1. Knowledge of economic, management and labor trends

I will refer to my introduction to collective bargaining and relate the lessons learned then to problems which I have experienced in the last four years as the Andean Regional Director for the American Institute For Free Labor Development (AIFLD-AFL-CIO). I will finish by commenting on trends which I have experienced and observed in my residence in (1990-93) and visits to the US, attendance at conferences, and extensive reading on industrial relations.

As a Peace Corps volunteer in Honduras (1969 -72), I worked closely with Oscar Gale Varella, the President of the Tela RR. Company Workers Union (SITRATERCO). The Tela is a subsidiary of United Fruit. Don Oscar always would explain how he and the union functioned. I have distilled these talks into six lessons which helped guide me in my recent work in the Andean region.

1. Preparedness: Don Oscar was always as prepared and, many times, better prepared than his management counterparts concerning the banana business, the Tela’s operations, workplace problems and the life and culture of workers and their families. This is why the collective bargaining agreements (CBAs) with the Tela were the leader for the rest of Honduras.

In late 1996 I tried to help the mine workers union at Cierro Verde, Peru (Cyprus). The effort was a failure because they called us in only a few days before the negotiations began without having a well thought out presentation for management. The union president did not see anything wrong with this late preparation which resulted in a poor contract from the standpoint of the workers.

2. During Mr. Gale’s 25 years as president, life in the banana camps and towns went from semi-civilized to decent. The union used the CBA process to not only improve wages but also to establish better educational opportunities and permanent housing for workers used to a nomadic existence. Both these developments created an
atmosphere of stability and greater personal respect within and among workers and their families. Owning a house kept the man at home and the family together in numbers which past history would have thought impossible.

I continually hammer this point home in education programs. Bargaining should be used to augment not only the material but the qualitative part of life. In Peru some unions were able to make some progress in this direction while most others, under great management pressure, can only add a few more cents to the paycheck. Most Peruvian management will not invest in improving the quality of living of its workers because this outlay is seen solely as a cost.

3. Don Oscar always was consistent in his arguments and demanded that the agreements be carried out as negotiated by both management and the union. Union members and officials were continually reminded that a contract and common sense work rules were to be respected.

One of the principal obstructions to the 1996 negotiation of the contract at Southern Peru Copper Corp. (SPCC) was the violation of many clauses by SPCC’s management. The company used its power to impose its will. This then caused a negative reaction by the unions against its proposal to sign a 5-year agreement. SPCC wanted labor stability for its two billion dollar investment in capital and work restructuring. The unions finally did agree but only with safeguards which had not been present in the past CBA. We helped develop these safeguards.

4. The SITRATERCO process for agreeing on a new CBA presentation to their employer was member-intensive. Multiple meetings took place in all of the shops. Ideas and figures were debated at all levels. The final strategy was decided in a meeting of senior union officials and section secretary generals. It was rough and tumble; but the union’s negotiating position had overwhelming support from the 8,000 members and their communities. When a CBA was ratified by a special convention, it meant that it had the support of the workers.

In very few instances did I find that Andean unions understood the force and efficiency of the democratic process in determining a negotiation position. Too often
management did not bring supervisors and others into a full understanding of the agreement. The positive attitudes and workplace efficiency which a good CBA can help create were diluted and even lost in some instances.

5. When a strike or other action was to take place, SITRATERCO was ready. Don Oscar's philosophy was that the best offensive weapons were those which inspired respect from the other side and therefore, did not have to be used often.

In the case of the 1996 SPCC negotiations, management accepted a labor-management committee and maintenance of important benefits because it came to understand the support of workers and the communities for the unions' position. The first thing which the Steelworkers representatives and I did at SPCC in 1995 was to work with the unions on building worker and community support.

6. In the ideologically-influenced atmosphere of Latin America, union leaders have sometimes forgotten that it is the company which provides the jobs. As neo-liberal economic thought has become married to Latin American elitism and paternalism, management is less willing to accept workers as an important element of the business. They only see the cost side. This runs counter to what don Oscar believed and will create problems for the future competitiveness of Latin American firms.

The US Scene

Wages and benefits will continue to be important sources of conflict. While earnings of workers seem to be inching upward today, real wages for hourly workers went down approximately 12% nationally in the last 20 years.

