78/.88
% Change 74-83	57.1	41.8/22.2	30.0	41.8/29.4	41.8/29.4

¹ Average monthly salary in private sector divided by hours/month (187). - ² Deflated by consumer price index 1974 = 100. - ³ (3) divided by (1). - ⁴ Daily rate divided by 8.5. - ⁵ In Panama City.

Source: Own calculations based on Boletín Informativo Salarios Minimos Vigentes, various issues; Panama en Cifras (1985, p. 246); Situación Social (1982, p. 134). International Monetary Fund, various issues.

Table 3 : Opinions on Minimum Wages

	Total	Age group				Sex	
		<20	20-29	30-39	>39	Male	Female
Minimum wages essential							
Employed	58.6	20.0	54.3	56.3	86.7	56.9	66.7
Unemployed	88.8	94.4	89.2	82.6	85.7	84.7	94.4
Replace with other system							
Employed	36.7	60.0	42.9	37.5	13.3	35.3	33.3
Unemployed	9.5	5.6	10.8	4.3	3.6	12.2	5.6
Income of prime job ¹							
Employed	777	365	444	524	943	864	707
Unemployed	209	194	200	245	242	215	201

¹In B/. per month.

Source: Own calculations based on LC surveys.

Given the income differentials between the employed and unemployed it is not surprising to find far fewer employed minimum wages. That is to say, the further the actual income received is from a subsistence level (as portrayed by the minimum wage), the lower the fear that minimum wages might one day be relevant. Surprising, however, is the increase in agreement with minimum wages by age - a phenomenon for which no direct explanation can be distilled from the data¹. Whatever may be underlying this difference, it is evident that generally speaking minimum wages are perceived by the majority as an important ingredient to ensure minimum subsistence levels. Probably an equally plausible alternative would find acceptance if its workings were easily

¹ One could speculate that this might be equated with interest in having one's children receive a certain minimum wage, but this would apply to the unemployed as well.

understood (no doubt a problem with the negative income tax suggestion made) and if recourse to receive it was as clear-cut as in the case of minimum wages¹. Quite probably the existence of free legal recourse (as specified by the LC) when wages paid by employers are not in line with minimum wages is an important corner-stone in their argumentation. After all over 50% (in 1982) of Labor Court cases deal with salary or indemnification suits.

Contract Wages

Although only legal minimum wages were discussed in the first survey, it was duly pointed out that contract wages/minimum wages (as well as non-wage benefits) induce effects similar to those of legal minimum wages. Although to analyze such costs would require greater in-depth knowledge of the ramifications of contracts than gathered in the surveys, Table 4 presents an overview of a set of companies and their negotiated agreements. It is quite easy to see that many of the negotiated benefits are of lump-sum nature, which logically represent an increasingly larger share of wages, the lower the wage/salary level is. The aggregation of these benefits represents an amount which can quite effectively act as a barrier to entry for those with low skill levels, i.e. with low wage levels.

It must be pointed out in this connection that not all of these benefits/increases can be traced directly to the Labor Code. Rather the unions and employers have also freely negotiated additional benefits over the years. To what extent LC regulations regarding collective bargaining procedures and union rights can be held responsible cannot be determined. Likewise to what extent

¹ There is probably a certain amount of inherent mistrust of procedures which encompass government redistribution of funds generated on a macrolevel to households with below minimum levels of income.

employers agreed to concessions or offered them in exchange for other aspects, can also not be determined. Nonetheless, the constellation as portrayed seems to be resembling a state where many payments made to labor reflect to an increasingly smaller degree the actual value of output. It is thus quite coherent - particularly given the existence of capital incentives in Panama - that the demand for labor (in the official economy) shifts to higher skill levels or rather is satisfied by buying machines¹. It would nonetheless be hasty - or even incorrect - to conclude that most of the measures in Table 4 must be viewed negatively. This would not be the case, for instance, if some of the measures were introduced to specifically attract or rather retain qualified personnel. Likewise (e.g. in the case of contribution to sports) they may well serve to engender a conducive and thus productive atmosphere.

B. Measures Directed towards Job Rights

Employment Security

Of all the measures embodied in the Labor Code job security represents the one which employers would like to change the most or rather the one which is imputed to cost the most (see Table 1). By restricting the right of employers to release employees in line with production needs or rather by stipulating that releasing employees can only be achieved by effecting (often sizeable) monetary payments determined by level of salary/wages, length of service and circumstances of firing, the Labor Code has unwittingly accomplished numerous "feats", among which the following should be mentioned:

¹ In correspondence connected with the survey the following statement is typical of many opinions expressed: "We, for our part, try to rationalize through automation and to keep our labor force as small as possible."

Table 4 : Overview of Negotiated Wage Increases, Benefits and Other Non-wage Labor Costs in Selected Companies (1985)¹

Sector	No. of cos.	Yrs	Wage contracts ² Increases by year				Benefits ²					Contribution ² to			Life insurance	Per-form-ance	Uni-form	Old pre-ace	School/ pre-mium	
			1st	2nd	3rd	4th	Wedding	Birth	Other	Stipend	Unions	Co-ops	Sport							
<u>Manufacturing</u>	1	2	.05	.07																
	5	3	.03/.20	.03/.20	.04/20															
	5	4	.04/.12	.05/.12	.05/.12	.06/.12	70-150 (3)	25-125 (5)	85-200 (2)	90-1350 (4)	500 (1)	500-850 (2)	100-175 (2)	(2)	(4)	(3)	(3)	(3)	(1)	
<u>Commerce</u>	4	3	.07/.11	.08/.10	.08/.10		40-50 (2)	50-56 (3)	100-250 (3)	160-200 (2)			2000 (1)	(3)	(2)	(2)	(2)	(2)	(1)	
	5	4	.06/.12	.06/.12	.06/.11	.06/.11	40-235 (2)	20-120 (5)	175-650 (5)	280-800 (4)	50-75 (2)		275-950 (4)	(2)	(1)	(2)	(1)	(1)	(1)	
<u>Primary</u>	2	3	.08	.09	.10			90 (1)	100-145 (2)	30-50 (2)			150/50% of equip. (2)				(1)	(2)	(1)	
	3	4	.02	.04	.04	.07		90 (1)	120 (1)	450 (1)	753 (1)		50% of equip. (1)	(2)	(1)	(1)	(1)	(1)	(1)	
<u>Other</u>	4	2	.04/.32	.06/.32			75 (2)	50 (2)	75-300 (3)	150-2000 (3)	7200 (1)	1000 (1)	100-1000 (3)	(1)	(2)	(4)	(1)	(2)		
	2	3	.08/10%	.08/10%	.08/10%		100 (1)	50 (1)	125-200 (2)	250-390 (2)			800 (1)	(2)	(2)	(2)	(1)			
	4	4	.05/.07	.05/.07	.05/.08	.05/.08	50 (2)	25-50 (4)	40-150 (4)	50-480 (4)	2200 (1)	2000 (1)	375-1000 (2)	(3)	(3)	(3)		(2)		

¹ Wage increases, benefits and contributions in B/. except for %. - the number in parenthesis is the number of companies offering such. This is not a complete listing as only most important items included. - ² Lowest/highest amounts given.

- First of all it has reduced the demand for long-term employees in favor of short-term jobs or employment contracts.
- Secondly it has created a class of employed workers enjoying the benefits of being "in" as opposed to those unemployed who are "out" (i.e. it engenders dual/segmented labor markets).
- Third it has caused companies with a large share of long-term workers to be faced with increasing potential liabilities, which can easily exceed the net worth/market value of a company.
- Fourth - in light of the last point - it has undoubtedly dampened the interest of foreign investors searching for a location from which the USA do well as Latin America can be supplied¹.

Since none of these four issues can be considered to have been an expected side-effect, it would seem to be a particularly easy task to effect the necessary changes. This, however, is not the case as unions have set up their defense in front of this issue. Answers to this question by the employed and unemployed thus offer the possibility of resolving an issue, which can go a long way in helping reduce employment problems in Panama.

The question of stability was broached in the two surveys in connection with a brief overview of the results of the first part of the project (see appendix for survey). It was mentioned that the current code - as opposed to its predecessor - embodies the idea of job security and that employers view this right as such a severe constraint on their ability to act in accordance with needs of the firm that they have been employing or rather hiring fewer and fewer people. It was pointed out that given the pro-

¹ It has also led foreign investors in Panama to leave, i.e. causing them to withdraw entirely rather than fight with the authorities about labor force changes requested. Thus instead of having something, Panama was in those cases left with nothing or rather with all the employees of such firms becoming unemployed, i.e. no other company offered to take over the business and the employees.

jected growth of the labor force to the end of the century and based on past performance of the private sector in only slowly expanding employment this would mean (i.e. assuming the current financial constraints placed on the public sector continue) a growing number of unemployed would be engendered. Thus it was concluded that a solution was needed which would help those without a job (or those entering the labor force in the coming years) find employment, while at the same time trying to ensure that those employed would continue to enjoy the benefits therefrom. Six possibilities were offered, as well as allowing comments to be made on each of the suggestions. The possibilities were as follows:

- (a) Shift payment of compensation from firm to an independent unemployment compensation scheme, whereby the scheme would be run in line with insurance principles in such a way so as to make those involved (i.e. employers, employees and unions) more responsible for their own actions.
- (b) Employed would remain covered by existing LC but new entrants to labor market or those already unemployed could request to be covered by more flexible regulations.
- (c) More flexibility in firing should be incorporated into LC so as to allow incompetent workers to be dismissed but at the same time instituting monetary incentives, profit sharing and/or a greater degree of decision-making vis-à-vis immediate job environment.
- (d) No change should be made, because employers would only increase profits.
- (e) Due to impossibility to effect required changes in LC on a national basis, free economic activity zones could be established as an experiment. In such zones economic activities would be subjected to few restrictions. The experience gathered in the zones would hopefully reveal that a relatively undistorted environment can produce benefits for all concerned. If this turned out not to be the case it could be phased out without undue costs being incurred.
- (f) Other suggestions possible.

Table 5 : Employment Security via Alternative Schemes¹

Questions	Total	Sex		Age groups				Education levels				Union	
		Male	Female	<20	20-29	30-39	>39	<5	5-8	9-12	>12	Member	Non-member
Employed													
A: Unemployment compensation	4.2	4.0	4.7	-	3.7	5.5	3.7	5.6	-	2.6	5.4	4.6	4.0
B: More entry flexibility	21.8	19.4	28.1	18.2	20.7	23.3	22.2	22.2	26.9	21.1	20.4	27.3	20.1
C: Firing easier	28.5	26.6	34.4	27.3	28.1	24.7	40.7	22.2	26.9	31.6	30.1	25.0	29.5
D: No change	10.4	10.5	7.8	18.2	11.0	12.0	3.7	16.7	7.7	7.9	9.7	9.1	10.7
E: Free zone	14.0	16.1	9.4	18.2	13.4	16.4	7.4	19.4	7.7	13.2	14.0	11.4	14.8
Unemployed													
A: Unemployment compensation	51.5	43.9	62.0	55.6	50.4	52.2	57.1	50.0	45.5	50.0	57.7	50.0	51.5
B: More entry flexibility	2.4	4.1	0.0	-	2.5	4.3	-	-	-	2.4	3.8	-	2.5
C: Firing easier	5.9	5.1	7.0	5.6	5.0	8.7	14.3	50.0	3.0	3.7	9.6	-	6.1
D: No change	34.9	40.8	26.8	27.8	37.2	30.4	28.6	-	45.5	36.6	26.9	50.0	34.4
E: Free zone	4.1	5.1	2.8	11.1	3.3	4.3	-	-	6.1	4.9	1.9	-	4.3

¹Share of those agreeing to (even if not entirely) corresponding changes in the Labor Code.

Source: Based on LC surveys.

As can be seen from Table 5 agreement on the issue of employment security between the employed and unemployed does not seem to exist. To be specific, whereas the employed show but little interest in substituting unemployment insurance for the current scheme, the unemployed - understandably - are overwhelmingly (relative to the other possibilities) in favor of it. The same holds true for D (i.e. no change in LC) - the unemployed are interested in it, but the employed exhibit their second lowest amount of desirability. However, if the major issues concerning employment stability are added up, i.e. unemployment compensation (A), more entry flexibility (B) and firing made easier (C), it can be determined that the sums are quite similar. In other words, although larger differences of opinion exist as concerns the individual measures to be taken, there would seem to be a consensus as concerns the overall thrust which LC policies should be given.

As concerns the breakdowns by other characteristics, no particularly striking pattern is revealed. Not even in the case of union members versus non-members do major differences show up. For sure this is an encouraging sign which will make it somewhat easier when policies are to be derived later.

Antidiscrimination Measures

The LC unequivocally guarantees the principle of equal pay¹ for equal work (LC Article 62), regardless of sex, age, race, nationality and other inherent personal characteristics. Independent of this regulation, however, exists the obligation of employers to treat females as special cases as far as concerns

¹ Pay or rather wages (i.e. remuneration due to an employment relation) includes cash, payment in kind, ex gratia payments, bonuses, instalments, wage supplements, emoluments, commissions, profit sharing and other income attributable to a job (LC Article 140).

- certain dangerous jobs and
- maternity leave.

Without delving into such matters at the moment (see section on social aspects) it is apparent that a potential conflict exists. While it was determined that the antidiscrimination measures in the LC did not induce a wealth of suits against employers, the issues involved become all the more relevant the greater the propensity of females is to increase their share of the labor force. Given the relatively low labor force participation rate for female cohorts in 1980, the potential problems cannot be overlooked.

