

**Progress in Implementing Chapter 16 (Labor) and Capacity-
Building under the Dominican Republic –Central America –United
States Free Trade Agreement**



Third Biennial Report
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Free Trade Agreement Implementation Act

Prepared by
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TABLE OF CONTENTS

Executive Summary	2
List of Acronyms and Abbreviations contained in the Report	4
Introduction.....	5
I. Chapter 16 (Labor Chapter) Implementation.....	6
<i>A. Submission Process</i>	7
Submission 2011-03 (Dominican Republic).....	8
Submission 2008-01 (Guatemala).....	9
Submission 2012-01 (Honduras)	9
<i>B. Labor Affairs Council</i>	10
<i>C. Labor Cooperation and Capacity Building Mechanism</i>	11
II. Assessment of progress made by CAFTA-DR countries to implement the White Paper recommendations and to advance common commitments regarding labor matters.	12
<i>Costa Rica</i>	13
<i>Dominican Republic</i>	15
<i>El Salvador</i>	18
<i>Guatemala</i>	21
<i>Honduras</i>	24
<i>Nicaragua</i>	27
III. Recommendations on How the United States Government Can Facilitate Implementation of the White Paper.....	29
IV. Summary of Public Comments Received in Response to DOL’s Federal Register Notice	30
<i>Comments from the Secretariat of Labor and Social Security of Honduras (STSS)</i>	30
<i>Comments received from the AFL-CIO</i>	31
V. Conclusion.....	31

EXECUTIVE SUMMARY

In accordance with the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) Implementation Act¹ (19 U.S.C. § 4001 et seq.), Section 403(a) (19 U.S.C. § 4111(a)), this report examines the progress of the CAFTA-DR countries in implementing Chapter 16 (Labor Chapter) and Annex 16.5 (Labor Cooperation and Capacity Building Mechanism) of the CAFTA-DR,² and the recommendations in the April 2005 *Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity* (White Paper) authored by a working group of the Vice Ministers responsible for trade and labor in the countries of Central America and the Dominican Republic.³ The report covers the period from 2011 through 2014.⁴

The report examines public submissions⁵ reviewed by the United States Department of Labor (DOL) under Article 16.4.3 of the CAFTA-DR or engagement related to previously-reviewed submissions during 2011-2014 concerning the Dominican Republic, Guatemala, and Honduras. In undertaking these reviews, DOL conducted comprehensive reviews of the materials submitted, engaged with government, labor, and business stakeholders, and issued findings and recommendations to the governments aimed at addressing the identified concerns. As a result of those reviews, the United States filed the first-ever dispute settlement case on labor rights under a trade agreement against Guatemala, engaged with the Government of the Dominican Republic, and reported biannually on progress made on DOL recommendations in its Report of Review. DOL was nearing completion of its report of review of a submission received on Honduras, and had already begun to engage the Government of Honduras to discuss issues identified in the review to pave the way for the negotiation of a comprehensive monitoring and action plan to improve labor law enforcement with Honduras once the report is published.

The report also examines the progress of the countries in implementing the recommendations provided in the White Paper, as well as addressing other important labor rights concerns and commitments, including adoption of laws and regulations to enhance the effectiveness of labor ministry and judicial sector mechanisms, establishment of capacity building programs in collaboration with international organizations, and implementation of public outreach and

¹ *Dominican Republic-Central America-United States Free Trade Agreement Implementation Act*, Pub. L. No. 109-53 (Aug. 2, 2005), available at <http://www.gpo.gov/fdsys/pkg/PLAW-109publ53/pdf/PLAW-109publ53.pdf>.

² *Dominican Republic-Central America-United States Free Trade Agreement*, Chapter 16 (Aug. 5, 2004), available at http://www.ustr.gov/sites/default/files/uploads/agreements/cafta/asset_upload_file320_3936.pdf.

³ *The Labor Dimension in Central America and the Dominican Republic*, Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (April 2005), available at http://www.sice.oas.org/labor/White%20Paper_e.pdf.

⁴ The first report was published on January 14, 2009, covering the period of 2005 through 2008. The second report was published on May 11, 2012, and covered the period between 2005 and the end of 2010. This third report covers the period between 2011 and the end of 2014 providing information since the last biennial report. See DOL's previous biennial reports, available at <http://www.dol.gov/ilab/reports/>.

⁵ Article 16.4.3 of the CAFTA-DR calls for each Party to establish a contact point for the receipt and consideration of communications from the public, and Department of Labor's procedural guidelines for such communications denominate them as "submissions," which will be used throughout this report.

awareness initiatives aimed at workers and employers. Key findings on progress include positive legal reforms to streamline labor law enforcement and appoint specialized labor judges in Nicaragua and to address discrimination against and dismissal of pregnant workers in Costa Rica, and efforts to draft legislation that would strengthen labor inspections in Honduras and specifically address trafficking in persons in Nicaragua. Costa Rica, the Dominican Republic, El Salvador and Guatemala saw increases in budgets to their ministries of labor, and Costa Rica, Guatemala, Honduras and Nicaragua saw increases in the number of labor inspectorates. El Salvador nearly tripled the amount of fines imposed for labor law violations and nearly quadrupled the amount of fines collected, though they still only collected about half of fines imposed. Honduras increased funding and number of judges addressing labor issues, and other countries sought to address labor court delays through oral hearings and improved case management systems. Most governments made efforts, often with United States Government (USG) technical assistance, to include stakeholders in efforts to promote a culture of compliance, though these efforts were strongest in mobilizing a holistic approach to eradicating child labor. Further efforts to address child labor included social programs to address family livelihoods, like conditional cash transfers, and community-based approaches to identifying and addressing child labor.