After some moderation by medical insurance companies, today's insurance rate raises seem to be about double inflation. Until there is an approach to health insurance which covers all Americans and eliminates the massive cost shifting onto those who pay, labor and management will continue to (1) fight over who pays the extra cost and/or the extent of coverage or (2) work together to find the best jointly crafted solutions. Unions and management usually fight over who pays before being willing to work toward a more lasting solution.
Contingency workers now make up over 20% of the workforce and are not prone to organize, thereby receiving lower wages and few benefits. This is a way to reduce the wage bill which then puts downward pressure on wages of permanent employees and keeps down the number of permanent staff even as work increases. It is part of the problem of contracting out because contractors use contingency employees as much as possible to keep their labor costs low. (example: building cleaning contractors)

In negotiations with supermarkets the UFCW is asking for a minimum number of working hours which allows an employee to qualify for partial benefits. The UAW agreements with the Big Three automakers call for the companies to notify suppliers that it is interested in their maintaining good working conditions and fair wages. Fewer permanent and motivated workers for contractors in the mining industry increase the safety and health risks as was demonstrated by a fatal Virginia mine explosion in the early 1990’s.

Unions are raising the issues of card check and management neutrality in organizing campaigns at new or non-organized plants of the same company (CWA and Southwestern Bell) and/or partnerships in which the company participates. More contracts contain a clause that in the case of sale of the company the contract will continue in effect (Successorship clauses. Examples: steel industry, BHP-Copper (Magma))

One of the most disturbing findings of the Dunlop Commission came from a survey administered by Professors Freeman and Rogers. They projected that 40 to 50 million workers wanted more participation in the design and implementation of their work tasks yet were unwilling to approach their immediate supervisors with ideas. Workers feared retaliation for thinking too much, being tagged as a potential union organizer or saw no interest from their supervisors to hear from them. How many billions in productivity are lost due to this fear and lack of interest?

This finding makes it more imperative that FMCS and other organizations encourage labor-management groups to experiment with RBOs, PICs and related programs.
Where both sides can agree on the economic and other data concerning a company and its workforce, the better the atmosphere for bargaining. The more open and candid both sides are with each other, the less there is to fear from hidden agendas. EMCS programs promote an atmosphere of openness.

With management emphasis on statistical evaluation and the many past problems with drug testing, mediators will be seeing privacy related issues time and time again.

The fact that only 11% of workers in the private sector are organized creates pressures for unionized companies to limit or reduce their wage bill. If the new emphasis on organizing by AFL-CIO and its affiliates takes hold, we can expect strong employer opposition to unions until at least a first contract is negotiated. Negotiating a first contract has been one of the most difficult tasks for unions and management in the last 20 years.

2. Advanced knowledge of CBA processes:

One of the chief responsibilities of an AIFLD Regional and Country Director is to help Latin American unions prepare for collective bargaining and effective contract administration. This includes general education on the national bargaining process and laws, plus assistance in the preparation of a specific proposal, creating mass support from members and the community in favor of that proposal and developing negotiating strategies which allow flexibility in the pursuit of the union’s goals. Most recently representatives from the Steelworkers and I helped 7 unions, representing 2,500 white collar, technical and production workers, negotiate a 5 year agreement which includes a labor-management, problem-solving committee process with Southern Peru Copper Corporation (SPCC).

The atmosphere going into the negotiations was tense because the unions had become disillusioned with the 3 year productivity based agreement coming to an end. White collar and technical workers had not received real wage increases in the last two years of the contract which gave SPCC the final say over how much increase. Yet the copper industry was booming. Profits were at an all time high. Massive fear of loosing their job affected workers. Hundreds of millions
of dollars of technological changes were being announced by the company.

Our first task was to assist the unions rebuild their communication with and support from the membership and communities. We never stopped repeating that preparation for a new contract begins the day after the present one has been signed. From both the union and management points of view a successful contract implies one with the support and understanding of all involved.