While the current set of surveys did not yield explicit information on the impact of antidiscrimination regulations, an analysis of male/female wage differentials revealed the interesting fact that - aside from the fact that they have decreased (which may well be due to a variety of reasons) - they are lower for the unemployed than employed. That is to say, assuming that the above stated hypothesized about impact of the LC on the degree of segmentation in the labor market holds true¹, then we are observing the following: Namely, that the demand for and remuneration of labor in the primary labor market is more specifically delineated according to perceived human capital differences than in secondary labor market. In other words, the demand for additional labor for an unknown but presumably short period of time is satisfied by drawing (less discriminately than for jobs in the primary sector) from the reservoir of unemployed. In doing so employers offer wages to a wide spectrum of potential workers (with various qualifications), aiming basically at the lower level of the pay scale. Hence females not only receive relatively better wages, they also may well be able to procure jobs (albeit of temporary nature) relatively more often. This perhaps positive side-effect of the ramifications of the LC can surely not compensate for the

¹ The relevant literature on this topic substantiates this aspect.

more severe damage inflicted by restricting access to primary markets in the first place.

Table 6 - Relative Monthly Male/Female Salary Differentials by Age and Education Cohorts: 1970, 1983 and 1985

Age cohort (years)	<u>Education cohort</u>				<u>Total</u>			
	No grade school degree	Grade school degree	One year secondary school	One year of university	1970 ¹	1983 ²	E	1985 ³ U
15-19	1.17	1.34	1.06	1.11	1.17	2.00	-	.97
20-24	1.33	1.43	1.17	1.34	1.32	1.18	.92	1.08
25-29	1.34	1.44	1.25	1.41	1.36	1.16	1.01	.95
30-34	1.24	1.46	1.37	1.67	1.44	1.22	1.30	1.43
35-44	1.49	1.59	1.45	1.72	1.56	1.34	1.23	1.07
44	1.44	1.84	1.56	1.77	1.65	1.64	.84	-
Total								
1970	1.41	1.68	1.38	1.72	1.54	-	-	-
1983								
1985 ² E	1.40	1.01	1.02	1.05	-	1.36	1.17	-
U	-	1.12	1.09	1.15	-	-	-	1.07

¹Unweighted average. - ²Based on socio-economic survey. - ³Based on LC survey of employed (E) and unemployed (U).

Source: Calculations based on unpublished data from 1970 Census of Population and LC surveys.

C. Actions Aimed at the Job Environment

Work Rules

The spectrum of work rules¹ embedded in the 1972 Constitution and the LC is very broad and covers matters like the length of a working day, the protection of minors/females from dangerous work as well as paid leave for attending events abroad (for up to two months with full pay) deemed to be in the interests of the Republic of Panama. In connection with the latter issue it was determined in the initial survey of employers that they did not express explicit disgruntlement about it (i.e. about Article 160), no doubt due to the simple fact that they limited their responses to the general, more severe matters. Despite this fact or rather in light of the potential costs of such measures and their impact on small companies in particular², it was decided to include a question on the use of Article 160 in the current set of surveys. Again the number of responses was quite low so no more definite conclusions could be drawn. More than likely the unions would be

¹ Every enterprise with at least 10 employees must submit for approval to the Ministry of Labor and Social Welfare (as well as to the unions or employees) a detailed listing of work rules. Once these rules have been given the seal of approval, any changes therein require additional prior approval. If, for instance, more flexible hours are to be introduced, approval by the staff does not mean that the Labor Ministry will automatically approve. In one case over a year and a half passed before the Ministry consented. In this time period two lists of all those in favor of the change (i.e. the overwhelming majority), one meeting of all employees with the Ministry, several meetings between lawyers and representatives of the Ministry as well as considerable overtime which could have been avoided, all took place before the more flexible hours were finally approved. As severe as such restrictions impact the allocation of factors of production and hence employment levels, their full thrust is hardly perceived by employees and thus does not appear in the answers given by either the employed or unemployed.

² Assuming that a person takes advantage of Article 160 and then goes on a normal vacation, a company would only be able to profit from the person for three quarters of a year. In other words the remunerated wages are (i.e. for 12 months) 33% above the level (i.e. about 9 months) corresponding to the actual amount of work carried out.

able to provide the required information in this respect, since many of the applications are presumably for participation in union activities.

As concerns the impact of health and safety regulations - without going into detail for lack of comparison with the employers' survey - it is interesting to note that to a sizeable degree workers would be willing to accept the monetary equivalent of health/safety equipment installed (given the assumption that the costs of such measures were imputed to amount to 10% of wage costs). While in most cases both employed and unemployed received at least some amount of instructions, the role of unions in ensuring that the guidelines were abided by was quite minor.

Job/Occupational Training

The state of job training and apprenticeships in Panama is an area where the Labor Code remains silent. Aside from mentioning the responsibility of the Institute for the Training and Promotion of Human Resources (IFARHU) with respect to apprenticeships, the LC merely notes that the Executive would be responsible for making regulations "concerning all aspects of the contract of apprenticeship" (LC Article 281).

Despite efforts to the contrary, the shape of the overall policies aimed at strengthening the human capital base in Panama through apprenticeships can be considered to be less than adequate. This weakness, however, has clearly been realized by the authorities, as documented by the inclusion of paragraphs (aimed to alleviate the problem) in the proposed changes to the LC. That is to say, at present there exist legal barriers in the LC which

keep firms from setting up apprenticeships by not allowing apprentices to be treated differently than other employees¹.

Essential in structuring policies to engender reactions on the part of individuals in connection with choosing an educational path heading to fulfillment both micro- as well as macro-goals is coherency with respect to the basic principles. First of all the necessary information on the implication of making a given occupational decision must be available. Secondly, in light of the inability to correctly forecast over the working life of an individual, a certain degree of flexibility has to be ensured by procuring general training/education in addition to specific. Third, firms must express the necessary degree of interest in accepting individuals trained in outside institutions (albeit subject to fulfilling certain requirements).

As concerns the final point, firms in Panama (as noted in the first survey) already revealed that they prefer individuals with a general educational background plus training (see Spinanger, 1984, Table 7). Furthermore, the fact that the firms are interested in a general background means that they are well aware of the necessity to ensure that human capital potential beyond mere specific skills must be available so that future shifts in demand/technology can be absorbed by the employees. The standpoint of the firms would thus seem to be well in line with the principles outlined above.

¹ This de jure state of affairs does not represent de facto conditions, as a way around this barrier was "created" by INAFORP (Instituto Nacional de Formacion Profesional). INAFORP agrees under certain conditions to search for, screen and then provide persons to be trained for specific jobs for a given company over a short period of time (e.g. 2 or 3 months). The company then allows the prospective employees to receive on the job training in the company. Those persons who do not interface with the firm's expectations can be released in this period without recourse for the person, since they are officially incorporated into an INAFORP training program. The costs of this procedure are borne entirely by the firm, which not only pays the (below minimum) wages, but also e.g. the costs of an INAFORP official overseeing the program in the firm itself.

The questions directed to the employed and unemployed stressed the importance of general education and training as concerns the security of their jobs tomorrow. The issues involved with paying for training and who profits from it were also touched upon as well as the fact that the LC effectively keeps apprenticeships from being instituted¹. The responses to the questions left little doubt that LC policies towards apprenticeships should be changed. Among the unemployed agreement on allowing such contracts almost amounted to 100% whereas about 80% of the employed were of this opinion². Despite this across-the-board agreement, it was felt by the unemployed that various conditions should be observed so as to

- cover costs incurred in connection with work,
- ensure that minimum wages are paid,
- have small base pay extended through productivity pay and
- allow vacation.

The employed on the other hand underlined the

- importance of guaranteeing a job after apprenticeship, or at least opening up the possibility,
- evaluation/certification process,
- right of the employer to determine matters,
- necessity to have a contract and
- pay/minimum pay levels.

However, without stipulating fulfillment of these conditions virtually the same number expressed a desire to participate in an apprenticeship course (see Appendix Table IV.2 table for a breakdown of the responses).

¹ The above mentioned INAFORP method can hardly be considered an apprenticeship.

² Union members were in both cases 100% in favor of apprenticeships.

D. Legislation Embodying Social Aspects

Maternity Leave

The protection of women during the pre- and postnatal period is anchored in the Constitution of 1946 and 1972. The treatment of the subject is straight forward and unequivocal - Article 105 to 166 of the Code contain the main body of regulations dealing with the subject matter. The articles in the LC (together with the constitution, i.e. Article 67) stipulate protection in the following cases:

- It is unlawful to dismiss a woman during pregnancy and one year after returning to work (i.e. without a valid reason and prior judicial approval);
- Six weeks leave prior to birth and eight weeks thereafter are designated as maternity leave, whereby employer is liable to pay the difference between maternity allowance paid by social security and amount otherwise entitled to employee¹;
- Upon returning to work a 15 minute nursing break every 3 hours (or two half-hour breaks during working day) and short rest breaks are required and belong to remunerated time worked.
- Firms with more than 20 females on same premise must provide - given financial constraints of firm - a nursery;
- Expectant women are restricted to non-shift work and to tasks which will not adversely affect their condition.

In the survey of the employers it was attempted to find out - without questioning the societal justification of maternity protection - whether and to what extent the LC regulations influenced the employment chances of females. Even though the fe-

¹ Where no claim on social security exerts, obligation to pay is "incumbent entirely on employer".

male labor force is less than half the size of the male's (see Diagram 1), it has increased more rapidly in the past (see Appendix Table IV.1) and if labor force participation rates rise from their low levels can be expected to do so in the future as well. The responses by the firms revealed that (in over 80% of the cases) changing general protection laws for women would not effect the employment position of females in firms hiring policies or remuneration. As concerns maternity protection, however, about two thirds of employers agreed that the laws negatively influence the number of women being employed (see Spinanger (1984, Table 8). A change in the regulations (i.e. making them more flexible) was perceived as possibly inducing pay increases amounting to perhaps 25%¹. A change was seen as leading to a decrease in wage differentials as well as to a reduction in discrimination against women who do not intend to give birth to any more children.

In the current set of surveys it was stated that the LC protects women by providing them with maternity leave and by limiting the employment to occupations not considered dangerous. It was pointed out that a sizeable part of the burden (in connection with pre- and postnatal rules) is placed on the employer (even if he does not effect the social security payments) and thus a more flexible arrangement or rather shifting more of the burden to

¹ One of the reasons that the problem was not perceived to be larger is due to the size of the female labor force. It can probably be shown that in those firms with a very high share of female personnel the impact of maternity protection laws is viewed much more critically. Not only can the productivity tend to be relatively low for the women directly protected, but these women could well engender external diseconomies by distracting others or by prompting other female workers to take greater advantage of the overall protection afforded by the Labor Code. In one company, where a very large share of the employees consisted of women in child-bearing years, the problem is now being reduced by attempting to employ women no longer in this period. This is a prime example of how well meant social policies, instituted in factor markets, put those who are to be protected at a distinct disadvantage. As a matter of fact even those women of child-bearing age who cannot have or do not want children suffer under such well-meant regulations (i.e. social policy illusions prevail).

society could mean more employment for women. In addition to making suggestions about how a more flexible arrangement could be structured¹, it was noted that if certain occupations are considered to be dangerous and thus declared to be off-bounds for women, they should be dangerous to men as well.

The answers given turned out to be somewhat ambiguous. Whereas the unemployed felt that women should be kept out of dangerous occupation² (75% agreed with the statement) the employed felt the opposite - about 70% felt they should not be kept out of said occupations. As concerns changing protection laws almost 90% of the unemployed were against such a move, but only a third of the employed responded in such a manner. Since even a different disaggregation of the data (e.g. by married/single) yielded no improvement in explaining the discrepancies, the actual "cause" of the inconsistencies could not be determined.

Paid Sick Leave

In the initial survey it was determined that paid sick leave did not belong to the set of influences stated as most severely impacting employers. Nonetheless it was shown that the costs incurred thereby (increased by moral hazard) were considerably higher than what could normally be expected.

Not being satisfied with the depth of information gathered on this issue, the current set of questionnaires attempted to evaluate on an individual basis the behavioral pattern vis-à-vis taking sick leave. By pulling together the data at this level and

¹ A comparison of Singapore's Labor Code (as of 1973) with Panama's is very enlightening in this respect: Singapore provides the usual coverage for pregnancy through the second child. After that, costs incurred are purely personal. In other words, family planning policy is built into the laws (see Republic of Singapore, Employment Act, Part X). It might be noted that the Act of 1970 stipulated "after the third child".

² Included in this section even though it actually belongs to the work rules.

coupling them with personal characteristics, it was expected to be possible to better delineate personal and economic environment characteristics. However, the failure of the individuals to adequately respond to the few questions included on the personal characteristics sheet successfully blocked further research from being carried out.

Unemployment Compensation

This aspect was not specifically covered in the first survey but rather was dealt with in connection with job security considerations. Knowing that the key issue in all discussions revolving around the inflexible hiring/firing procedures, particular attention must be paid to formulating an efficient substitute lest inflexibility be replaced with a much higher degree of moral hazard. Knowing that a large share of the individuals responded positively to replacing the present system, and noting that comments were often included in the surveys about the unfairness of keeping incompetent employees on the job, the stage would be to set for preparing an efficient and acceptable solution to the unemployment problem.

E. Policies Affecting the Economic Environment

This is a specific area which concerns primarily the employer and thus was not incorporated into this survey. As mentioned at the outset the Collective Bargaining Framework/Bureaucracies and Legal Ramifications cannot be analyzed with respect to the questions directed to employed and unemployed. Conclusions drawn in the final section will be based only on the information procured in the initial survey, although general views expressed by the employed and unemployed will also be incorporated. This information having been based not only on the companies questions but also on data from the Labor and Economic Social Welfare Ministry should nonetheless be sufficient for the recommendations to be presented.

IV. TAKING STOCK OF WHAT NEEDS TO BE DONE

Imagine a country literally straddling major shipping routes, positioned just below the rich United States market and conveniently placed between large Latin American economies - such a country would seem to be blessed with locational advantages, which could be matched by but few other nations. If on top of these advantages the country

- revealed political stability in a region often known for instability,
- had levels of infrastructure still being aimed at by other countries and
- exhibited educational levels considerably above countries at similar stages of development,

then essential preconditions would seem to exist to mark this country as an economic success. High growth rates of per capita income and a rapid expansion of employment opportunities would seem to be destined to be the case in such a country.