The report notes that, despite these efforts, challenges remain in each country, particularly with respect to the investigation, sanction, and remediation of labor law violations, and the allocation of sufficient resources to government enforcement agencies and labor courts. While many countries involved stakeholders on issues of discrimination, there were few indications that employment discrimination was addressed through enforcement actions. In general, the rights to association and collective bargaining remain impeded, and violence against trade unionists remains a particular concern in Guatemala and Honduras. The Dominican Republic and El Salvador reported decreases in number of labor inspectors available to enforce labor laws, and Honduras saw a decrease in its inspection budget. Regionally, the level of fines were insufficient to deter labor law violations.

The report reviews the implementation of the Labor Affairs Council and the Labor Cooperation and Capacity Building Mechanism under the Labor Chapter, through which the USG has worked with the other CAFTA-DR Parties to identify and address labor issues and to implement technical assistance initiatives.

The report concludes that the CAFTA-DR countries have made some progress in strengthening institutional enforcement capacity, but that enforcement challenges remain. The report recommends that the USG continue to work closely with the CAFTA-DR countries through an enhanced whole-of-government approach that better incorporates labor and business stakeholders in developing and implementing capacity building initiatives aimed at advancing the effectiveness of the Labor Cooperation and Capacity Building Mechanism and implementation of the White Paper recommendations in the CAFTA-DR countries.

LIST OF ACRONYMS AND ABBREVIATIONS USED IN THIS REPORT

AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
CAFTA-DR	The Dominican Republic–Central America–United States Free Trade Agreement
DOL	United States Department of Labor
DOS	United States Department of State
DRL	Bureau of Democracy, Human Rights, and Labor
HNL	Honduran Lempiras
ILAB	Bureau of International Labor Affairs
ILO	International Labor Organization
OTLA	Office of Trade and Labor Affairs
USAID	United States Agency for International Development
USG	United States Government
USTR	United States Trade Representative
Verification Report	<i>Verification Report on the Implementation of White Paper Recommendations</i> , International Labor Organization
White Paper	<i>The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity</i> , Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic

INTRODUCTION

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) was approved by the United States Congress in 2005 through the CAFTA-DR Implementation Act (19 U.S.C. § 4001 et seq.).⁶ Section 403(a) of the CAFTA-DR Implementation Act (19 U.S.C. § 4111(a)) requires the President of the United States to submit a biennial report to Congress on the progress made by the CAFTA-DR countries in implementing Chapter 16 (Labor Chapter) and Annex 16.5 (Labor Cooperation and Capacity Building Mechanism) of the CAFTA-DR,⁷ and the recommendations in the April 2005 report, *The Labor Dimension in Central America and the Dominican Republic. Building on Progress: Strengthening Compliance and Enhancing Capacity*, developed by the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (White Paper”).⁸ Section 403(a) also sets forth the following content requirements:

- A. A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement, and the Labor Affairs Council established by article 16.4 of the Agreement, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA–DR country.
- B. Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper.
- C. A description of the work done by the CAFTA–DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA–DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.
- D. A summary of public comments received on:
 - i. Capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;
 - ii. Efforts by the United States to facilitate full implementation of the White Paper recommendations; and
 - iii. Efforts made by the CAFTA–DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA–DR countries in affording to workers internationally-recognized worker rights through improved capacity.

⁶ *Dominican Republic-Central America-United States Free Trade Agreement Implementation Act*, Pub. L. No. 109-53 (Aug. 2, 2005), available at <http://www.gpo.gov/fdsys/pkg/PLAW-109publ53/pdf/PLAW-109publ53.pdf>.

⁷ *Dominican Republic-Central America-United States Free Trade Agreement*, Chapter 16 (Aug. 5, 2004) available at http://www.ustr.gov/sites/default/files/uploads/agreements/cafta/asset_upload_file320_3936.pdf.

⁸ *The Labor Dimension in Central America and the Dominican Republic*, Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (April 2005), available at http://www.sice.oas.org/labor/White%20Paper_e.pdf.

The President delegated this reporting function to the Secretary of Labor to be carried out in consultation with the United States Trade Representative (USTR). The report has been prepared in accordance with the CAFTA-DR Implementation Act, and covers developments occurring between 2011 and 2014.

Section I discusses the implementation of the institutions and procedures established under the Labor Chapter, which serve as vehicles for engagement among the CAFTA-DR countries on labor issues. This section includes consideration of submissions received by the United States under the Labor Chapter, including the USG's engagement with the CAFTA-DR countries on the issues raised in the submissions. Section I also examines the implementation of the Labor Affairs Council and the Labor Cooperation and Capacity Building Mechanism under the Labor Chapter, including a summary of USG-funded technical assistance projects in the CAFTA-DR countries.

Section II examines the progress made by the CAFTA-DR countries during the reporting period to implement the recommendations provided in the White Paper, as well as to address other important labor rights concerns and commitments. This section provides a brief summary of the key recommendations and concerns identified in the White Paper, and discusses the progress achieved in each country pertaining to the adoption and implementation of laws, regulations, enforcement policies, capacity building measures, and outreach initiatives. This progress includes technical assistance projects and initiatives that CAFTA-DR governments adopted in collaboration with the International Labor Organization (ILO) and other international organizations and foreign governments, as well as domestic labor and business stakeholders. Section II also highlights challenges that remain in addressing the White Paper recommendations and other labor rights concerns.

Section III includes recommendations on how the USG can facilitate implementation of the recommendations contained in the White Paper. Section IV provides a summary of the public comments received for this report.