The chief union spokesman held the view that the new contract should include problem-solving processes with emphasis on safety and health, education and training and productivity and have catch up compensation clauses. However, the other union representatives did not have this extended vision, concentrating solely on wages and monetary benefits. Yet the changes in technology, work organization, and investment and marketing strategies affect the number of jobs and the type of worker needed in the future. The chief union negotiator calculates that SPCC will reduce its workforce by 40% in the next 5 years and will demand less production workers and more technicians.

We assisted in the development of a new vision in meetings, education programs and by sponsoring a trip to visit Arizona mining unions.

SPCC, 53% Asarco owned, rejected these proposals publicly even before the negotiations began, wanting a very limited agenda. I spent weeks with the unions during the negotiations discussing contracts covering Asarco and BHP-Copper unions, new labor relations formulas of BHP-Copper (Magma) and the United Mine Workers, the high performance workplace and much more. We worked the local radio stations and all who would listen to us. Member and public support grew in favor of the union coalition and especially in favor of a proposed plan to integrate the unions into one company wide organization.

As the negotiations were winding down, a Steelworker’s representative and I called the chief union negotiator and suggested a side bar agreement on important outstanding issues. Asarco is known to do side agreements on issues it refuses to include in the contract. The tactic worked. A labor-management committee to review the implementation of
the contract and issues such as safety and health, education, technological change and others was agreed to in an exchange of letters.

In return for the five year agreement most salary overrides were kept in place. The company wanted stability for the major investments being planned.

I also assisted Peruvian unions in steel, bakery, oil pipeline, airline, electricity and other industries to develop more complete bargaining proposals and maintain more communication with their memberships. As Andean Regional Director I coordinated a 10 day, labor-management trip (Peru and Ecuador) to RJR Nabisco in the US. One important outcome was an agreement between the union and management in Ecuador to use the large union hall for classes and work jointly on training and education for all employees.

I have not been a lead negotiator in contract negotiations. Yet I have been involved in negotiation processes ever since I became a Peace Corps volunteer in 1969. This experience includes negotiations with land reform agencies, foreign governments, USAID, development banks, the Bolivian social security system and unions with which AIFLD had programs. Some were extremely difficult as I explain in #4. Others took years: 3 years to get an USAID funded project for our Bolivia program.

I learned that patience is an important virtue to successful negotiation. Even when a project was rejected, I kept the idea alive and the process of securing support going. In the case of Bolivia the departure of one USAID Director opened the door for restarting negotiations on our project.

3. Improving Relationships

The city of Guayaquil is the industrial and commercial capital of Ecuador. It has been the scene of fierce labor strife. The Colombian beer conglomerate Santo Domingo broke the union at Club Brewery in a bitter, eight month strike in the latter part of the 1980s.

In 1994 the AIFLD Country Director and I worked with the unions to develop new ways of conflict resolution other
than war. They did not find receptivity on the part of employers and their organizations to this idea. Then in May of 1995 employer and union representatives attended the Caracas Labor-Management Conference sponsored by USAID, DOL and FMCS. The employer representatives stated their interest in working with labor on toning down the conflict and helping employees work more productively. This opening led to an AIFLD sponsored conference on neutral ground between Guayaquil labor and management. The Chambers of Industry and Commerce voiced their concern about the competitive pressures from other Andean countries and the fact that Ecuadorian employees were less qualified than their counterparts in neighboring countries. Conflict was becoming counter productive.

The labor unions voiced similar concerns. They had lost strength and membership due to economic and labor law changes. They wanted to try new approaches. The conference agreed that more meetings would take place and the creation of a joint decision making process was needed. At the suggestion of AIFLD, FMCS was called in to assist.

Since then FMCS Commissioners have assisted labor and management form an area wide labor-management committee and begin to train mediators under the direction of the committee. There has been an appreciable betterment in the labor relations climate. Other institutions such as the German FES are now offering training in labor mediation as a result of our initiative. Labor and management will work more closely together on the coming tripartite initiatives sponsored by the new Ecuadorian government.

4. Conflict resolution

I first experimented with conflict resolution during the land wars of Honduras and the civil war of El Salvador.

As a Peace Corps volunteer in Honduras, I worked as Education Director of the National Association of Honduran Peasants (ANACH). 1969 and on was a time of escalating land conflict and violence between organized peasants and cattlemen and large land owners. My work took me to all corners of the country.