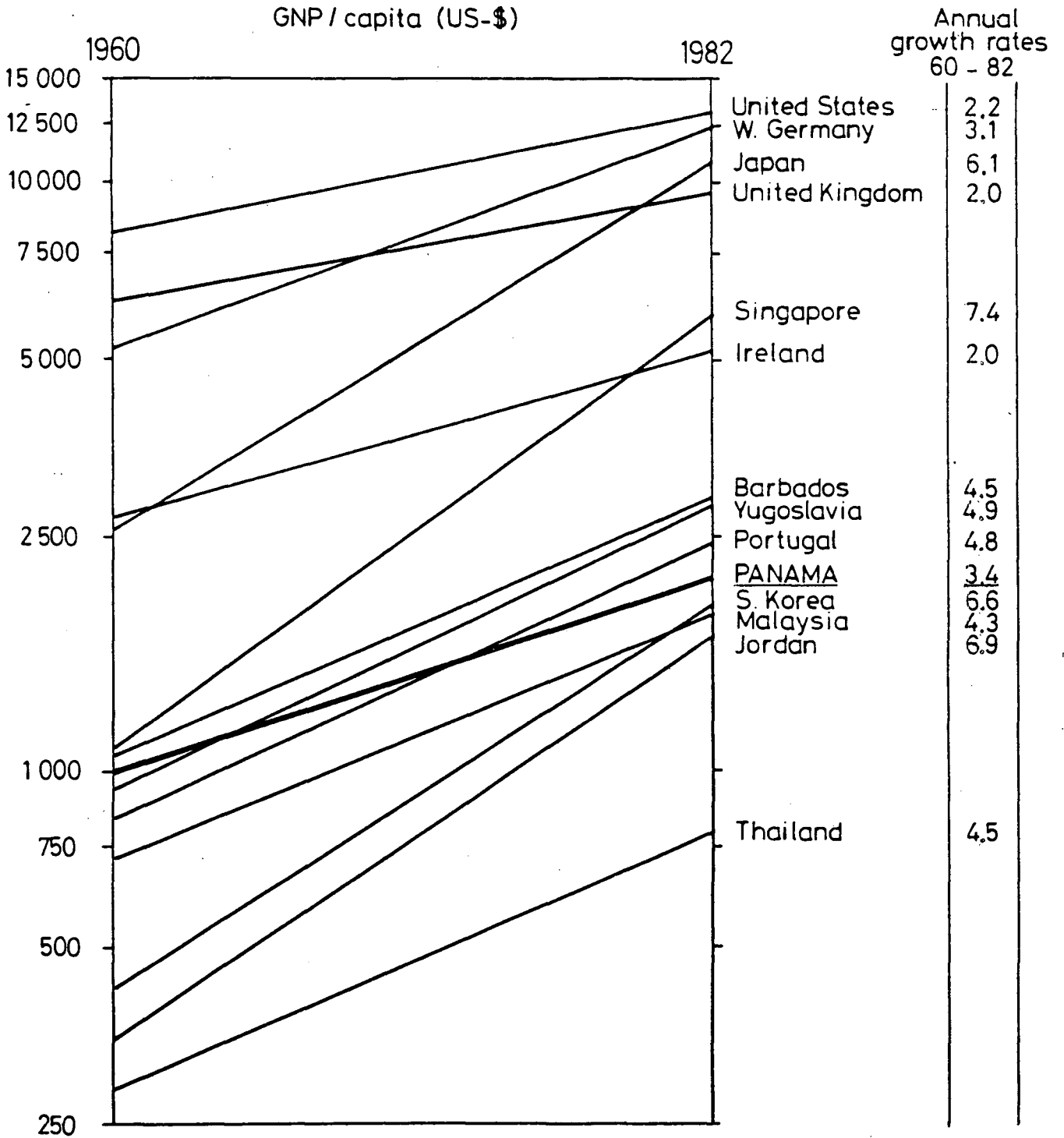
The locational advantages and preconditions described above apply to the Republic of Panama. The assumed growth rates for per capita income and employment opportunities, however, by no means apply to this country. As a matter of fact relatively low growth rates of GNP/capita over the last 15 years have caused Panama's development path to lag considerably behind countries roughly at the same level in 1960 (see Diagram 2). Aside from Singapore, whose GNP/capita is now more than double Panama's, Barbados, Yugoslavia and Portugal all out-distanced the Republic in the two plus decades since 1960. In the meantime other countries like South Korea and even Jordan are in the process of overtaking Panama, after having been at levels more than 50% lower.

The obvious question is: "What happened?" While providing a complete answer to this question goes beyond the stated purpose of this study, it seems highly probable that a very significant share of the blame for this development can be traced to the inflexibilities induced by the LC. In other words, the potential comparative advantages Panama possesses would have been tapped to a far greater degree than they were, increasing thereby Panama's rate of growth, if factor markets had not been subjected to the distortions of the LC. Assuming this to be the case and if instead of dropping by over 50% in the 1970-1982 period vis-à-vis 1960-1970, growth rates of GDP/capita in Panama had increased at the same rate relative to those of middle income countries (as in the 1960-1970 period) income levels in Panama would be about 35% higher than they are today. Interpreting this as the additional income representing "a ball-park estimate" of welfare losses, it would be more than enough to cover the employment of all those officially unemployed or rather those no longer looking for employment. Without wanting to read into this simplistic calculation any more than its worth, the evidence from a variety of sources gives credence to the contention that without the LC employment and income opportunities would be considerably greater. This contention draws on the following:

- In the survey of employers, hiring/firing and wage inflexibilities due to the LC implied additional costs amounting to over 30%.
- In an econometric analysis run on macro-data completely independent of the surveys, similar cost results were estimated¹.
- Employees themselves estimated in this survey that (on the average) about 10% more productivity would be forthcoming if monetary incentives for higher productivity were to be allowed (see Appendix Table IV.3).
- Investments have been withdrawn from Panama due (inter alia) to ramifications of the LC.
- Many potential investors have politely declined once they realized that the Labor Code would apply to them or rather what the LC actually implied.

¹ See Butelman and Videla (1985).

Diagram 2: Panama's GNP/Capita Growth Compared: 1960-1982



Source: World Development Report 1984.

As concerns the final point (which can actually be interpreted as generally applying to new entrepreneurs), a survey of foreign investors, who decided against coming to Panama after showing definite interest in investing in the country, i.e. they had taken actual steps towards realizing their intentions, the Labor Code was mentioned in almost 40% of the cases, and this was 50% more often than the next most frequently mentioned category. The number of those companies which right from the beginning used this argument is not known, but even if the share was at the same level the problem can be considered to be serious.

Before drawing the consequences out of this evidence it should be recalled that whatever policy path is chosen, the issues at stake are not of short-term nature. The projected growth in the labor force - as shown in Diagram 1 - means that up to 600,000 more individuals will have to find jobs by the end of the century, lest not the ranks of unemployed swell into a discontent army. To accommodate them not only means that existing firms must become interested in employing more, new firms need be created as well, be this done by Panamanians or by investors from abroad.

The situation is thus critical and would seem to call for an approach which can rally support. In this context it actually seems quite appropriate to recall the manner in which changes of the type which brought about the LC were instituted. In other words, just as the wide-sweeping reform and reformulation of labor policies at the beginning of the seventies engendered a LC to correct for what was perceived to be an untenable distribution of power of employers over employees, what is needed now is a solution which breathes greater flexibility and certainty into the functioning of the labor market in order to replace the rigidity and arbitrariness which has dominated in recent years. If the LC (back then) was justified on the basis of granting rights to the workers which they should have to begin with, then the necessary reforms now can be justified on the basis of helping to permit jobs to be created for those seeking work, again something which workers should have, if words expressed in the Constitution are not merely empty phrases. That is to say, in Chapter 3 of the

Constitution it is explicitly stated that the State is obligated to establish the political and economic policies necessary to promote full employment and ensure the economic conditions prevail so that each employed person can earn a decent existence. The corresponding wording in the LC can be found in article 1.

While it is true that the State has been attempting to fulfill this role in recent years by rapidly expanding government employment, this path cannot be considered efficient and can hardly be kept open in the foreseeable future, as recourse via additional international loans is becoming more difficult (or at least considerably more expansive and eventually impossible¹). Likewise additional taxation is not a viable alternative, particularly as it would act as a deterrent to new businesses and force more people into the underground economy. Such being the constellation a brief description of the political economy in Panama in 1986 preceeds an attempt to fit all the pieces together collected in this study on the impact and consequences of the Labor Code.

The Political Economy in Panama: 1986

With the announcement in early 1986 that it was intent on passing laws to reform the Labor Code and change industrial as well as agricultural sector policies, the Government of Panama continued down a path previously staked out (and described earlier). The proposals put forward are described as aiming to restructure the economy to make it more efficient and thus more competitive in producing goods and services. Likewise new entrepreneurs are supposed to be attracted so as to expand the economic base.

As concerns the Labor Code the proposals cover the following areas:

¹ It is generally agreed upon that at some point in time lenders are not willing to accept increasing interest changes to compensate for increasing risk of default. Credit rationing is then evoked, whereby the smaller (i.e. less important) the country the sooner the probability this will occur.

- Definition of small scale establishments and exemption of such from Labor Code articles;
- Overtime pay provisions for export companies;
- Respecified overtime requirements;
- Definition of what compromises salary;
- Limitation of requirements for seniority payments;
- Extension of 2 week trial period to 3 months;
- Definition of dependency relationship as concerns work at home;
- Rules concerning establishment of tripartite commission to mediate disputes and
- Limitations on appealing LC cases.

It cannot be denied that these changes are improvements in the right direction. In particular the redefinition of what constitutes wages so as to allow for productivity-oriented monetary incentives, means that more flexibility will be built into the system - a demand stressed by the employers in the initial survey. Since this regulation also means that non-wage benefits and other add-on payments are not applied to such incentives, their cost is reduced by at least 40%. Knowing that the payment of incentives occurs only on a tit-for-tat basis and knowing that increased productivity can be induced (see above reaction of employees), the effective wage cost reduction when applied to an additional unit of output could well amount to over 50%. Assuming that jobs created in the future will be remunerated more in line with productivity levels, further savings will be generated. All this will mean that Panama's products/services will become more competitive in world markets.

Although the lower overtime pay still does not clarify the cloudy wording surrounding the definition of when overtime begins, there is a possibility that the reduction can be interpreted as representing a partial compensation for such confusion. For sure the extension of the two week trial period to three months is an improvement from which both employees and employers could benefit by developing a working relationship based more on facts than impressions. It is by no means, however, a substitute for a true

apprenticeship program, which would need to consist of a longer training period (depending on type of occupation) of up to two years and would obviously also need to incorporate specifications on what constitutes training.

Generally speaking, aside from being difficult to estimate how decisive the other measures will be in revitalizing the economy and in particular as concerns increasing the demand for labor, it must be questioned whether their intended impact will be achieved. This doubt is based on the simple fact that the central issues around which criticism has revolved over the years remains untouched. That is, the key issue of the stability clause remains unmentioned and the costly problems associated with effecting justice are not even broached.

Nonetheless, the new proposals (as well as those withdrawn last year) clearly reveal that the Government is well aware that the benefits assumed to be spawned by the Labor Code are limited (at best) to certain privileged groups, with ever increasing shares of society being negatively influenced. Perhaps even social policy illusion which often leads to such measures is disappearing in favor of policies where the consequences of individual behavior are permitted to have a greater influence on employment success. This basic principle, for instance, is embodied in the exemption of certain types of small-scale businesses from the application of the LC and laws regulating seizure of assets to compensate for claims of workers stemming from the LC. That is to say, if the LC is in reality beneficial to all parts of society, then there would be no reason to exempt small firms from its jurisdiction. Obviously the situation in small firms represents in a magnified manner what the implications of the LC on the macro-level really are. If unreconcilable differences develop between but a few workers and their employer the entire capital and physical assets of the firm might well be required to satisfy the financial obligations due to the workers because stipulations in the LC. This

would mean bankruptcy for the firm and a loss of jobs for the other employees¹.

These aspects being well-known it is unfortunate that the government didn't effect a deeper reform, since protests would occur regardless of what was pre-announced. If indeed the stability issue is at the crux of the matter, then firms - if they invest at all - are still going to opt for machines instead of human beings. As a matter of fact the improvements in the investment incentives for the industrial sector could even increase this tendency. Furthermore, by continuing to grant high levels of protection to the industrial sector, firms are hardly given the necessary incentive to become competitive under world market conditions.

In a similar context it is revealing to note that in the current situation the unions and employers have not expressed demands to ensure that the offshore banking facilities be subjected to the same regulations as applied to the rest of the economy. Obviously the importance of keeping interventions in the banking sector to a minimum is well understood¹. This being the case, a significant step towards a solution to Panama's malaise might well be contained in the simplicity of such argumentation, namely that success in international markets and thus expansion of domestic employment and income levels is correlated with economic structures subjected to relatively few distortions. In other words, contrary to popular belief that important issues can only be solved in a complicated manner, a major contribution can probably be made by removing but a few key distortions. That this is not utopian on a macro-level is clearly reflected in the success of

¹ The fact that it takes longer or more employees in a larger firm to induce such difficulties, does not mean that the problem is nonexistent.

² The sector is not immune to problems, they are merely in a situation where they can (still) afford to pay off employees they want to dismiss. The question remains to be answered - in light of increased competition from new offshore facilities in industrialized countries - how long this will continue to be the case.

relatively undistorted Hong Kong, not only in developing faster than most other countries, but also in battling and overcoming protectionistic measures directed towards them by industrialized countries. Whether the participants in Panama are interested in proceeding in this direction remains yet to be seen.