I. Chapter 16 (Labor Chapter) Implementation

On August 5, 2004, the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua signed the CAFTA-DR. Subsequently, Congress approved the agreement on July 28, 2005, and on August 2, 2005 the President signed the CAFTA-DR Implementation Act into law. Over the following four years, the CAFTA-DR entered into force on a rolling basis as each party enacted laws and regulations to implement its commitments.⁹ In Chapter 16 (Labor Chapter), the Parties affirmed their shared commitment to strive to ensure that labor rights are recognized and protected by their respective laws. Each country pledged to effectively enforce its laws related to the right of association; the right to organize and bargain collectively; the prohibition on the use of any form of forced or compulsory labor; a minimum

⁹ The CAFTA-DR entered into force for El Salvador on March 1, 2006, Honduras and Nicaragua on April 1, 2006, Guatemala on July 1, 2006, the Dominican Republic on March 1, 2007, and Costa Rica on January 1, 2009. See *Central America–Dominican Republic–United States, Foreign Trade Information System*, OAS, SEDI, DED, available at http://www.sice.oas.org/TPD/USA_CAFTA/USA_CAFTA_e.ASP.

age for the employment of children and the prohibition and elimination of the worst forms of child labor; and acceptable conditions of work with respect to minimum wages, hours of work, and occupation safety and health.¹⁰ Further, each country reaffirmed its obligations as a member of the ILO and its commitments under the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998).¹¹

This section discusses the implementation of three essential mechanisms and procedures under the Labor Chapter intended to facilitate cooperation among the Parties and to ensure implementation of the Labor Chapter commitments. Specifically, this section examines the USG's administration of the Labor Chapter submission process, as well as the implementation of the Labor Affairs Council and the Labor Cooperation and Capacity Building Mechanism.

A. Submission Process

Article 16.4.3 of the CAFTA-DR states:

Each Party shall designate an office within its labor ministry that shall serve as a contact point with the other Parties, and with the public, for purposes of carrying out the work of the (Labor Affairs) Council, including coordination of the Labor and Cooperation and Capacity Building Mechanism. Each Party's contact point shall provide for the submission, receipt, and consideration of communications from persons of a Party on matters related to the provisions of this Chapter, and shall make such communications available to the other Parties and, as appropriate, to the public. Each Party shall review such communications, as appropriate, in accordance with domestic procedures.

In December 2006, the United States Department of Labor (DOL) issued a *Federal Register* notice setting out the process for the "submission, receipt, and consideration" of communications from the public.¹² The notice established that the Office of Trade and Labor Affairs (OTLA) within DOL's Bureau of International Labor Affairs (ILAB) would serve as the point of contact for the labor chapters of U.S. free trade agreements, including for the receipt and review of public submissions made under the CAFTA-DR Labor Chapter. Between 2011 and the end of 2014, OTLA received four such submissions under the CAFTA-DR Labor Chapter, of which three were reviewed and one was withdrawn before a determination was made regarding acceptance for review.¹³

¹⁰ *Dominican Republic-Central America-United States Free Trade Agreement*, arts. 16.2, 16.8 (Aug. 5, 2004) available at http://www.ustr.gov/sites/default/files/uploads/agreements/cafta/asset_upload_file320_3936.pdf.

¹¹ *Dominican Republic-Central America-United States Free Trade Agreement*, art. 16.1 (Aug. 5, 2004) available at http://www.ustr.gov/sites/default/files/uploads/agreements/cafta/asset_upload_file320_3936.pdf; *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up*, International Labor Organization (June 18, 1998), available at <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>.

¹² 71 Fed. Reg. 76691 (Dec. 21, 2006), available at <http://www.dol.gov/ilab/media/pdf/2006021837.pdf>.

¹³ In July 2010, OTLA received the submission from the International Longshore & Warehouse Union (ILWU) and the *Sindicato de Trabajadores(as) de JAPDEVA* (SINTRAJAP, the Union of Workers of JAPDEVA) alleging Costa Rica's failure to effectively enforce its labor laws by validating the results of an allegedly fraudulent election for a new SINTRAJAP board. In April 2011, the submitters withdrew their submission before OTLA had made a decision whether to accept it for review.

Submission 2011-03 (Dominican Republic)

On December 22, 2011, OTLA received a submission alleging that the Government of the Dominican Republic was failing to effectively enforce its labor laws relating to freedom of association, the right to organize, the right to bargain collectively, child labor, forced labor, and acceptable conditions of work in the Dominican sugar sector.¹⁴ On February 22, 2012, OTLA accepted the submission for review.

On September 27, 2013, OTLA released a public report in response to the submission, finding evidence of apparent and potential violations of labor law in the sugar sector concerning: 1) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; 2) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and 3) a prohibition on the use of forced or compulsory labor.¹⁵ In the report, OTLA also noted concerns in the sugar sector with respect to Dominican labor law on freedom of association, the right to organize, and collective bargaining. OTLA's review also raised significant concerns about procedural and methodological shortcomings in the inspection process, including failure by Dominican inspectors to follow Dominican guidelines for such inspections, which undermined the government's capacity to effectively identify labor violations. Particularly notable was the lack of Creole-speaking inspectors to interview Haitian migrant workers and a failure to conduct follow-up investigations to confirm remediation of previously identified violations.

The report offered 11 recommendations to the Government of the Dominican Republic to address the report's findings and improve enforcement of Dominican labor laws in the sugar sector, including using labor inspectors or interpreters with appropriate language skills to communicate with workers in the sugar sector, and conducting outreach campaigns to inform workers of their rights and of available enforcement and complaint mechanisms. The report also expressed the USG's firm commitment to engage with the Government of the Dominican Republic to address the concerns identified and implement the recommendations, and noted that DOL would continue to review the status of such implementation. Since publication of the report, the USG has engaged with the Government of the Dominican Republic to address the concerns identified in the report, as well as with sugar sector company representatives, civil society groups, and workers to discuss labor rights and working conditions. Despite this engagement, a number of concerns identified in the report appear not to have been addressed, including those pertaining to minimum wage and paid holidays.¹⁶ The USG will continue to monitor and assess progress towards addressing such concerns.