We structured our education program toward helping local peasant unions secure legal permission to occupy
disputed lands from the agrarian reform institute (INA) and barrow the necessary funds for intensifying productive activities. Possession and working the land was 90% of the battle.

We diffused the tension by bird-dogging the INA officials so as to remind them of their obligations under the law. Time and time again we had to emphasize that a law was not just article x but the implementation of article x in accordance with the full spirit of the law as defined in its first section. When possible, meetings with affected landowners and their business associations took place. Our educators and elected leaders continually visited military commandants and the sergeants who ran the rural outposts to discuss their neutral status in the agrarian reform process or to report threats and expected flash points.

When we talked periodically with the land owners, tensions usually subsided. If the INA did its job, there was reasonable definition of the situation. Unfortunately, when dialogue stopped and no resolution of a dispute came from INA, a vacuum was created in which threats and violence were much more likely.

I served in El Salvador from 1980 - 1982 and 1989 - 1990, periods of intense social conflict. During the first tour chaos, revolution and the slaughter of rural inhabitants exploded on the scene. The country needed a massive overhaul of its political, social and economic structure if it was ever to return to a civilized state. As AIFLD Country Director, I worked with the peasant unions, AIFLD/Washington, consultants, the US Embassy, USAID and the civilian/military junta on designing and implementing the key reform for that moment: land to the peasant share cropper, Decree 207.

Share croppers had agitated for years in favor of agrarian reform. When the first phase of the land reform came in early 1980, it only took into consideration peasants on large landed estates, usually people too cowed to have joined a peasant union. Share croppers felt left out and threatened to march from their mountain plots to the fertile coast to take over land. A major clash with the army was only weeks away.
With the support of the U. S. Ambassador, a five week negotiation over a land-to-the-share-cropper law took place with the civilian/military junta and high ranking members of the ruling Christian Democratic Party and army. At least 10 drafts of the proposed law were discussed. There was a one day meeting with all the military commanders at a crucial time in the discussions. The peasant organization UCS held back the march to the coast but kept the pressure on the government.

Finally, the junta announced the new law and demonstrated that it was capable of decisive action. In spite of the escalating war, there was a new confidence in the air. We all breathed a little easier in the days and months to come.

The land reform was severely criticized by the FMLN, its international supporters and the conservative right. Yet in the 1991 Peace Treaty the FMLN and the right wing, Salvadoran government agreed to allow FMLN troops and supporters to stay on the land they occupied at that moment. This was a fundamental tenet of the 1980 law in favor of share croppers.

During my 1989 - 1990 tour I negotiated with the Salvadoran government for an US government funded project to rebuild parts of San Salvador affected by the 1989 FMLN November offensive. The government wanted all the money and credit. It did not want AIFLD and the construction unions to participate even though the unions and AIFLD had conceived of the idea and begun work with their own funds.

The negotiation took me two months. The construction unions and management association took a back seat because of their fear of political and economic retaliation by the government. Yet I was able to generate sufficient support to persuade the government that our project was in their best interest. I employed a new strategy for me: be soft on people and hard on the issues. Before my tendency was to be hard on the issues and also on the individuals of the other side.

5. Labor and employers associations

Since my Fulbright scholarship (1967 - 68), I have been involved with industrial, company wide and local urban
unions in Latin America and Asia, plus plantation workers, peasant, artisan and informal sector union organizations. While there are many similarities, there are specific differences in the goals, structures and financing mechanisms.

While working at headquarters (1990-93) or visiting the United States from the field, I have taken numerous groups to visit US unions in a variety of industries. Recently, this involved study tours to Nabisco and the hard rock mining sector. My attendance at the last 3 FMCS bi-annual conferences, IRRA and AFL-CIO events and other seminars/conferences has helped me keep abreast of the changing goals, strategies and structures in the US labor movement, corporations and employer associations.

Because it takes "two to tango", I make it a point to contact employers organizations in most countries. In the early days the specter of unions helped consolidate unity and purpose of these organizations. In Panama I invited trade unionists to go with me to the annual conference on public policies sponsored by the employer associations. Besides interesting speakers, we wanted to hear what management was thinking.