Reforming the Labor Code - Responses from the Affected

The position of the employers vis-à-vis the LC was delineated as far as the survey data permitted in the first report. Their suggested changes and savings presumed to be resulting therefrom were presented at the outset of this report (see Table 1). The counterpart questions posed to the employed and the unemployed yield answers which actually reveals a fair amount of similarity (see Table 7).

Before noting and analyzing the particular attitudes revealed, the structure of the table should be clearly understood. As can be imagined the spectrum of responses given by the employed and unemployed was considerably wider than in the case of the employers. Not only were recommendations directed towards "loosening" the LC, but also a substantial number of remarks were made towards "strengthening" the LC. The responses in Table 7 were thus divided into these two parts, but the percentages were based on all answers given to a specific question. Hence, for final interpretation purposes it is actually necessary to look at a net figure for each issue listed into consideration (see footnote in Table 7 for further explanations).

Table 7 : Reforming the Labor Code - Responses from Employed¹ and Unemployed¹

Questions	Total	Sex		Age groups				Yrs. of education		Union member	
		Male	Female	≤ 20	20-29	30-39	> 40	-8	≥9	Yes	No
LOOSENING THE LABOR CODE											
EMPLOYED²											
Hiring/firing conditions	26.2	26.5	24.4	25.0	25.6	27.5	25.0	20.9	27.9	26.0	26.3
Union related	13.7	14.5	12.7	37.5	7.7	18.8	10.7	18.6	12.1	8.0	15.8
Wage costs/inflexibility	31.1	35.0	23.8	12.5	29.5	34.8	32.1	34.9	30.0	32.0	30.8
Work behavior	-	-	-	-	-	-	-	-	-	-	-
Sick/maternity leave	9.3	5.1	17.5	0.0	12.8	5.8	10.7	11.6	8.6	12.0	8.3
Total % ³	147/33.8	95/37.3	50/30.3	6/24.0	59/33.7	60/37.5	22/29.3	37/28.5	110/36.1	39/43.0	108/31.3
UNEMPLOYED²											
Hiring/firing conditions	20.2	21.1	19.0	19.4	20.0	20.0	20.8	20.0	20.2	25.0	20.0
Union related	14.3	15.0	13.3	15.3	13.6	15.0	16.7	12.2	14.8	16.7	14.2
Wage costs/inflexibility	45.2	47.7	41.4	44.4	45.5	41.2	41.7	48.7	44.3	50.0	45.0
Work behavior	-	-	-	-	-	-	-	-	-	-	-
Sick/maternity leave	15.3	11.0	20.9	13.9	15.7	12.5	16.7	15.6	15.2	8.3	15.6
Total % ³	578/68.4	329/67.1	249/70.1	67/74.4	417/68.9	71/61.7	23/65.7	111/63.4	467/69.7	24/80.0	554/68.0
THIGHTENING THE LABOR CODE											
EMPLOYED²											
Hiring/firing conditions	7.1	5.1	11.1	12.5	10.3	4.3	3.6	2.3	8.6	8.0	6.8
Wage costs/inflexibility	12.6	13.7	9.5	12.5	14.1	8.7	17.9	11.6	12.9	14.0	12.0
Total % ³	36/8.3	22/8.6	13/7.9	2/8.0	19/10.9	9/5.6	6/8.0	6/4.6	30/9.8	11/12.2	25/7.2
UNEMPLOYED²											
Hiring/firing conditions	3.0	2.3	3.8	4.2	3.2	1.3	0.0	0.9	3.4	0.0	3.1
Wage costs/inflexibility	2.1	2.6	1.5	2.8	2.0	1.3	4.2	2.6	2.0	0.0	2.2
Total % ³	31/3.7	17/3.5	14/3.9	5/5.6	23/3.8	2/1.7	1/2.9	4/2.3	27/4.0	0/0.0	31/3.8
NO RESPONSE MADE⁴											
Employed	52.0	43.1	58.2	68.0	45.7	48.1	56.0	58.5	45.9	33.3	53.9
Unemployed	24.5	25.7	22.8	16.7	24.7	27.0	31.4	32.0	22.5	20.0	24.7

¹For description of samples see appendix. - ²In % of total actual responses, whether for loosening or tightening. - ³The total represents the sum of all responses made in the above categories. The % is this sum as percent of all possible responses which would equal total number of persons (87 or 169 employed/unemployed respectively) times 5 (i.e. times the five possible responses requested). A few responses which could not be classified were excluded. - ⁴In % of total responses possible.

Source: Own calculation based on LC surveys.

The surveys revealed the following:

Hiring/firing conditions and wage costs/inflexibilities were just as important (if not more so) in this second set of surveys (vis-à-vis loosening the LC) as was in the case of employers (57%-65% vs. 54%). On a net basis, however, it can be seen that many employees (almost 20 percentage points) were actually interested in tightening the Code; such a sizeable tendency was not evident among the unemployed (only about 5 percentage points on the whole).

The importance of changing the LC with respect to unions is not shared to the same degree among the employed/unemployed as among the employers. Although no one suggests that the position of unions should be strengthened (not even union members), the fact that no major difference between employed and unemployed exists shows that roughly a generally accepted viewpoint vis-à-vis union activities exist.

Sick/maternity leave represents an area where major differences exist not only between employers and employees/unemployed, but also between the employed and unemployed as well as among the sexes. Not surprisingly the unemployed are more interested in changes than the employed and the women are more willing to accept changes than the men.

Despite the above noted differences the general tenor of the answers given by employers, employees and the unemployed is similar: It cannot be denied that significant changes in the LC would be accepted. It is of course true that the unemployed showed greater interest in affecting changes in the key issue of wage costs/inflexibilities and sick/maternity leave. But precisely this constellation was expected from the very beginning, since the LC was aimed at "helping" the employed, without realizing that this "help" would be paid for in the form of more unemployed. It is thus simply a matter of "social policy illusion" having prevailed, i.e. believing that policies, stated as having posi-

tive social effects will thus by definition not have a negative impact. One obvious possibility to make job creation more attractive would simply be to have allow for those looking for a job to opt out of the major LC barriers keeping employers from hiring them or even exclude this group from the LC across the board¹. This implies the creation of a tiered labor market, which over a longer period of time would lead to a complete disappearance of the application of the respective LC articles. The basic advantage of such an approach is that it allows the preferences of both employed and unemployed to be heeded, without demanding a heavy tribute from those already profiting from the system². Although the tier system does have the possible disadvantage of creating segmented labor markets, the question must still be answered as to whether such a constellation - which would gradually disappear over time anyhow - is worse than the current situation where the unemployed have no work at all or are working in the underground economy. This would hardly seem to be the case.

Nonetheless caution is called for as the ramifications must be understood. That is to say, if this tiered-path is chosen and the stability clause as well as the financial obligations stipulated in articles 210-229 of the LC are not opted for by those seeking work, it might still be preferred by society, or rather it might even be more efficient (given possible negative socio-political reactions), to institute a system whereby the risk of becoming unemployed is covered by some type of insurance. This could assume the form of an Employee's Fund to which both employers and employees contribute based on insurance principles reflecting the degree to which employees and employers induce unemployment. A

¹ There of course would be no reason why those employed should not be able to voluntarily select the same approach.

² In recent years in the United States major contracts incorporating such an approach have been agreed upon and indications so far seem to point towards a successful functioning.

possible set-up for such a fund has been sketched in Appendix V¹, whereby particular attention has been paid to trying to nurture cooperation (rather than breeding confrontation) between the parties concerned².

That cooperation between employees and employers - or at least a common understanding on aims - plays an essential role in promoting economic activities is more than just a frequently uttered platitude. This is exemplified by the following digression on the approach taken by a large Hong Kong garment manufacturer in trying to make his investment in Panama successful:

Despite the LC (and contrary to the reaction of most businessmen from Asia where labor codes either do not exist or are more flexible) it was deemed necessary by this company to set up garment production in Panama where (basically) no quotas for textiles or textile product exports to the United States or Europe exist, so as to satisfy purchasers in these countries and to serve as an outlet for established textile capacities. The company (located in Colon) commenced operations in 1984 and as of early 1986 already employed around 800 people making it one of the largest companies in Panama. It is attempting to instill in its workers a feeling of identity with the company as well as attitudes towards work. In essence they are trying to transplant behavioral traits native to Hong Kong (and other Asian countries) but often lacking in Panama. While they have

¹ The remarks made in Appendix V should be considered to be a rough draft, i.e. one which is meant to prompt additional ideas on how to solve the dilemma brought about by the stability clause.

² Obviously this type of a fund is applicable to all employees and would even be an improvement on the strict tier approach to establish the fund for everyone. The financial implication of the current LC could be easily calculated in terms of the new system and the insurance rates involved to ensure a smooth and agreeable interfering could be estimated by the appropriate agencies.

had some problems¹, they have been able to overcome major difficulties by incorporating the employees and unions into the decision-making processes². The usual hostile atmosphere surrounding employer-employee relations thus seems to have given way to one where the success and profitability of the company is perceived to engender benefits for all. Should the company succeed over the longer run, it can be assumed (as noted by the company itself) that other garment companies from Hong Kong will hastened to invest in Panama.

It is yet too early to conclude that the above company will succeed despite the LC, since the two year employment period (after which the stability clause takes hold) will only be reached by an increasing number of employees over the course of the coming year. But even if this success is achieved it would be incorrect to assume that the stability clause of LC can remain untouched. It must still be considered a barrier against creating new jobs (by placing the financial risk entirely on the company) as well as a barrier against new investments. The above suggested Employees' Fund (described in Appendix V) not only significantly reduces this risk, it also includes incentives to attempt induce employer-employee relationships similar to those described above in connection with the Hong Kong garment manufacturer.

Complementing a revision of the stability clause to assist in ensuring a better allocation of labor would be allowing the establishment of private employment agencies (see Table AIV.4). This would not only help decrease information costs for employers

¹ For instance, some workers have not reacted to monetary productivity incentives and are perfectly happy to receive the minimum wage rate. But even in such cases where a conflict in the Weltanschauung becomes evident, attempts are made to impress upon the individuals the importance being able to earn more by being more productive.

² To assist the employees in cooperating and to train them as well, over 50 semiskilled and skilled workers/technicians have been brought over from Hong Kong. This aspect alone emphasizes the seriousness with which the company is approaching the issues at large.

and employees, it could also act to induce the state-run agency to be more effective in finding jobs for the unemployed. After all, but a few of those questioned (3 to be exact) received a job through this agency. Since employers and in particular employees as well as the unemployed (to a slightly lesser degree) would be interested in using such agencies, there would seem to be little reason why such agencies should not be permitted. Not even the possible costs involved for the employed/unemployed represent a barrier - over 50% were willing to share with the employer or even pay by themselves.

Coming to Conclusions

In the three surveys carried out on interventions in Panama's Labor Market it became evident that the increasingly severe employment problems are basically of classical nature. They primarily have their roots in the labor market policies of the government as manifested by the Labor Code. However, there is a growing awareness of this fact within the Government and this culminated in the passage of changes in the LC in March of this year. That these changes are not sufficient has been pointed out in this report; where additional changes must be made has also been specified both in the analysis of the employers' responses as well as this paper on those of the employed/unemployed. That the unions' opinions could not be incorporated (as noted at the outset) is indeed unfortunate, but accepting their words at face value that they are interested in improving the lot of the unemployed and employed alike it must implicitly be assumed that a solution which promotes the welfare of Panamanians would be acceptable to them. That such an assumption is not off base was explicitly pointed out in the case of Hong Kong garment manufactures.

Nonetheless, viewing the employment and development situation in Panama only via the labor market would be incorrect, as it is labor's relative price which is important. Thus, reforming the LC

can only be part of a package towards getting Panama back on a faster growth path. That is to say, given the tightly restricted labor market which makes labor relatively more costly, structural change occurs via more capital intensive methods (particularly if capital incentives exist). What this implies for exports of manufacturers (assuming other countries do not intervene in labor markets to the same degree) is that they will become less competitive and more capital intensive. Knowing that Panama as well as many other developing countries do not have the same ease of access to capital they had before, this path is limited by financial constraints. To the degree that foreign capital cannot be attracted in the form of direct investment¹, then investments will be reduced, activities shifted into labor intensive areas (non-traded goods) where lower skill levels dominated -e.g. personal services) or rather into areas where the impact of the regulations has been softened with government approval (i.e. in the offshore banking sector). Outside official activities the underground economy - free of policy-imposed distortions - will of course profit, but it can hardly be expected that the underground economy will be able to assume the role in foreign trade, which the official economy would. Given the impact of the Labor Code on growth, investment and exports to date and in light of increasing employment problems, policymakers already have and will be forced to make decisions to make the entire economy more flexible.

To be blunt this means that fundamental changes in attitudes and policies are required. These changes require enacting a modus operandi in the suggested Commission on Panama's Economic Future (CPEF - Spinanger, 1984, pp. 42-43) and include the removal of many government-implemented rigidities in factor and product mar-

¹ With measures like the Labor Code companies politely decline to invest, realizing how large the potential financial risk can become. That is, they critically evaluated the impact of not being able to flexibly adjust employment levels to production needs without effecting payments, which increase with seniority.

kets (see e.g. Wisecarver, 1985). While distrust in the market mechanism led (inter alia) to the LC, the market - if it is allowed to function smoothly - can indeed adjust to rapid changes in demand for and supply of labor and effect an efficient solution.

Conjecturing about how Panama might develop without the above distortions leads to the following concluding question: Why shouldn't it be possible for Panama to copy the path followed by the fast growing Asian exporters, particularly given Panama's undeniable locational advantages and knowing that some of these countries a mere 25 years ago were referred to as basket-cases (e.g. South Korea) or rather better known for labor unrest (e.g. Singapore) than exports?