¹⁴ See the public submission concerning the Dominican Republic, *available at* <http://www.dol.gov/ilab/reports/pdf/DRSubmission2011.pdf>.

¹⁵ *Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)*, U.S. Department of Labor, Office of Trade and Labor Affairs (Sept. 27, 2013), *available at* <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>.

¹⁶ *Eighteen-Month Review of Implementation of Recommendations in the U.S. Department of Labor's Public Report of Review of Submission 2011-03*, U.S. Department of Labor (April 22, 2015), *available at* <http://www.dol.gov/ilab/reports/pdf/Dominican%20Republic%2018-month%20review%20statement.pdf>.

Submission 2008-01 (Guatemala)

On April 23, 2008, OTLA received a submission from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and six Guatemalan labor organizations alleging that Guatemala violated its obligation under the CAFTA-DR to effectively enforce its labor laws relating to freedom of association, the right to organize, the right to bargain collectively, and acceptable conditions of work.¹⁷ OTLA issued a public report on January 16, 2009 finding significant shortcomings in Guatemala's labor law enforcement with respect to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. The report provided several recommendations to the Guatemalan government, including strengthening the worksite inspection capacity of the Guatemalan Ministry of Labor, enhancing inter-agency collaboration to promote labor rights, and enforcing court orders for the reinstatement of illegally dismissed workers.¹⁸

In July 2010, the USG requested consultations with the Guatemalan government under the CAFTA-DR regarding Guatemala's failure to effectively enforce its labor laws. The consultations, held in September and December 2010, failed to resolve the matter, and the USG requested the establishment of an arbitral panel in August 2011. The panel was constituted November 29, 2012. Guatemala and the United States suspended the panel while they negotiated a comprehensive labor enforcement plan, signed on April 26, 2013, with measurable benchmarks and timelines.¹⁹ On September 18, 2014, the USG announced that it was proceeding with dispute settlement proceedings, after having concluded that Guatemala had not fulfilled its commitments under the agreed labor enforcement plan.²⁰ Dispute settlement proceedings began in late 2014 on allegations that Guatemala failed to meet its obligation under Article 16.2.1(a) to effectively enforce its labor laws directly related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work.²¹

Submission 2012-01 (Honduras)

On March 26, 2012, OTLA received a submission under the CAFTA-DR Labor Chapter from the AFL-CIO and 26 Honduran labor unions and civil society organizations alleging that the Government of Honduras failed to effectively enforce its labor laws relating to the right of association; the right to organize and bargain collectively; the minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and

¹⁷ Public Submission concerning Guatemala (Dec. 22, 2011), available at <http://www.dol.gov/ilab/reports/pdf/GuatemalaSub.pdf>.

¹⁸ *Public Report of Review of U.S. Submission 2008-01 (Guatemala)*, U.S. Department of Labor, Office of Trade and Labor Affairs (Jan. 16, 2009), available at <http://www.dol.gov/ilab/reports/pdf/20090116Guatemala.pdf>.

¹⁹ *Mutually Agreed Enforcement Plan between the Government of the United States and the Government of Guatemala* (April 2013), available at <http://www.dol.gov/ilab/reports/pdf/0413GuatEnforcementPlan.pdf>.

²⁰ *United States Proceeds with Labor Enforcement Case against Guatemala*, Office of the U.S. Trade Representative (Sept. 18, 2014), available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2014/September/United-States-Proceeds-with-Labor-Enforcement-Case-Against-Guatemala>.

²¹ For additional information see *Guatemala Submission under CAFTA-DR*, U.S. Department of Labor, available at <http://www.dol.gov/ilab/trade/agreements/guatemalastub.htm>; and *Guatemala*, Office of the U.S. Trade Representative, available at <https://ustr.gov/countries-regions/americas/guatemala>.

health. The submission alleged that the Honduran Ministry of Labor²² failed to investigate, sanction, and remediate labor violations in the apparel, auto manufacturing, and agricultural sectors, and at enterprises at the Port of Cortés.²³ On May 14, 2012, OTLA accepted the submission for review.²⁴

At the end of the reporting period, OTLA had conducted a thorough review of the allegations raised in the submission and was finalizing its public report. OTLA had identified concerns with respect to the investigation, sanction, and remediation of labor laws in Honduras and had already begun to engage with the Honduran government on issues emerging in the review that would likely form part of a plan with concrete, time-bound steps to address such issues.²⁵

B. Labor Affairs Council

Article 16.4 of the CAFTA-DR obligates the Parties to the agreement to:

Establish a Labor Affairs Council, comprising cabinet-level or equivalent representatives of the Parties, or their designees. The Council shall meet within the first year after the date of entry into force of this Agreement and thereafter as often as it considers necessary to oversee the implementation of and review progress under this Chapter, including the activities of the Labor Cooperation and Capacity Building Mechanism established under Article 16.5, and to pursue the labor objectives of this Agreement. Unless the Parties otherwise agree, each meeting of the Council shall include a session at which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of this Chapter.

On November 21, 2008, the heads of the labor ministries and departments of the CAFTA-DR Parties met in San Salvador, El Salvador, in accordance with Article 16.4 and established the Labor Affairs Council. In addition, a public session was held with civil society, including worker and employer representatives. In their joint statement, the ministers reaffirmed the importance of complying with the commitments made under the CAFTA-DR Labor Chapter.²⁶ The Labor Affairs Council has not met since 2008, although DOL continues to engage regularly with CAFTA-DR country ministries of labor through bilateral meetings during country visits (e.g., the Governments of the Dominican Republic, Guatemala and Honduras in the context of

²² Known in Spanish as the *Secretaría de Trabajo y Seguridad Social*.

²³ Public Submission concerning Honduras (March, 26, 2012), available at <http://www.dol.gov/ilab/reports/pdf/HondurasSubmission2012.pdf>.