6. Applicable Law

a. NLRA: This has become very controversial. Unions say that it is not being administered in a timely way as to organizational elections and allows for the use of fear in procedures such as captive audience meetings. Management stated to the Dunlop Commission that the law was working well but for recent NLRB decisions on labor-management teams (Electromation and Du Pont) and 8(a)(2) which they claim has outlived its usefulness.

The Commission was not able to secure management’s support for closing legal loopholes in the organizing rights of workers nor that of organized labor for more flexibility with regards to labor-management committees. In fact, political and managerial forces used a part of the Commission’s Report to justify the Team Act which President Clinton vetoed. If this were law, it could pose a challenge to FMCS’s life long policy of only working with companies in which a union existed?
The NLRB has become more aggressive in attacking what it perceives to be management abuses in organizing and bargaining situations. (Columbia Hospital, Audubon Regional Center of Louisville, Kentucky) Funding for and the role of the NLRB has become a more contentious, political football.

b. OSHA and MSHA are also embroiled in controversy and therefore, funding problems. The controversy relates to the role and enforcement powers which the agencies administering these laws should have. The most radical suggestion is to make them advisory agencies to companies with very limited enforcement powers. The problem is that companies not interested in safety and health today will feel less reason to pay attention if there are no federal and state agencies with effective enforcement power.

While accident and illness rates are still high in the United States, studies estimate that the laws have saved some 100,000 lives.

c. Fair Labor Standard Act (Wage and Hour): The US has regressed in its effort to guarantee minimum wage and hour protection to workers. The extreme example was a California sweat shop with young, Asian girls literally held in captivity. Unscrupulous employers play on the ignorance and fear of illegal immigrants to avoid overtime pay and sometimes even the minimum wage.

Flex time has become controversial. Should a worker be able to trade overtime pay for flex time? Some unions have flex time clauses in their contracts; but there is a union to see that the process is fair. The most important question: Can there be real consideration of the worker’s wishes when most work places do not have a union?

d. The courts play a large role in establishing labor law and practice. Perhaps the most glaring example of that power was its 1939 MacKay Radio decision to allow permanent replacements for strikers. The NLRA prohibits strikers from being fired permanently; but the Supreme Court allows employers to permanently replace strikers. More recent court decisions have enhanced the rights of these workers to their jobs.

e. ERISA: Pension protection for workers.
f. Executive Order 12871: This is part of the Reinventing Government effort and directs federal agencies to form labor-management partnership. So far it seems to have worked reasonable well in parts of government (Dept. of Labor, Treasury, Forestry Service) while in others it does not function (USAID, USIA).

7 and 8: Communications Skills

Ever since I was a Peace Corps volunteer working with the National Association of Honduran Peasants (ANACH) in 1970, I have had to chair meetings, lead discussion groups, give prepared and impromptu talks, make speeches, develop and lead training sessions and develop training the trainers programs. With the American Institute For Free Labor Development and the Asian-American Free Labor Institute, this type of constant activity comes with the territory.

As a Peace Corps volunteer (1969 - 1972), I created and supervised the Education Department of the ANACH. Ten campesino educators, trained in a special seminar, carried out local and regional education/orientation programs throughout Honduras. A team of instructors and myself provided ideas on ways to best communicate important information on campesino organization and the agrarian reform and encouraged each educator to experiment with teaching methods which best fitted his/her personality and experience. As commitment is a key to keeping an organization alive in a sometimes violent setting, we asked each educator to develop ways for raising the emotional commitment of the membership and their families to the ideals and goals of the ANACH.

People felt a part of the organization. This attachment which our educational efforts greatly strengthened was the reason for a massive protest resulting in Decree 8 of 1972. This law was one of the few serious attempts by government to come to grips with the explosive problem of landlessness in Honduras.

While Andean Regional Director (1993 - 1997), my country directors and I trained a group of 14 Peruvian union educators to carry out local and regional seminars
and to stimulate union leaders to become more open to new ideas and problem-solving processes.

I personally prepare written material in Spanish and English for specific groups and occasions. A few examples:

El Despertar Campesino: Historia de la ANACH 1962 - 1978, private publishing, 1985: A history of the ANACH peasant movement, the Honduran agrarian reform and the labor movement interspersed with chapters on organizing, trade union education, management of agricultural credit, and political systems. The book is written to be a self-study manual.