APPENDIX I

Changes in the Labor Code - Proposals from 1985

The proposed changes in the LC, prepared in 1984 and "leaked" to the public in mid-1985 represent an attempt by the government to make some changes without upsetting anyone. The measures are aimed at

- foreign companies,
- overtime,
- redefinition of wages,
- justification of dismissal,
- work at home rules,
- rural workers,
- apprenticeship contracts,
- strike and arbitration and
- seizure of property¹.

With the exception of the definition of wages and apprenticeship contracts none of these really represent issues which became apparent as being important in the first survey. In particular let the following questions be asked:

- Would these changes make it attractive for foreign companies to come to Panama, where it is still extremely difficult or rather quite expensive to dismiss an employee creating difficulties or not producing as expected.
- Why should companies believe in the special justice system set up for the LC if they find that sound arguments based on the letter of the law are not often heard?

¹ Not part of LC but included in the legislation.

While the proposed changes are stated as aiming to increase productivity, attract domestic and foreign investment, foster small enterprise, reduce labor costs and make the economy more productive, it is difficult to see how this is to be accomplished through such marginal changes. Thus the approach chosen was one which not only harmed the entire atmosphere between employees and employers, it also set back the process by forcing the groups concerned to fall back to positions they seemed to have been in the process of leaving.

Perhaps the next time around with an approach which will underline the benefits to be gained and which specifically aims at those suffering from unemployment will be the above mentioned goals come closer to being achieved.

Appendix Table A.I.1: Overview of Proposed Labor Code Changes - Unofficially Made Public mid-1985

Article no.	Description of article	
	Present article	Proposed change ¹
	<u>Employment of foreign labor</u>	
17	10% foreign workers allowed; 15% foreign technical staff allowed; Quotas also apply to payroll; Time limits: 1-5 years; Exceptions to above can be applied for at Ministry of Labor and Social Welfare.	Explicit exceptions for companies producing for export market with not less than 200 employees to have 50% foreign labor in first years and 25% in year 3. Quotas do not apply to payroll.
	<u>Fine for illegal use of foreign labor</u>	
20	50-500 Balboas fine	Fine changed to either 4 times wages paid or 500 Balboas, should wages not be known.
	<u>Overtime pay</u>	
33	25% additional if daytime; 50% additional if night; 75% additional if work extends beyond night/day period.	A straight 25% for small companies (size not specified) and exporters regardless of when overtime occurs.
	<u>Overtime requirement</u>	
35	In times of accident/catastrophe/danger for human life/firm; hours can be extended accordingly to cope with or prevent problem. If stated in collective agreement and subject to statutory limits.	Extended to cover demands occurring in agriculture, small enterprises and exporting companies; Limited to 4 hours/day.
	<u>Limits to overtime</u>	
36	Safety conditions, age limits and obligations of employers specified; Time limit: 3 hours/day or 9 hours/week.	Time limit changed to 4 hours/day.
	<u>Financial dependency</u>	
65	Exists where - remuneration received for work/services; - said remuneration received directly/indirectly from person/firm for whom activity performed; - for remuneration obligation to perform activity exists.	Excludes the case where all goods, tools and means used by worker are not property of person/firm effecting payments or for whom activity performed.
	<u>Probation period</u>	
78	For work requiring skills/aptitudes probation period shall not exceed 2 weeks. In this period employment relation can be terminated without liability.	Probation period extended to 3 months.
	<u>Definition of wages</u>	
140	Wages (remuneration due to employment relation) include cash, pay in kind, gratia payments, bonuses, instalments, wage supplements, emoluments, commissions, profit sharing and any other income attributable to job.	Wages include cash, pay in kind and commissions.

Appendix Table AI.1 continued

Article no.	Description of article	
	Present article	Proposed change ¹
	<u>Calculation of wages</u>	
142	<p>Wage set for unit of time, piece-work or task; Basic wage must be no less than legal or contract minimum; For piece-work or tasks, worker must be guaranteed a certain minimum for max. of 8 hours/day, regardless of work accomplished; Piece-work or task pay valid (outside of agriculture) only if specified in contract or in line with minimum wages.</p>	<p>Employer and employee can agree and change conditions of payments for piecework, to include premium, commissions, profit sharing, but these not to be considered part of basic salary; Cyclical variations in production do not constitute reasons for wage increases.</p>
	<u>Special payments vs. wages</u>	
147	<p>Cash amounts occasionally received by employee for representation, expense account, transportation, travel costs etc. not considered part of wages. Permanent allowances to meet representation costs are part of wages.</p>	<p>Also not part of salary, whether permanent or occasional, are bonuses, ex gratia payments, 13th month pay plus its increases, production premia, donations to/participation in benefits, even if only in tender of bonds for a few workers. As concerns contents in connection with Article 197 above not considered conditions of work. Executive will effect regulation of contents.</p>
	<u>Works committee</u>	
186	<p>In every establishment with >19 workers; a works committee must be set up with 2 employer's representatives and 2 workers (union members, appointed by union); Upon request works committee mediates disputes as concerns work rules and non-fulfilment of employer's obligations; At any time parties can go before labor court.</p>	<p>In every establishment with >19 workers; a works committee must be set up with 2 employer's representation and 2 workers (can be designated by unions or employees of firm). Dispute handling in company same as before. In case dispute cannot be resolved a mediator is appointed by the committee to reach a solution in accordance with law.</p>
	<u>Exceptions to stability clause</u>	
212	<p>Stability clause does not apply to</p> <ol style="list-style-type: none"> 1. workers with power of attorney to act as employer's agent and with less than five years service; 2. casual/temporary/substitute workers; 3. less than 2 years service; 4. domestic workers; 5. workers on vessels on international routes; 6. apprentices 7. small scale enterprises in agriculture/stockbreeding/food process/manufacturing with no more than 10/10/20/15 workers; 8. seasonal workers processing raw materials for exports. 9. retail/service firms < 5 workers. Firms in finance, insurance and real estate excluded. 	<p>Stability clause does not apply to</p> <ol style="list-style-type: none"> 1. workers who act as employer's agent 2. - 3. - 4. - 5. - 6. - 7. includes agricultural services with no more than 10 workers. Excludes banking, financial services, savings and loans, insurance, reinsurance, advertising, real estate, information processing, wholesale and sale of luxury goods. 8. - 9. -
	<u>Justification of dismissal</u>	
215	<p>For dismissal reasons given in C of Article 213 evidence must be provided; If requirements not fulfilled, dismissal unjustified; If labor court has not decided in 60 days, employer can dismiss - justified; Pay in accordance with 225.</p>	<p>If dismissal in line with C of Article 213 employer must provide evidence if worker goes to court; If cause not proven pay in accordance with 225 or reinstate - in both cases - employer must pay back wages.</p>

Appendix Table AI.1 continued

Article no.	Description of article	
	Present article	Proposed change ¹
	<u>Exception to reinstatement</u>	
219	<p>Reinstatement can be avoided if severance compensation increased by 25% for workers in positions of trust or who are in close contact with employer; Regardless of this the employer can pay 50% more severance and wages due. No more than 10% of workers/year can be so terminated;</p> <p>In small firms (<10 workers) 1 worker/year;</p> <p>Worker so released must be replaced by another worker.</p>	<p>The following added: Wages due cannot exceed 6 months back pay.</p>
	<u>Work at home-definition</u>	
232	<p>"Home work" is any work performed at home or other place, without direct supervision by employer.</p> <p>Any agreement regulating sale of materials to home-worker to be processed and sold back or otherwise is home work.</p>	<p>A person not consider worker (in LC sense) if he does home work under said conditions.</p> <p>This is also the case if person forced to sell back to contractor or designated third party work performed at home.</p> <p>Regardless of type of arrangement, home worker has right to receive social security.</p>
	<u>Work at home - rules</u>	
233	<ol style="list-style-type: none"> 1. Working for 2 or more employers does not preempt LC application; 2. Employer is one who gives out home-work, regardless of tools, form of remuneration; 3. Book kept by employer of all home workers with names, addresses, amount work and pay plus copy for worker 4. Remuneration by time, task or piece-work; 5. When employer refuses to hand over material or money, homemaker can quit and reserve right to press charges; 6. Labor authorities shall inspect premises; 7. Infringements fined 20-100 B. 	<p>A person who performs no more than 16 hours of home work shall not be considered a worker.</p>
	<u>Rural workers - labor relations</u>	
235	<p>Following rules apply:</p> <ol style="list-style-type: none"> 1. In case of tenant farming or where only house and land provided to small farmer, landlord jointly liable (as regards LC) if they (the farmers) cannot fulfill obligations towards workers. In case of share-cropping, landlord and sharecropper jointly liable; 2. Where no rent paid in case of share-cropping/farm-tenancy, they shall be treated as contracts of employment if financial dependency as above; 3. Employers must <ul style="list-style-type: none"> - pay wages at place of work at least every 2 weeks; - provide rent-free housing (in cases for families) with garden/yard for raising animals. 	<p>The following are added:</p> <ol style="list-style-type: none"> 4. Overtime pay: 25%; 5. Work in holidays or days of mourning: 50% more pay; 6. Work in 2 or more seasons shall not be considered contract for unlimited time.

Appendix Table AI.1 continued

Article no.	Description of article	
	Present article	Proposed change ¹
	<u>Apprenticeship contracts</u>	
281	Apprenticeship applies to training by or on behalf of IFARHU for persons 15-18 years. Further regulations to be made by executive.	<p>A contract of apprenticeship represents a written agreement to provide basic knowledge in a profession or vocation to a person less than 25 years old.</p> <ol style="list-style-type: none"> 1. It should not exceed 2 years, depending on occupation, time of contract, what learned, rights, and salary; 2. Salary cannot be less than respective minimum wage; 3. Contract can be terminated without obligation by employer, but vacation must be paid; 4. If course completed satisfactorily, written evaluation unless employed in the firm; 5. Can be performed in firm or public institute; 6. Contract must be registered in Ministry of Labor and Social Welfare; 7. LC determines work hours; 8. Number of apprentices can't be greater than 15% of persons employed; 9. Apprentice subjected to social security rules; 10. The Executive shall regulate above; 11. Tripartite commission created - 1 labor, 1 employer, 1 government representative; Members designated by Labor Ministry, Labor/employers or government designate respective Government representative from Labor Ministry.
	<u>Commencing arbitration</u>	
452	<p>After conciliation procedure dispute submitted to arbitration if</p> <ol style="list-style-type: none"> 1. both parties agree; 2. if workers before or during strike apply to Directorate of Labor; <p>Arbitration only in wage/money claims, etc.</p>	<p>Added:</p> <ol style="list-style-type: none"> 3. If in public service enterprise (as defined in 486), or if grave economic difficulties can develop; Directorate of Labor will request arbitration. The resolution to submit to arbitration immediately suspends strike.
	<u>Declaration of strike</u>	
490	<p>Declaration of strike to be made not than 20 business days after conciliation terminated;</p> <p>Declaration issued not less than 5 calendar days before strike (8 days for public service);</p> <p>Strike can commence up to 3rd day of business after above 20.</p>	<p>Strike can commence 5 working days after 20 day period if declaration of strike to be made not than 20 business days after conciliation terminated;</p> <p>Cannot begin if majority of workers do not support it;</p> <p>In that case labor authority will carry out secret ballot, not less than 24 hours before strike;</p> <p>If majority not in favor of strike, no strike;</p> <p>If workers still leave, strike considered illegal.</p>
	<u>Seizure of Property²</u>	
<p>¹ - designates no change</p> <p>² Not part of Labor Code, but rather Article 22 of Law 53, 1975, which deals with protecting assets from being done away with.</p>		

APPENDIX II

The Surveys: Background, Structure and Problems

I. Introduction

Following the completion of the initial survey covering employers' views on the impact of the Labor Code (LC) and implications of possible changes therein, the extension of the project was originally conceived to deal with exactly the same aspects, but viewing the issues from the perspective of those supplying labor or influencing the supply. In other words, the employed, the unemployed and the unions were to be surveyed¹. The basic intention of this approach was to map out a strategy with which the labor market distortions stemming from the Labor Code could be reduced or even eliminated in an efficient manner, minimizing thereby potential social confrontations. That is to say, this overlapping approach was considered to represent a consistent method of delineating the major areas where misallocations occur so as to allow a path to be specified in the first-best direction, keeping in mind thereby the implications of the group constraints.

In line with this approach three sets of questionnaires were prepared. As it turned out, however, the unions put a crimp in the plans by not only declining to be objectively questioned, they also exerted pressure on employees in companies chosen not to fill out or return already filled-out questionnaires. Thus the study had to make do with information supplied by the employed and unemployed. As unfortunate as this is, the study still represents a unique attempt to consistently deal with the ramifications of labor market imperfections from those demanding and offering labor. Since one basic issue at state is how to devise an efficient strategy to allow the labor market in Panama to better accommodate those already unemployed as well as those en-

¹ The employees and the unions to be surveyed were to be those directly employed by or active in the companies in the first part of the survey.

tering the labor market in the coming years, this can be adequately accomplished without the unions. Only when trying to map a path minimizing socio-political confrontations will the lack of explicit information from unions have to be replaced with implicit knowledge. While this might detract from the thoroughness of the study, it should not negate the basic findings to a significant degree.

In the following the background information on the survey deals only with the employed and unemployed. One minor exception is made, however, namely the inclusion of parts of the questionnaire planned for the unions.

II. Background and Structure

Given the constraint that the survey set up in a fashion to allow the entire process to be wrapped up within a period of about 7 months, and in light of the constraints placed on the number of personnel involved in carrying out the survey as well as collating the results, the projected sample size for each group had to be limited. It was felt that roughly 250-300 individuals in each cohort could be covered. This meant that on the average about 5 individuals from each of the companies included in the first survey would be questioned. It was deemed consistent as well as statistically adequate to cover an equal number of unemployed.