²⁴ 77 Fed. Reg. 30329 (May 22, 2012), available at <http://www.dol.gov/ilab/reports/pdf/20120522.pdf>.

²⁵ Although outside the reporting period for this report, OTLA released its public report on February 27, 2015, and continued engaging with the Government of Honduras to begin to develop a Monitoring and Action Plan with concrete, time-bound steps the Government of Honduras will take to address concerns raised in the public report, available at http://www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf.

²⁶ See DOL's second biennial report, *Progress in Implementing Chapter 16 (Labor) and Capacity-Building under the Dominican Republic-Central America-United States Free Trade Agreement* (May 11, 2012), Annex D, "Joint Statement from the Ministers of Labor of the CAFTA-DR region, Labor Affairs Council meeting, November 21, 2008," available at <http://www.dol.gov/ilab/reports/>.

submission reviews and consultations), regional fora (e.g., the Inter-American Conference of Ministers of Labor) and during the International Labor Conference held annually in Geneva.

C. Labor Cooperation and Capacity Building Mechanism

Article 16.5 and Annex 16.5 of the CAFTA-DR require the Parties to establish a Labor Cooperation and Capacity Building Mechanism to facilitate cooperation on labor issues among the Parties and promote institutional capacity building initiatives. Article 16.4.3 calls for the Parties to designate points of contact for matters related to the Labor Chapter, including carrying out the functions of the Labor Affairs Council and coordinating the Labor Cooperation and Capacity Building Mechanism. As the U.S. Point of Contact, OTLA has engaged with the CAFTA-DR countries to facilitate cooperative efforts to address labor rights issues and facilitate the provision of technical assistance under the Labor Cooperation and Capacity Building Mechanism.

Between 2011 and 2014, OTLA provided \$2.8 million in technical assistance funding to strengthen labor rights awareness and labor law enforcement in CAFTA-DR countries.²⁷ These projects provided training for labor ministry personnel on effective inspection and record-keeping practices, as well as training for judges, lawyers, and other judicial sector personnel on issues pertaining to labor law and judicial procedures, supporting White Paper goals seeking to improve labor administration in CAFTA-DR country ministries of labor and labor courts and free trade agreement commitments to effectively enforce labor laws. These projects also helped implement public outreach campaigns to raise awareness and facilitate engagement among workers, employers, and government entities on labor rights issues in support of the White Paper objective of promoting a culture of compliance and free trade agreement commitments to promote awareness of labor laws and rights. Further, the projects addressed the White Paper goal of eliminating and preventing child labor by providing access to educational opportunities and social services for at-risk youth and their families.

The United States Department of State's (DOS) Bureau of Democracy, Human Rights, and Labor (DRL) also provided approximately \$9.1 million in technical assistance funding between 2011 and 2014 to support labor projects administered by the ILO and other international and non-governmental organizations in CAFTA-DR countries.²⁸ These projects assisted unions and civil society organizations by educating workers on fundamental labor rights, strengthening the ability of unions to perform core functions, fostering social dialogue, enhancing protection measures for trade union leaders and members, and working to increase investigations and reduce impunity in cases of labor violence in support of White Paper goals to improve respect for freedom of association and promote a culture of compliance and further free trade agreement

²⁷ This figure only accounts for project funding obligated during calendar years 2011-2014. During that same period, OTLA managed several other ongoing projects in the CAFTA-DR countries with funding obligated prior to 2011. For further information on current and past DOL technical assistance projects, see *Projects*, U.S. Department of Labor, available at <http://www.dol.gov/ilab/projects/>. Also, see a description of past of technical assistance projects in DOL's previous biennial reports, *Reports and Publications*, U.S. Department of Labor, available at <http://www.dol.gov/ilab/reports/>.

²⁸ This figure only accounts for project funding obligated during calendar years 2011-2014. During that same period, DRL managed several other ongoing projects in the CAFTA-DR countries with funding obligated prior to 2011.

commitments to promote awareness of labor laws and rights. Through its Global Labor Program, from 2011 – 2014 the United States Agency for International Development (USAID) provided approximately \$2 million in assistance to unions and civil society organizations in the region working to promote international labor standards and access to justice for workers, in support of White Paper goals to improve administration in labor courts, respect for freedom of association and promotion of a culture of compliance and of free trade agreement commitments to effectively enforce labor laws and promote awareness of labor laws and rights.

II. Assessment of progress made by the CAFTA-DR countries to implement the White Paper recommendations and to advance common commitments regarding labor matters

In accordance with Section 403(a)(3)(C) of the CAFTA-DR Implementation Act (19 U.S.C. § 4111(a)(3)(C)), this section summarizes the work done by the CAFTA-DR countries to implement the recommendations contained in the White Paper and to advance common commitments regarding labor matters during the reporting period (2011-2014), highlighting the progress made by each country in the adoption and implementation of laws, regulations, enforcement policies, capacity building measures, and outreach initiatives.²⁹ This progress includes technical assistance projects and initiatives adopted in collaboration with the ILO and other international organizations and foreign governments, as well as domestic labor and business stakeholders. This section also highlights challenges and concerns that remain in addressing the White Paper recommendations and other labor rights issues.