Various papers on industrial relations: 2 examples: "Some Sunshine in Arizona" (English/Spanish versions) which describes the debates at the 1995 Univ. of Arizona's Labor-Management Conference (I spoke on the situation of labor in the Andean area) and visits to various unions and companies; and "Union Participation in Cookie Land" (English/Spanish), commentaries on technology, work reorganization and unions based on visits to RJR NABISCO USA and its union BC&T.

Published newsletter in Spanish from 1986-88. Do translations from English to Spanish and vice-versa.

9. Use of Personal Computers

I have used a 486 laptop computer to do all my written work in the last two years. I am familiar with Word Perfect 5.2 but use Microsoft Word 6.0 more than any other program. I have employed Excel for special tasks. The programs work off a Windows 3.1 system. I used electronic mail between my office in Ecuador and AIFLD/Washington.

In preparation for the purchase of a new computer I am taking classes on the use of Word, Excel, Power Point, and Windows 95 and in navigating the Internet. I will have the Microsoft Office 97 upgrade installed in the computer.

Desirable Knowledge, Skills and Abilities

1. Conflict Resolution Systems
Based on my experience and study of that of others, a good conflict resolution system includes the following points:

Conflict resolution systems start with effective union and management organizations where all the actors know the job well and are familiar with all contractual obligations within the spirit of the negotiation itself. Their organizations need good supervisors and middle management while the union must have effective stewards and other officers who know the difference between a grievance and personal complaint and get the membership involved.

The better the understanding of the purpose of the grievance procedure (settle problems at the lowest possible level), the more efficient the conflict resolution process will be. This demands responsibility by both sides and good understanding of the contract and accepted practices, plus common sense.

If arbitration is needed, expedited arbitration is one possibility. It allows for speedy justice and problem resolution. Problems of a more serious nature can be sent to a more formal and lengthy arbitration procedure. Grievance mediation is a good way to try to avoid arbitration, its monetary costs and the uncertainties created by normal and abnormal delays in the process.

A labor-management committee with ample powers to look at the issues of the workplace and even decisions affecting technology, investment and work reorganization is an important step forward. This takes major change on the part of management. They must be willing to cede decision making power to others than top staff. Unions also can have a problem with a labor-management partnership because of their historic view of leaving management to management and a fear of the unknown. The 1994 AFL-CIO position paper on changing work admitted that it and its affiliates needed to do much more to train local leadership in the benefits of partnership while avoiding the pitfalls of blind cooperation. Any effort by FMCS or others in this direction must encourage both sides to study the alternatives very carefully and decide what they want and how they are willing to pursue it. A partnership is at risk when one party dominates and the other accepts blindly.
A labor-management committee with its open and candid communications helps create two important tools for effective bargaining: Using the same data instead of divergent figures and avoiding hidden agendas.

2. Language Skills

I speak, read and write Spanish fluently. I have worked and studied in the language since 1967 when I became a Fulbright Scholar in Ecuador. Author of a book, articles and several union manuals in Spanish.

3. Related Studies

Columbia Pacific Univ.: 75% of Ph. D. in Labor Studies completed (1994-present). Have presented papers on industrial relations and unions in relation to the hard rock mining and bakery industries, plus general pieces based on my experiences with FMCS and University of Arizona conferences. I am comparing the industrial relations system of BHP-Copper (Magma) and Southern Peru Copper Corporation for my Ph. D. dissertation.


Attendance at conferences: FMCS (1992, 94, 96 and St. Petersburg Professional Training Program); AFL-CIO (technology, safety and health and organizing); IRRA (winter 1995 and summer 1997); 1995 University of Arizona Labor-Management Conference; the 1995 Caracas Labor-Management Conference; and various events in Colombia and Ecuador on related subjects.

Labor-management committee, mediator and RBO training provided by FMCS to the Guayaquil Labor-Management Committee (1995-97)

Silva Method: courses on using the mind more efficiently/stress control (1986 on)

Harvard Trade Union Program: Spring 1979

Fulbright Scholar, Ecuador: 1967-68, independent study on peasant unions and the Worker’s University of Colombia
(All graduate grades have been A's: G.P.A. 4.0)