Despite such ex ante considerations the actual approach differed due to the action taken by the unions. That is to say, by obstructing the carrying out of the survey in numerous companies, instructing union members not to return already filled-out questionnaires and threatening larger scale protests against the research project, the survey of the employed could not be carried out as intended. Since not even half of companies could be accessed (i.e. 24 out of 54), the number of employees answering the questionnaire - about 90 - was considerably less than planned.

Not wanting to have the unemployed be overrepresented by too large a factor, their number was reduced somewhat (to about 170).

In structuring the samples the following additional criteria were used as guidelines:

- about one third of individuals should be females;
- the structure of the non-agricultural sector should be reflected as much as possible;
- the number of unskilled workers should exceed the sum of skilled and clerical workers;
- the educational spectrum should be completely covered and
- the age structure should better reflect the unemployed rather than the total population.

Not to be dealt with in the course of this project and thus not explicitly included in the surveys were problems of specific rural-urban nature and those directly related to the agriculture sector.

The surveying procedure used in the case of the employed involved contacting the companies, receiving permission, requesting the names of a given number of individuals in accordance with the above criteria, explaining the purpose of the survey and its structure and then allowing the selected individuals to fill out the survey at home. In light of the length of the survey this last step proved necessary to avoid imposing on the companies and also on the working time of the individuals.

The unemployed were selected based on assistance provided by the government employment office. They were questioned on the spot since time constraints were not considered a problem. It is not expected that the latter point will make a major difference in the quality of the answers received, since the questions themselves are direct enough to be answered without investing intensive thoughts.

As can be seen in Appendix Table II.1 the constraints placed on the data set were not completely met. Nonetheless the degree of concordance was considered to be satisfactory, particularly in light of the fact that the survey was carried out in an urban area, for which different structures prevail than the ones for which the appropriate data was available.

The actual structure of the questionnaire followed very closely along the lines of the firms' survey. The areas covered in the subjective part of the two-part survey were as follows:

- IA: issues surrounding the payment of monetary incentives, problems evolving therefrom and possible impact on work behavior;
- IB: questions about the impact of health and/or safety regulations, particularly with regard to implications of costs involved, whether abided by and extent to which training enforced by company and/or unions;
- IC: information concerning job search methods and potential interest in as well as willingness to pay or share fees for private employment agencies;
- ID: attitudes on importance of minimum wages and possibility of replacing them with another system;
- IE: not included;
- IF: questions on the impact of training, education and experience with particular emphasis on apprenticeships and conditions thereof;
- IG: inquiries about the impact of laws protecting women at work and during pregnancy as well as other barriers keeping more women from being employed;

Appendix Table AII.1: Structure of Survey of Employed/Unemployed vis-à-vis Panamanian Economy¹

	Survey of Employed		Economy of Panama ²	Survey of Unemployed		Economy of Panama ²
	Absolute	% ²		Absolute	% ²	
Number surveyed	87			169		
Sex: Male	51	60.7	73.4	98	58.0	59.9
Female	33	39.3	26.6	71	42.0	40.1
Married	38	66.7		43	25.4	
Age group ³ :						
20	5	5.7	8.7	18	10.7	21.4
20-24	13	14.9	15.6	75	44.4	30.4
25-29	22	25.2	15.9	46	27.2	16.0
30-39	32	36.8	26.0	23	13.6	17.5
39	15	17.2	33.7	7	4.1	14.8
Education ³ :						
5	12	13.8	30.8	2	1.2	18.4
5- 8	14	16.1	26.5	33	19.5	26.7
9-12	17	19.5	30.8	82	48.5	45.9
12	44	50.6	11.9	52	30.8	9.0
Income ⁴ :						
Average	777		379	209		379
Male	824			215		
Female	707			201		
Sector:						
Manufacturing	14	17.7	14.8	24	16.9	13.9
Construction	4	5.1	8.4	5	3.5	12.3
Trade	-	-	19.0	-	-	16.4
Transportation	2	2.5	8.1	3	2.1	6.8
Banks, etc.	38	48.1	5.4	63	44.4	2.9
Other services, government	21	26.6	35.7	47	33.1	32.6

¹With exception of income data, which applies to 1983, all other statistics refer to 1980. - ²Percentage distribution within respective groups (except income). - ³In years. - ⁴In B/. per month.

Source: Direccion Nacional de Empleo (1983), Tables II-3,-6B, -11 and Panama en Cifre (1985), Table 441-05.

IH: opinions on possible changes in Labor Code in light of statements made by employers and given economic parameters;

II: contained two parts, one aimed at trying to find out what five most important points should be included in a new Labor Code and the other requesting a response to possible proposals forthcoming from employers.

In the factual part of the survey questions were asked about the following general aspects:

- personal and family characteristics,
- education/training background,
- occupation,
- employment/unemployment experience,
- income, also from other jobs and partner,
- health record,
- union affiliation and
- LC cases.

As can be seen in the next appendix, slight differences did exist in the information requested in Part II of the survey for the employed/unemployed. Considerably different were the objective questions to be asked of unions (for obvious reasons); this part not having been carried out, however, needs no further explanation.

III. Problems

Most of the problems which became apparent in the course of collating and analyzing the information were either due to the laziness/disinterest on part of those answering, failure to correctly comprehend what was being asked or perhaps to questions presupposing too much background information.

As concerns the last issue, the surveys attempted to provide enough information in a short preview to each question. However, barring the possibility of being able to either go through each question with every single person interviewed (limited manpower/womenpower constraints bit here), or not being able to have recourse to inject ex post corrections, one would have to expect this to be the case. The manpower constraints mentioned above were obviously also connected to not being able to undo the consequences of the failure to correctly comprehend questions being posed. The first problem could hardly have been solved with additional assistance and to some extent could even be a result of the length of the survey. Remembering that the companies themselves - who (until recently) have openly verbalized their discontent with the code - only responded at a 25% rate to the questionnaire and then did not respond to a fair number of questions, it is understandable that an individual would have less interest. Despite these difficulties the number of correct responses proved to be sufficient for the demands placed on the surveys.

Directly following the questionnaires themselves (Appendix III) the number of responses to the individual questions are presented.

APPENDIX III

The Questionnaires - Actual Questions and Response Rates

Of three questionnaires produced for this set of survey, i.e. for the employed, unemployed and unions, only one will be reproduced here. The different phrasing contained in Part I of the three versions has been indicated by placing a star on the left margin of the employed text and "starring" the respective wording. Since the wording was usually analogously changed for the unions, no attempt was made to differentiate the markings between unemployed and unions.

As a deviation from the above-stated intention the final sheet(s) containing questions about the personal characteristics of the individuals or the details on the unions - i.e. Part II - have all been included immediately following the detailed question.

Also included in this section of the Appendix is a listing of the questions and the number of responses made to each one. This information may prove useful to those interested in trying to determine whether the evidence presented and the conclusions drawn rest on solid enough foundations.

EMPLOYED

- C O N F I D E N T I A L -

QUESTIONNAIRE ON LABOR MARKET POLICIES IN PANAMA

The economic situation in Panama has worsened over the last 15 years. In particular, economic growth has been slowing down, even relative to all other Latin American countries. One area where this slowdown has become very evident is in the labor market where unemployment is now at its highest level in decades. The fact that over a third of a million more people will be of working age over the course of this decade means that forceful steps have to be taken quickly if an ever increasing number of these people are not to end up unemployed or in activities where their potential is far underutilized.

Even if measures like those enacted in the 70's, during which time about 75% of the growth in the labor force was absorbed by the government, were promising, this path is no longer open, given the severe financial problems facing the country. What is thus needed is a strategy which will reactivate all sectors of the economy so that they will be enabled and willing to create new employment opportunities in line with the capabilities and potential of these looking for jobs. Likewise the strategy would promote the expansion of existing economic activities so a revitalization of the economy in general will produce the higher standard of living all Panamanians are interested in achieving.

* It is the purpose of this questionnaire of * employees * to attempt to find out from the working age population of Panama if certain modifications to existing regulations can be introduced so that the human resources in Panama are not subjected to increased unemployment and poverty. Your answers to the following questions - which will be treated with complete confidentiality - will be useful in helping designing such a strategy. They will be combined with confidential answers to other questions from employers, unions and the *unemployed* to provide a complete picture of employment problems in Panama and possible solutions to them.

Carried out by the
Kiel Institute of World Economics, Kiel, Germany
in
Panama City, Republic of Panama
April, 1985

Confidential

Questionnaire on Labor Market Policies in Panama

EMPLOYEES

Initials of person interviewed: _____

Code number: _____

Date of interview: _____

Name of firm: _____

Interviewer: _____

Part I

IA. On the average the pay an employee receives is supposed to represent the value of work he performs. If ^{*}a company wants ^{*}employees to produce more, monetary incentives - i.e. additional pay for additional output - can be offered. With few exceptions, however, the Labor Code (LC) requires that such additional payments automatically become part of the base pay. This means, of course, that the additional payments lose their incentive character, since an employee no longer has to be more productive to receive more pay. Although receiving more pay for less work sounds appealing from the individual employee's viewpoint, the extra costs incurred by the firm (for no extra output) can negatively influence its competitive position and thus generally endanger jobs within the firm. To the degree a firm tries to counter such developments by investing in more capital intensive methods of production, jobs would be eliminated and/or future employment demands reduced. All this means that unemployment levels in the economy as a whole will increase. ^{*}_____^{*}

(1) In light of the above information how should productivity-oriented monetary incentives be structured:

- (a) _____ The firm should be allowed to structure them in line with its needs.
- (b) _____ Although firms should not be allowed total freedom, the idea of additional pay for additional work should be allowed to prevail. The following restrictions are necessary: _____

(c) _____ The LC's treatment of monetary incentives should remain unchanged because _____

(d) Other opinions: _____

^{*} (2a) ^{*} Do you yourself receive any payments that are primarily productivity oriented? _____ Yes _____ No

(2b) If yes, how much a week (on average)? _____

^{*} (3) ^{*} Does the firm you are working for offer productivity payments which are not incorporated into the basic salary? ^{*}

_____ Yes _____ No

^{*} (4a) If the LC were changed to allow productivity payments would you expect to be able to be more productive? ^{*} _____ ^{*}

_____ Yes _____ No

(4b) If yes, by how much? _____

(4c) It would not influence your productivity, because

_____ you already produce as much as you can.

_____ you feel that producing more would be too tiring and/or cause too much stress.

(5) Have you been involved in LC cases with your ^{*} current ^{*}/past employer as concerns the payment of monetary incentives? _____ Yes _____ No. Please specify: _____

IB. Health and safety regulations are essential if occupational dangers are not to be passed along in the form of (permanent) injuries or illnesses. It must be noted, however, that reducing or eliminating such dangers costs money and thus increases the expenses associated with jobs.

(1a) Are you satisfied with the health and safety conditions in the firm for which you are now working?
_____ Yes _____ No

(1b) If you are not satisfied why not, what should or could be done and what kind of costs might be involved? _____

(1c) Are you given instructions/training with respect to hazards/potential dangers in your work? _____ Yes _____ No
How much time over last year? _____

(2a) If you knew that health and safety regulations caused in terms of cost to the firm an amount equivalent to 10% of salary/wages paid to you by the firm, would you find this O.K. or would you prefer to have the money and pay more attention yourself? _____

(2b) If such regulations cost 50% of salary/wages paid to you, how would you react? _____

(3) ^{*} Do unions represented in the company ^{*} attempt to ensure that health and safety regulations are carefully followed and do they attempt to actively influence the establishment and improvement of these regulations? _____

IC. Private employment agencies are not permitted by the LC. However, employers have expressed an interest in such agencies because they can more efficiently provide information on possible workers to meet the specific needs of the company. Some employers have also noted that they would be willing to pay for such services.

(1a) Do you feel that such agencies should be allowed? _____ Yes _____ No
(1b) Why? _____

(2) Assuming such agencies were allowed and they would enable you to more quickly find a job or discover a better job, would you be interested in using them if

- (a) the employers paid the fees? _____
- (b) the employers paid part of the fees? _____
- (c) you had to pay the fees? _____
How much would you be willing to pay? _____

- * (3) How did you find your * present * position?
 - (a) Used state employment office. _____
 - (b) Went to various companies myself. _____
 - (c) Heard of position through friend/relative. _____
 - (d) Read about it in newspaper. _____
 - (e) Other _____

ID. Minimum wages are anchored in the Constitution and the LC. Their purpose is stated as enabling every worker "to meet the normal material, moral and cultural necessities of his household". Likewise, minimum wages are supposed to be increased over time to improve the general level of living. However, despite the well-meaning law, minimum wages can keep those people just starting their working life from getting a job. That is, since such people have little or no experience their initial value to a company is very small and can often be less than the minimum wage. Knowing that the labor force is rapidly increasing it would thus seem necessary to try to eliminate all possible barriers to entry - in this case minimum wages - to allow those seeking jobs to be paid in line with their abilities.

(1) What are your views on minimum wages:

- (a) _____ Minimum wages are essential even if people are kept out of work because otherwise the lowest paid employees in a firm would receive even less.
- (b) _____ If the State has made it an obligation to set a minimum level of living it should do so by allowing people to get employment in line with their abilities. If the income levels of such workers are still considered to be unacceptably low, then the State could for instance provide assistance in the form of income supplements (negative income tax).
- (c) _____ Other: _____

IF. General and vocational education as well as technical/clerical training are important if *the job you have* today is going to be secure tomorrow. Education/training, however, is not without costs to you yourself and the firm. As concerns yourself, the costs are in the form of foregone wages as well as expenses for educational materials and fees. The cost to the firm is reflected in the facilities/personnel assigned to training and to the possible wage payments above wage levels, which would otherwise prevail, given the lower productivity of trainees. The LC unfortunately does not allow apprenticeships or arrangements which would make it easier to profit from education/training. Employees would profit because future returns to investment in education/training today usually far exceed the costs incurred. Employees would also profit since they would find it easier to initially find jobs and then hold them later. Employers on the other hand would be able to train employees and pay then during this period in line with their productivity levels. Since they would not be required to hire all those trained upon completion of the course, they could chose among the best and thus become more competitive.