In 2003, prior to the signing of the CAFTA-DR, the ILO published a document titled “Fundamental Principles and Rights at Work: A Labor Law Study” that reviewed the status of labor law adoption and enforcement in the CAFTA-DR countries.³⁰ This document indicated that the labor laws of these countries were largely in conformity with the fundamental ILO obligations, but noted several instances, particularly with respect to the right to freedom of association and to organize and collectively bargaining, where ILO observations were not reflected in CAFTA-DR country labor laws. In response, the ministries of labor of the CAFTA-DR countries established a working group to propose recommendations to enhance the implementation and enforcement of labor standards. The working group’s 2005 report, the White Paper, identified six priority areas related to effective implementation and capacity-building for labor matters:³¹

- (a) Labor law and implementation;
- (b) Budget and personnel needs of the Labor Ministries;
- (c) Strengthening the judicial system for labor law;
- (d) Protections against discrimination in the workplace;
- (e) Worst forms of child labor; and

²⁹ *Dominican Republic-Central America-United States Free Trade Agreement Implementation Act*, Pub. L. 109-53 (Aug. 2, 2005), available at <http://www.gpo.gov/fdsys/pkg/PLAW-109publ53/pdf/PLAW-109publ53.pdf>.

³⁰ *Fundamental Principles and Rights at Work: A Labor Law Study*, ILO (2003), available at <http://www.ilo.org/public/english/dialogue/download/cafta.pdf>.

³¹ *The Labor Dimension in Central America and the Dominican Republic*, Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic (April 2005), available at http://www.sice.oas.org/labor/White%20Paper_e.pdf.

(f) Promoting a culture of compliance.

The CAFTA-DR countries subsequently asked the ILO to monitor progress on the implementation of the White Paper recommendations in the countries. Under the \$11.6 million, DOL-funded *Verification of Compliance of the White Paper Recommendations* project, initiated in August 2006, the ILO has produced the biannual Verification Report on the Implementation of White Paper Recommendations (Verification Report) assessing government implementation measures, such as strengthening administrative enforcement capacity, enhancing labor court adjudication procedures, and expanding public outreach initiatives. The last Verification Report was published in December 2010, and DOL funding ended in June 2013.³²

DOL's previous biennial reports drew substantially from the findings of the Verification Reports. With the conclusion of ILO reporting in 2010, however, the current biennial report draws from a wide range of other sources, including through DOL's direct engagement with the country governments; engagement with local and international civil society and labor stakeholders; DOL and other inter-agency monitoring and reporting initiatives, including DOS's *Country Reports on Human Rights Practices*, and DOL's *Findings on the Worst Forms of Child Labor*; and DOL's analysis of labor laws, regulations, and policies in the respective countries.

The following sub-sections are organized by country. Each sub-section includes a brief summary of the key recommendations and concerns identified in the White Paper, a discussion of the progress achieved in each country towards addressing these concerns and recommendations, and a summary of the remaining challenges.

Costa Rica

The White Paper recommendations to the Government of Costa Rica focus on several priority areas, including the enactment of legal provisions that would strengthen protections against anti-union dismissals and employer interference in union activities. The White Paper recommendations aim to strengthen the enforcement capacity of the Ministry of Labor,³³ through increased allocation of resources and personnel, as well as expanded training opportunities for labor inspectors and other Ministry of Labor personnel. The recommendations also aim to reduce case backlogs in the labor courts, through increased training for labor judges and other judicial sector personnel, as well as reforms to existing judicial processes. The White Paper also recommends that the government provide greater personnel, resource, and enforcement prioritization to cases of child labor and gender discrimination. Further, the recommendations aim to expand government public awareness and outreach initiatives, including through engagement with labor and business sector representatives.

During the reporting period, the Government of Costa Rica took measures to address the recommendations and concerns raised in the White Paper. The government increased the labor

³² *ILAB Technical Cooperation Project Summary: Verification of Compliance of the White Paper Recommendations*, U.S. Department of Labor (Dec. 16, 2013), available at http://www.dol.gov/ilab/projects/summaries/Central%20America_Verification.pdf.

³³ Known in Spanish as the *Ministerio de Trabajo y Seguridad Social*.

inspectorate's annual budget from \$6.8 million in 2012, to \$8 million in 2013.³⁴ The government also employed 103 labor inspectors in 2013, compared to 98 in 2012 and 103 in 2011.³⁵ To address human trafficking concerns, the government worked in collaboration with the International Organization for Migration to train labor inspectors to identify and prevent forced labor and human trafficking and to raise awareness about migrants' rights.³⁶ To improve efficiency and timeliness in the labor court system, the government implemented electronic case filing systems, established and promoted alternative means of conflict resolution, and adopted a requirement that judicial proceedings be conducted orally.³⁷

The Ministry of Labor reportedly monitored all issues relating to discrimination, and together with the Union of Business Chambers, the biggest business association in Costa Rica, distributed a guide that informs workers of their labor rights and applicable enforcement procedures and remedies.³⁸ In December 2014, the legislature passed a decree reforming Costa Rica's Labor Code and Labor Procedure Code, including the establishment of reinstatement and compensation remedies for pregnant workers who are illegally dismissed.³⁹

The Costa Rican government continued to implement the "Roadmap towards the Elimination of Child Labor" program, developed in collaboration with the ILO, which aims to eliminate poverty, improve the country's education system, strengthen health and legal services, and raise public awareness on the issue of child labor.⁴⁰ The government also implemented the "Let's Get

³⁴ *2013 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; *2012 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>.

³⁵ *2013 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; *2012 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>; *2011 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2011TDA.pdf>.

³⁶ *Country Reports on Human Rights Practices for 2013: Costa Rica*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

³⁷ *Legislative Decree No. 9076: Labor Procedure Reform* (December 12, 2014), art. 1, reforming Labor Code arts. 421, 512, 525, 614-43.

³⁸ *Guía de diagnóstico empresarial: conozca y mejore su cumplimiento laboral* (Guide to Corporate Diagnosis: Know and Improve Your Labor Compliance, 2014), International Labor Organization in collaboration with the Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado (the Costa Rican Union of Private Sector Chambers and Associations) for Costa Rica, available at http://www.uccaep.or.cr/images/pdfs/Guia_empresaial_Costa_Rica_UCCAEP.pdf.

³⁹ *Legislative Decree No. 9076: Labor Procedure Reform* (December 12, 2014), art. 2(a), reforming Labor Procedure Code art. 94.

⁴⁰ *2013 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

Ahead” program, which provides cash transfers to low-income families as an incentive to keep children in school.⁴¹

The Costa Rican government worked closely with the ILO to incorporate eliminating workplace discrimination into its 2013-2017 Decent Work Country Program, including efforts to build on previous guides and public awareness campaigns on gender parity and sexual harassment and plans to continue to work with the ILO to train domestic labor organizations and employers on labor issues.⁴² The Ministry of Labor also developed and distributed worker rights guides and employer compliance regulations to workers and employers, and used its website to post frequently asked questions and other information pertaining to labor rights.⁴³

Despite government efforts to address the White Paper recommendations and concerns, challenges remain. These include ongoing problems with lengthy administrative and judicial processes for the enforcement of labor laws, as well as uneven enforcement of minimum wage laws and occupational safety and health standards.⁴⁴ Additionally, inadequate numbers of investigators and criminal prosecutors, as well as other limited resources, impeded efforts to enforce child labor laws.⁴⁵

Dominican Republic

The White Paper recommendations to the Government of the Dominican Republic focus on improving training and providing additional funding and resources for the labor inspectorate; increasing training for other labor ministry officials, labor judges, and others involved in the administration of labor justice; and allocating additional resources to focus on eradicating child labor. The recommendations also aim to expand public outreach initiatives, including implementation of public awareness campaigns and trainings for workers and employers on labor rights issues. Further, the recommendations focus on strengthening worker and employer participation in tripartite consultative processes together with the government, aimed at collaboratively addressing important labor rights policies and concerns.

⁴¹ *2012 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>.

⁴² “Programa de Trabajo Decente de la República de Costa Rica: Gestión, seguimiento y evaluación 2013-2017” (Costa Rica Decent Work Program: Management, Oversight and Evaluation 2013-2017, 2012), International Labor Organization, available at <http://www.ilo.org/public/english/bureau/program/dwcp/download/costarica.pdf>.

⁴³ “Temas Laborales,” “Consulta Laboral en Línea,” and “Organizaciones Sociales,” (Labor Matters, Online Labor Consultations, and Social Organization Guides) are some examples of the information and outreach services available on the Ministry of Labor’s website, available at <http://www.mtss.go.cr/temas-laborales/>, <http://www.mtss.go.cr/tramites-servicios/consulta-laboral-asesoria.html>, and <http://www.mtss.go.cr/elministerio/estructura/direccion%20de%20asuntos%20laborales/organizaciones-sociales.html>.

⁴⁴ *Country Reports on Human Rights Practices for 2013: Costa Rica*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁴⁵ *2013 Findings on the Worst Forms of Child Labor: Costa Rica*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

The Dominican government addressed the White Paper recommendations through various measures. The Ministry of Labor⁴⁶ employed 176 labor inspectors in 2014, compared to 207 labor inspectors in 2013, 192 inspectors in 2012, and 207 inspectors in 2011.⁴⁷ The government reported that the recent decline in the number of labor inspectors was due to the retirement of inspectors who would soon be replaced.⁴⁸ From 2011 to 2014, the Ministry of Labor's total budget increased from approximately \$33 million to approximately \$45 million, while specific funding for the labor inspectorate increased from \$3.9 million to \$4.7 million.⁴⁹

Child labor laws appeared to have been generally enforced in many areas of the formal sector, although child labor remained a concern in the agriculture sector, small businesses, private households, and the informal economy.⁵⁰ In 2012, the government signed an agreement with the ILO to implement a project to remove 100,000 children and adolescents from exploitative labor over the course of four years. The agreement aimed to eliminate the worst forms of child labor in the country by 2015 and all other types of child labor by 2020 through a series of policy recommendations, including interagency collaboration, improvements in the education and health sectors, and the establishment of a robust regulatory framework.⁵¹ While the ILO agreement represents a number of positive procedural and policy reforms, additional funding and inspectors would more effectively address the White Paper recommendations that the country devote additional resources to eradicating child labor.

The Ministry of Labor reported that tripartite national organizations, composed of government, labor, and business sector representatives, including the Consultative Labor Council and the National Council of Occupational Health and Safety, met several times during the reporting

⁴⁶ Known in Spanish as the *Ministerio de Trabajo*.

⁴⁷ *2013 Findings on the Worst forms of Child Labor: Dominican Republic*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; *2012 Findings on the Worst forms of Child Labor*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>; *Dominican Republic; 2011 Findings on the Worst forms of Child Labor: Dominican Republic*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2011TDA.pdf>; Written Communication from the Government of the Dominican Republic, submitted in response to DOL's *Request for Information on Efforts by Certain Countries to Eliminate the Worst Forms of Child Labor* (Jan. 29, 2015).

⁴⁸ Written Communication from the Government of the Dominican Republic, submitted in response to DOL's *Request for Information on Efforts by Certain Countries to Eliminate the Worst Forms of Child Labor* (Jan. 29, 2015).

⁴⁹ *General State Budget Bill*, Government of the Dominican Republic, Ministry of the Treasury (Sept. 29, 2011), available at http://www.creditopublico.gov.do/marco_legal/2011/LEY%20PRESUPUESTO%202011.pdf; *General State Budget Bill*, Government of the Dominican Republic, Ministry of the Treasury (2014), available at <http://www.digepres.com:1515/wp-content/uploads/2013/10/Proyecto-de-Ley-de-Presupuesto-2014.pdf>.