- (1) Do you feel that apprenticeships should be allowed? _____ Yes _____ No
- (2) If yes, should conditions be stipulated? _____ Yes _____ No
What conditions? _____
- (3) If no, why not? _____

(4) Would you be interested in going through apprenticeship/training programs if you knew that the possibility of not being hired by the same company was possible? Of course the possibility of finding a job with another company later on is also higher. _____ Yes _____ No

IG. The LC contains restrictions on the employment of women either as concerns occupations or maternity leave. It is a known fact that such restrictions cause employers to hire fewer females, place them in less responsible positions or pay them less.

(1) Do you feel that women should be kept out of occupations if they themselves would like to enter them? After all if the occupations are dangerous to one's health then they are also dangerous to men's health.
_____ Yes _____ No

(2) Society - as stated in the Constitution - has agreed that women in the pre- and postnatal period should be protected. As it stands now these protection regulations place a larger share of the burden on the employer. Does it not seem more logical that society itself accept this burden - or at least a greater part of it - so that the individual employer does not react by employing fewer women?
_____ Yes _____ No

(3) Maternity protection now gives females 6 weeks leave prior to the birth of a child and 8 weeks thereafter. Knowing that this rule dates back to 1919 and can no longer be considered to be based on medical necessities, would not a more flexible approach seem worthwhile? That is, a more flexible approach could mean that pay could be increased because additional costs to employer would be decreased and/or more females could be employed.

(a) Yes, if pay were increased by _____ 10% _____ 20% _____ 30%

(b) Yes, if more and/or better jobs were made available: _____

(c) No, because _____

(d) Yes, if _____

(4) Do you have any specific comments on the protection of women or have you experienced or do you know of cases where women were discriminated against or where employment did not follow the LC regulations? _____

IH. (1) Employment security in the current LC represents one of the major breaks with the past. Whereas prior to the existing LC employers had the right to dismiss employees in accordance with the needs of the firm, now the employers' right in this respect is severely restricted. As honorable as it is to promise employment security through the LC, the regulations seem to have caused firms to hire fewer and fewer people because of the expense encountered when employees do have to be dismissed. However, since the labor force is rapidly growing, it is essential that jobs are more rapidly *created if a larger army of unemployed is not to be created*. Although no one seriously considers returning to the situation as existed in the earlier labor code, a solution must be found so that those with a job can enjoy the benefits of being employed and at the same time contribute to helping create openings for those without jobs. It might be added that while the LC has given rights and benefits to the employed, it does little to make the voice of the unemployed stronger. Which of the following possibilities do you feel could be instituted?

(a) Since society has decided that those who lose their jobs are entitled to receive monetary compensation, it would seem logical to change the present arrangement so that society as a whole bears the burden rather than only the firm. A system of unemployment compensation would be a possibility. Such a system would be independent of the government and be run (in line with insurance principles) in such a way that employers, employees and unions would be made more responsible for their individual actions leading to increased unemployment.

Comment: _____

(b) For all those already employed and protected by the LC nothing as concerns job security should be changed. However, all those looking for a job can request to be employed under more flexible conditions. This could mean, for instance, that new employees would not be granted the same degree of job security, but instead would be compensated in the form of higher pay.

Comment: _____

(c) A more radical change in the LC should be effected, so that employers have more flexibility and incur lower costs in dismissing incompetent workers. At the same time, however, workers could be offered higher pay, monetary incentives for being more productive, profit sharing and/or a greater degree of decision-making responsibility in connection with the immediate job environment and work place.

Comment: _____

(d) No change should be made in LC because the employers would only use them to increase profits, but not to increase employment.

Comment: _____

(e) Since it does not seem possible to effect the necessary changes in the LC on a national basis, why not designate certain limited areas in the country as free economic activity zone where any new business starting up would not be subjected to the LC. This could be considered an experiment where employers, unions and employees would be able to show that they can work together under fewer regulations and induce more and better jobs without confrontation and exploitation. The success of such an experiment could provide the basis for an economy-wide solution. Its failure, however, would cost nothing and yet provide information for future solutions. There would thus seem to be little to lose but everything to gain with such a suggestion.

Comment: _____

(f) The following solution (for instance, a combination of above suggestions) could be offered: _____

(2) If you knew that because of the Labor Code employers had to pay up to 80% more for your services than you yourself receive as base pay, how would you react? It should be noted, of course, that this amount includes among other things the 13th month salary, pay for vacation, sick leave, social security and provisions for job security. For sure, these additional costs keep firms from hiring more employees.

(a) You would be interested in trading some of the regulations costing so much for more base pay. Which regulations? _____

(b) You would not be interested in reducing any of the benefits as they are all important. Comment: _____

(c) You would make the following suggestion: _____

(d) You find such additional costs to be too much and would prefer that it be reduced (where? _____) to only _____ % if more employment could be created that way.

II. Two final questions:

(1) If you had the possibility of formulating a new Labor Code what five particular points (in order of importance) would you include and why?

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(2) If you knew that employers were willing to compromise on the following key issues bothering them and thus keeping them from employing more people/offering more pay, what would you be willing to offer in return?

(a) Employment security/dismissal inflexibility and costs _____

(b) Collective bargaining rules _____

(c) Inflexible wage structuring/fringe benefits: _____

(d) Sick leave/maternity leave _____

Part II

EMPLOYEES

Company: _____

Industry of company: _____ No. of employees: _____

Initials: _____ Age: _____ Sex: _____ Marital status: _____

No. of children and ages: _____

Years of schooling: _____ Vocational/technical/clerical training (underline)

If training, where and for how long _____

Occupation: _____ Skilled/Unskilled (underline)

Prior occupation (if applicable): _____

Total months/years worked: _____ Months/years with company: _____

No. of times unemployed: _____ Length of each time unemployed: _____

Months/years worked last job: _____

Current wage: _____ Hourly/daily/weekly Wage last job: _____

Does partner work? _____

Partner's occupation and industry: _____ Partners's income: _____

Sources and amount of family income

(excluding partner's income) e.g. from odd jobs: _____

Average hours work/day: _____ days/week: _____

Hours overtime last week: _____ Last 4 weeks: _____

Overtime pay: _____

No. of days sick: _____ Last full week? _____ Which days of week? _____

Last full two weeks: _____ Which days of week? _____

Union membership (union name if applicable): _____

Length of membership: _____ Union fees: _____ Office held: _____

No. of days absence for: _____ union functions in last year? _____

article 160 of Labor Code last year? _____

Major benefits/fringe benefits you know about due to union contracts: _____

Participation in Labor Code cases:

When? _____ What type (Labor Code section no.)? _____

Who submitted? _____ How long did case last? _____

Demands/outcome: _____

No. of days off work due to case: _____

Strikes: length/reason/outcome since 1980: _____

Part II

UNEMPLOYED

Initials: _____ Age: _____ Sex: _____ Marital status: _____

No. of children and ages: _____

Company last worked for: _____

Industry of company: _____ No. of employees: _____

Years of schooling: _____ Vocational/technical/clerical training (underline)

If training, where and for how long _____

Occupation: _____ Skilled/Unskilled (underline)

Prior occupation (if applicable): _____

Months/years with company last worked for: _____

Reason for loss of job: _____

Money received on leaving: _____

Total months/years worked: _____ No. of jobs held: _____

No. of times unemployed: _____ Length of each time unemployed: _____

Wage at last job: _____ Hourly/daily/weekly

Wage expected for next job: _____

Does partner work? _____

Partner's occupation and industry: _____ Partner's income: _____

Sources and amount of family income

(excluding partner's income) e.g. from odd jobs: _____

How are you looking for work? _____

How did you find last job? _____

Union member (union name if applicable): _____

Major benefits/fringe benefits you know about due to union contracts: _____

Participation in Labor Code cases:

When? _____ What type (Labor Code section no.)? _____

Who submitted? _____ How long did case last? _____

Demands/outcome: _____

No. of days off work due to case: _____

PART II

U N I O N S

Name of Union: _____

When founded: _____

No. of members. 1983: _____ 1980: _____ 1970: _____

No. of firms where represented 1983: _____ 1980: _____ 1970: _____

No. of members in company XYZ (_____):

1983: _____ 1980: _____ 1970: _____

In other companies: 1983: _____ 1980: _____ 1970: _____

No. of paid/unpaid union officials: _____

No. of union members released from firm XYZ for official union activities? _____

Length of their release? _____

Major fringe benefits achieved in collective bargaining beyond L.C. with company XYZ:

Activities of unions (schooling, training, etc.): _____

Participation in Labor Code cases in 1983 and 1980 with company XYZ:

What types (refer to IC section): _____

Number: _____

Who submitted: _____

Demands: _____

Outcome: _____

Time spent in preparing cases: _____

Time spent in proceedings/court: _____

Costs for lawyers: _____

Participation in Labor Code cases in 1983 and 1980 with all companies where represented:

What types (refer to IC section): _____

Number: _____

Outcome: _____

Strikes: length/reason/outcome with company XYZ since 1980:

Strikes: length/reason/outcome with other companies since 1980:

Other problems with employers/employees:

Response Rate to Part I
 - Employed (E) and Unemployed (U) -

	No. of responses	
	E (n=87)	U (n=169)
IA: Issues surrounding the payment of monetary incentives		
1(a) OK for firm to apply them in line with needs	52	55
(b) Qualified OK	29	84
(c) Current ruling should remain unchanged	2	28
(d) Other	2	1
2(a) Were monetary incentives received?	12	153
(b) If yes, how much?	3	11
3 If incentives allowed, would you want such for next job?	86	164
4(a) If incentives applied, would you be more productive?	84	167
(b) If yes, by how much?	15	114
(c) If no, why? Productivity always high	41	19
Too tiring/too much stress		
5 LC cases due to monetary incentives?	2	128
Specify	0	8
IB: Questions on health and safety regulations	85	139
1(a) Satisfied with health and safety regulations?	6	20
(b) If no, why not and what could be done?	86	135
(c) Instructions given vis-à-vis health/safety hazards? How much?	26	36
2(a) If health/safety measures 10% of wages, OK or would you prefer money?	72	160
(b) If 50%, OK or would money be preferred?	59	154
3 Did unions ensure health/safety regulations obeyed?	42	58
IC: Information on private employment agencies and how job found		
1(a) Should private employment agencies be allowed?	87	167
(b) Why?	82	90

		No. of responses	
		E (n=87)	U (n=169)
2	If private employment agencies allowed, would be interested if		
	(a) employers paid fee?	30	66
	(b) employers paid part of fee - how much?	26	36
	(c) you paid fee - how much?	23/17	51/51
3	How was last position found?		
	(a) State employment office	-	3
	(b) Visited companies self	22	35
	(c) Heard of position through friend/relative	51	94
	(d) Read in newspaper	8	12
	(e) Other	6	3
ID: Opinions on minimum wages			
1(a)	Minimum wages are essential	51	150
(b)	Minimum wages should be replaced by other system	27	16
(c)	Other	5	1
IF: Questions on allowing apprenticeships			
1	Should apprenticeships be allowed?	85	169
2	If yes, under what conditions?	50	161
3	If no, why not?	14	-
4	Would interest exist in apprenticeship/training program?	81	167
IG: Inquiries about opinions on laws protecting women			
1	Should women be kept out of dangerous occupations?	86	167
2	Maternity protection should not influence hiring practices	79	151
3	More flexibility if pay increased	20	} 13
	if more jobs were created not desired	15	
		28	
4	Other	9	20

	No. of responses	
	E (n=87)	U (n=169)
IH: Opinions on possible changes in Labor Code		
1 Employment security could be changed as follows:		
(a) Unemployment compensation could be introduced	35	87
(b) More flexible arrangements for new employees	43	4
(c) Make firing of incompetent easier and monetary incentives, etc.	56	10
(d) No change in LC because only employers would benefit	32	59
(e) Create free zones	27	7
(f) Other	9	1
2 What to do about high non-wage labor costs:		
(a) Trade-off for higher base pay	31	17
(b) No change because all are important	5	142
(c) Other	0	0
(d) Reduce costs to ? % of wages	0	9
II: Suggestions on changing labor code and reactions to suggestions:		
1 Suggestions on changing LC in order of importance		
(a)	55	148
(b)	52	157
(c)	37	141
(d)	26	103
(e)	15	67
2 Reactions to suggestions from employers		
(a) Employment security/dismissal inflexibility and costs		
(b) Collective bargaining rules		
(c) Inflexible wage structures/fringe benefits		
(d) Sick leave/maternity leave		

Response to Part II
 - Personal Characteristics -

	Employed (n=87)	Unemployed (n=169)
Industry of company	80	142
No. of employees	50	118
Age	82	169
Sex	85	169
Marital status	84	169
No. of children	59	133
Years of schooling	79	169
Type of training	30	28
Occupation: Current	71	157
Prior	37	116
Skilled/unskilled	49	50
Years worked: Total	63	144
Present job	59	-
Last job	47	144
No. of jobs held	-	147
Unemployed: No. of times	18	153
Average time	15	150
Why lost last job?	-	145
Wages: Present job	72	-
Last job	40	145
Expected next job	-	160
Partner: Have job	45	62
Occupation	35	31
Income	25	28
Other family income	9	51
Time worked/week	64	-

	Employed (n=87)	Unemployed (n=169)
Overtime: Last week	10	-
Last 4 weeks	13	-
Overtime pay	9	-
Sick days: Last full week	4	-
Which days	3	-
Last 2 full weeks	6	-
Which days	5	-
How looking for work	-	164
How long/week	-	155
Union: Member	18	12
How long	8	-
Fees	19	-
Office held	4	-
Days leave last year?	2	-
Days leave for Article 160?	4	-
Advantages	15	16
Labor Code cases: When	4	8
: What section	0	1
: Who submitted	4	8
: Length of case	2	8
: Result	3	7
: Days off	1	7
Strikes:	1	-

APPENDIX IV

Background Tables for the Text

Appendix Table AIV.1: Labor Force in Panama by Sex and Age Cohorts - 1950-2000

Age cohorts	1980 LFPRs ¹						1970 LFPRs ¹			1980 LFPRs'					1970 LFPRs'			
	1950	1960	1970	1980	1990	2000	1980	1990	2000	50/60	60/70	70/80	80/90	90/00	70/80	80/90	90/00	
	Actual numbers (1,000s) ²									Growth Rates ³								
	Males																	
>15	231.5	279.1	363.7	416.2	578.7	743.2	495.4	681.3	871.0	1.9	2.7	1.4	3.4	2.5	3.1	3.2	2.5	
15-19	28.1	34.7	46.1	40.7	52.7	52.7	64.7	80.8	83.8	2.1	2.9	-1.2	2.6	0.0	3.4	2.3	0.4	
20-29	66.4	79.6	111.0	130.5	183.5	210.9	154.4	216.9	249.3	1.8	3.4	1.6	3.5	1.4	3.4	3.5	1.4	
30-49	89.4	110.4	136.6	171.5	250.1	345.6	184.2	268.7	371.2	2.1	2.2	2.3	3.8	3.3	3.0	3.9	3.3	
>50	46.6	53.6	69.3	73.0	92.4	134.0	90.8	114.9	166.7	1.4	2.6	0.5	2.4	3.8	2.7	2.4	3.8	
	Females																	
>15	55.4	75.2	126.4	160.0	224.9	285.5	174.5	241.6	301.6	3.1	5.3	2.4	3.5	2.4	3.3	2.3	2.2	
15-19	9.3	12.7	23.3	17.2	21.2	22.1	33.0	40.8	42.5	3.2	6.3	-3.0	2.1	0.4	3.5	2.1	0.4	
20-29	18.1	24.6	45.2	63.4	88.9	101.7	63.6	89.1	101.9	3.1	6.3	3.4	3.4	1.4	3.5	3.5	1.4	
30-49	19.7	28.1	43.2	65.5	95.1	134.1	59.2	85.9	121.3	3.6	4.4	4.3	3.8	3.5	3.2	3.8	3.5	
>50	7.3	9.1	14.2	14.2	19.7	19.7	19.0	26.4	36.9	2.2	4.6	0.0	3.3	0.0	3.0	3.3	3.4	

¹LFPRs = Labor force participation rates; see text for explanation of estimates. - ²Numbers may not add to total due to rounding errors. - ³Average yearly growth rates.

Source: Own calculations based on Proyecciones de Población de la República de Panamá, por sexo y grupo de edad: Años 1980-2025 (1983) Table 11; Censo Nacional (1980), p. 18.

Appendix Table AIV.2: Views on Apprenticeships

Questions	Total	Sex		Age groups				Education level				Union	
		Male	Female	<20	20-29	30-39	>39	<5	5-8	9-12	>12	member	non-member
Employed													
Apprenticeships - Yes?	80.5	82.4	81.8	60.0	57.1	87.5	71.9	66.7	85.7	76.5	84.1	100.0	78.2
Under what conditions?													
Job opening/guarantee later	20.7	17.7	27.2	20.0	17.1	21.1	26.7	8.3	14.3	8.3	25.0	23.5	20.3
Coupled with certification	6.9	7.8	6.1	-	2.9	9.4	13.3	16.7	7.1	16.7	6.8	5.9	7.2
Determined by employer	9.1	13.7	3.0	-	8.6	12.5	6.7	-	7.1	5.9	13.4	5.9	10.1
Contract is a necessity	6.9	5.9	9.1	20.0	5.7	3.1	20.0	21.4	21.4	5.9	5.9	17.6	4.3
Pay/Minimum pay	4.6	3.9	6.1	-	5.7	6.3	-	-	14.3	-	4.5	-	5.8
Would be interested self?	80.5	80.4	87.9	20.0	80.0	87.5	86.7	66.7	92.9	76.5	81.8	88.9	79.5
Unemployed													
Apprenticeships - Yes?	97.6	96.9	98.6	94.4	98.3	95.7	100.0	100.0	100.0	98.8	94.2	100.0	97.5
Under what conditions?													
If costs covered	30.8	33.7	26.8	38.9	32.2	26.1	-	50.0	39.4	29.3	26.9	33.3	30.6
With minimum wages	14.8	16.3	12.7	22.2	9.9	21.7	57.1	-	15.2	17.1	11.5	33.3	14.1
Base pay + performance	10.1	8.2	12.7	16.7	9.9	8.7	-	-	9.1	13.4	5.8	-	10.4
Vacation possible	8.3	11.2	4.2	5.6	9.9	4.3	-	-	6.1	8.5	9.6	16.7	8.0
Would be interested self?	94.7	93.9	95.8	100.0	95.0	87.0	100.0	50.0	97.0	96.3	92.3	100.0	94.5

Source: Based on LC Survey.

Appendix Table AIV.3: Productivity-oriented Monetary Incentives - Conditions and Impact¹

Questions	Sex			Age groups				Yrs. of education				Union member?	
	Total	Male	Female	< 20	20-29	30-39	> 39	< 5	5-8	9-12	> 12	Yes	No
EMPLOYED													
Conditions applied													
Firm dictates	59.8	62.7	51.5	100.0	60.0	59.4	46.7	66.7	57.1	52.9	61.4	44.4	61.5
Firm limited	33.3	27.5	45.5	-	34.3	31.3	46.7	16.7	35.7	41.2	34.1	33.3	33.3
No change in LC	2.3	3.9	-	-	-	3.1	6.7	-	7.1	-	2.3	22.2	-
Are similar benefits already received?	13.8	17.6	9.1	-	11.4	15.6	20.0	8.3	21.4	23.5	9.1	33.3	11.5
If allowed, productivity would be higher?	43.7	45.1	45.5	20.0	48.6	50.0	26.7	50.0	28.6	47.1	45.5	22.2	46.2
By how much ² :													
< 10% ³	60.5	65.2	53.3	-	52.9	68.8	75.0	83.3	25.0	50.0	65.0	66.7	59.4
10-19%	7.9	8.7	6.7	100.0	5.9	6.3	-	-	-	12.5	10.0	-	9.4
20-29%	15.8	13.0	20.0	-	23.5	12.5	-	16.7	50.0	-	15.0	33.3	12.5
UNEMPLOYED													
Conditions applied:													
Firm dictates	32.5	33.7	31.0	38.9	30.6	30.4	57.1	50.0	48.5	26.8	30.8	50.0	31.9
Firm limited	49.7	44.9	56.3	44.4	48.8	60.9	42.9	-	36.4	53.7	53.8	50.0	49.7
No change in LC	16.6	19.4	12.7	11.1	19.8	8.7	-	50.0	15.2	18.3	13.5	-	17.2
Are similar benefits already received?	20.7	23.5	16.9	-	19.0	39.1	42.9	50.0	24.2	20.7	17.3	3.3	20.2
If allowed, productivity would be higher?	87.0	83.7	91.5	77.7	86.0	95.7	100.0	50.0	87.9	87.8	86.5	100.0	86.5
By how much ² :													
< 10% ³	28.6	30.5	26.1	50.0	26.9	27.2	14.3	-	24.1	30.6	28.4	-	29.6
10-19%	53.7	53.7	53.8	35.7	55.8	54.5	57.1	-	55.2	55.6	51.1	83.3	52.1
20-29%	12.9	11.0	15.4	7.1	12.5	13.6	28.6	100.0	13.8	9.7	15.6	16.7	12.7

¹See appendix for overview of surveys. - ²As % of those saying higher productivity forthcoming. - ³Contains those who answered yes to higher productivity, but failed to give a % increase.

Source: Own calculations based on LC surveys.

Table AIV.4: Private Employment Agencies - Should They Be Allowed And Who Should Pay?

Questions	Total	Sex		Age groups				Yrs. of education				Union member?	
		Male	Female	<20	20-29	30-39	>39	<5	5-8	9-12	>12	Yes	No
EMPLOYED													
Yes, allow them	88.5	86.3	90.9	80.0	91.4	87.5	86.7	100.0	78.6	76.5	93.5	100.0	87.2
Fees paid by:													
Employer	34.5	35.3	33.3	20.0	42.9	25.0	40.0	25.0	64.3	47.1	22.7	22.2	35.9
Shared	29.9	29.4	30.3	20.0	28.6	34.4	26.7	41.7	7.1	23.5	36.4	44.4	28.2
Employee	26.4	25.5	30.3	40.0	31.4	21.9	33.3	16.7	14.3	17.6	36.4	22.2	27.0
If employee pays, % willing to pay 6-15%	52.9	54.5	50.0	-	33.3	60.0	80.0	-	66.7	100.0	54.5	-	-
UNEMPLOYED													
Yes, allow them	81.1	80.6	81.7	77.8	81.1	82.6	85.7	100.0	81.8	82.9	76.9	100.0	80.4
Fees paid by:													
Employer	39.1	38.8	39.4	44.4	39.7	30.4	42.9	-	57.6	31.7	40.4	66.7	38.0
Shared	21.3	22.4	19.7	11.1	21.5	34.8	-	-	15.2	20.7	26.9	16.6	21.5
Employee	30.2	27.6	33.8	22.2	30.6	30.4	42.9	100.0	18.2	36.6	25.0	16.6	30.7
If employee pays, % willing to pay 6-15%	32.0	33.3	38.5	25.0	35.1	44.4	33.3	50.0	33.3	22.6	64.3	-	-

Source: Own calculations based on LC surveys.

APPENDIX V

On Establishing an Employees' Fund to Cover Labor Code Benefits

The creation of an Employee's Fund has as its objective the establishment of the necessary financial means to allow benefits stipulated in articles no. 210-229 of the Labor Code (LC) to be paid and effected in full. All employers are required to contribute to the Fund in a manner which

- (1) ensures that obligations arising from the LC can be duly met and which
- (2) reflects the degree to which firms themselves fire/release employees.

The Fund itself can be interpreted as being a more efficient way to ensure that the real intentions or principles of the LC or rather the Constitution are followed. That is to say, it is designed to facilitate employing more people for a longer period of time, it aims to promote more stable employment relations and even includes some concepts now lacking in the current LC.

- By shifting the financial burden away from the individual firm, the large financial risk, inherent in the provisions of the LC when employing people for longer periods of time, is eliminated. This risk is particularly large for small firms, whose development potential for the economy has not been sufficiently tapped. Generally speaking longer and more stable employment relations could be induced.
- By shifting the financial responsibility to the Fund, benefits legally due to employees will still be effected even if firms go bankrupt or otherwise cease to exist. Such a "safety" clause is lacking in the current LC.

- Also for those employees moving to other firms because of better opportunities the accrued rights to benefits stipulated by the LC would not be deleted and begin again at zero. Thus economically efficient mobility would be promoted for the benefit of the entire economy.

- Foreign firms will have less reason to hesitate about establishing facilities in Panama since - should the venture not prove profitable - the risk of incurring large liabilities (based on the stipulations in the LC) would have been eliminated. They would, of course, have paid their required contributions to the Fund and hence have accepted their full responsibility.

The Fund - set up as a trust - is to be run in accordance with insurance principles. This implies that individual firms pay into the Fund an amount which correctly reflects the degree to which they caused firings/discharges to be effected in the past. For instance, should the amount of firings/discharges for a given firm in a given period exceed the calculated average by x percent, then the firm would be required to pay x percent more. Likewise for a firm whose firing/discharge rate falls below the calculated amount a corresponding downward adjustment would be made¹. Furthermore, employees who continually lose their jobs will be subjected to a corresponding decrease in the amount of benefits due to them. Such an arrangement is clearly justified so as not to implicitly punish all those employees, whose behavior is beyond reproach. Analogously, for those employees whose employment behavior is very stable additional benefits would accrue. This double package of built-in incentives should help promote a good working environment conducive for accelerating economic development in the Republic of Panama.

¹ The analogy with car insurance is quite obvious.

The Fund is to be managed solely and entirely by a private firm, which receives this right for a stipulated, but limited period of time (e.g. five years) by engaging in bidding for the contract. Such an arrangement ensures that the most efficient organization runs the Fund. The Fund is to be deposited entirely in private banks. The working capital and reserves of the Fund must be kept wholly in liquid financial assets. Surpluses which develop would be required to be used for specific purposes. This could mean providing additional benefits to workers and/or reducing the contributions of firms.

Once the Fund has been set up the trust form requires that major changes in the basic structure and intent be approved by the stated beneficiaries of the benefits, i.e. the employees. The Fund's Board, whose responsibilities are basically of an over-seeing nature, consists of an equal number of representative from employers and employees. An additional person assumes the chairmanship - this individual should be a distinguished person from the public or private sector, who commands respect from all parties.

In addition to the above described obligations the Fund would also serve to collect seniority benefits. Those would be construed as beginning immediately upon being employed. These benefits accrue entirely to the account of the employees and can be borrowed upon (like an insurance policy) in accordance with certain stipulated conditions. At a later date, i.e. after the Fund has proved successful, it would be conceivable to expand the scope of the Fund even further and allow voluntary payments to be made to increase the amount of capital an individual can claim later on or which is paid out upon retirement. This option should not be necessarily be limited to the Fund, but rather be open to other private institutions as well. A further expansion, which would promote private savings, could be to exempt a certain amount of earned income (preferably a lump-sum) from taxes under the condition that it is saved for a given period of time.

One final point - while the Fund would no doubt help reduce the number of LC cases, disagreements between employees and employers would still arise. This would be the case, for instance, in determining whether a firing was justified or unjustified. These remaining cases would be heard before special labor courts presided over by a three person panel of qualified individuals. The panel would be drawn randomly from a sample equally designated by unions and employers. A appeal could be made to another court, structured so as to ensure the necessary degree of objectivity.

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