⁵⁰ *Country Reports on Human Rights Practices for 2013: Dominican Republic*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁵¹ *Comité Directivo Nacional de Lucha contra el Trabajo Infantil (National Directorate to Combat Child Labor) and the International Labor Organization*, "Hoja de Ruta para hacer de República Dominicana un país libre de trabajo infantil y sus peores formas" (Road Map to make the Dominican Republic a country free of Child Labor and its Worst Forms), available at <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=11993>; *Country Reports on Human Rights Practices for 2013: Dominican Republic*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

period.⁵² Additionally, the Ministry of Labor published materials pertaining to labor laws and rights, including on gender discrimination.⁵³ The Ministry of Labor also developed and distributed 2,000 copies of a manual on the formation of enterprise-level Committees for Workplace Health and Safety in 2013 (also available online) to promote health and safety awareness and compliance at workplaces.⁵⁴

While efforts have been made to address the White Paper recommendations, challenges remain with respect to Dominican legal provisions concerning workers' ability to call a strike, to form a union in the public sector and to form federations. The White Paper encourages stakeholders to come together through the tripartite Consultative Labor Council to develop proposals for addressing these challenges, though no consensus had been reached on proposals for legal reforms.

Moreover, challenges remain with respect to the enforcement of labor laws. These challenges include a lack of resources within the Ministry of Labor as well as procedural and methodological shortcomings in the inspection process, particularly in the sugar sector. Notable examples include the failure by inspectors to conduct adequate employee interviews, lack of adequate language skills among inspectors, inadequate use of inspection data by inspectors, failure to follow up on allegations of violations reported by workers during the inspection process, and failure to conduct follow-up inspections to verify remediation of violations identified.⁵⁵ Delays in imposing fines and monitoring remediation of violations, inefficient and prolonged judicial processes, and lack of judicial resources have further impeded enforcement efforts.⁵⁶ Additionally, there are concerns that the government inconsistently enforced its laws on freedom of association and collective bargaining amid widespread reports of anti-union firings and blacklisting by employers, as well as violence and threats against union leaders.⁵⁷ In its *Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)*, issued in September 2013, OTLA reported that in some instances, labor inspectors appear to have failed to

⁵² Meeting between the Dominican Ministry of Labor and the U.S. Department of Labor, Santo Domingo, Dominican Republic (March 13, 2015).

⁵³ "Guía de los derechos de los trabajadores" (2011) and "Guía de derechos laborales para la igualdad de oportunidades y la no discriminación" (2013), Ministerio de Trabajo, available at <http://www.youblisher.com/p/226390-Guia-de-los-Derechos-de-los-Trabajadores/> and <http://www.youblisher.com/p/1027242-Guia-de-derechos-laborales-para-la-igualdad-de-oportunidades-y-la-no-discriminacion/>.

⁵⁴ "Manual guía para la estructuración y actuación de Comité Mixto de Seguridad y Salud en el Trabajo" (Guide on the Formation and Activities of Integrated Occupational Safety and Health Committees, April 2013), Ministry of Labor, available at http://www.ministeriodetrabajo.gob.do/images/docs/dghsi/manual_guia_DGHSI17_abril.pdf.

⁵⁵ *Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)*, U.S. Department of Labor, Office of Trade and Labor Affairs (Sept. 27, 2013), available at <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>; *2013 Findings on the Worst forms of Child Labor: Dominican Republic*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

⁵⁶ *2013 Findings on the Worst forms of Child Labor: Dominican Republic*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking; *Country Reports on Human Rights Practices for 2013: Dominican Republic*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>.

⁵⁷ *Country Reports on Human Rights Practices for 2013: Dominican Republic*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>.

respond to specific allegations of violations made by workers to inspectors during inspections in the sugar sector.⁵⁸ Based on its analysis of 14 Dominican Ministry of Labor inspection reports summarizing their findings from visits to 148 worksites, OTLA also noted in the *Public Report of Review* that of the 17 worksites where labor law violations were identified in the inspection reports, inspectors only conducted one follow-up inspection to verify remediation.⁵⁹ OTLA noted in October 2014 that the Ministry of Labor of the Dominican Republic had “expressed a willingness to take measures that, if instituted, could have begun to address some of the concerns identified in the report,”⁶⁰ and the Ministry of Labor subsequently provided follow-up information on recent developments that, if fully implemented, would represent positive steps towards implementing some of the DOL Report of Review’s recommendations. ILAB’s Office of Child Labor, Forced Labor and Human Trafficking and the Department of State also reported that delays in imposing fines and monitoring remediation of violations, inefficient and prolonged judicial processes, and lack of judicial resources further impeded enforcement efforts.⁶¹

In the sugar sector, DOL’s Report noted that labor inspectors reportedly failed to investigate claims of employer violations and that the government did not effectively enforce its laws pertaining to the prohibition of forced labor.⁶² Concerns have been raised about the application of penalties for nonpayment of wages and safety and health violations and whether established penalties were sufficient to deter violations.⁶³

El Salvador

The White Paper recommendations for El Salvador aim to strengthen government enforcement and remediation efforts for labor law violations; enhance the efficiency and transparency of the union registration process; and promote public dialogue and awareness on labor rights, legal remedies, and procedures. The recommendations also address the need for increased resources and personnel within El Salvador’s Ministry of Labor⁶⁴ and labor courts, as well as improved training programs for government and judicial sector officials on labor rights and labor law enforcement. The White Paper recommendations aim to strengthen public awareness and government enforcement pertaining specifically to child labor and gender discrimination. The

⁵⁸ *Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)*, U.S. Department of Labor, Office of Trade and Labor Affairs (Sept. 27, 2013), available at <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>.

⁵⁹ *Ibid.*

⁶⁰ *Twelve-Month Review of Implementation of Recommendations in the U.S. Department of Labor’s Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)*, U.S. Department of Labor, Office of Trade and Labor Affairs (October 16, 2014), available at <http://www.dol.gov/ilab/reports/pdf/20141017-DomRepub12MonthStatement.pdf>.

⁶¹ *2013 Findings on the Worst forms of Child Labor: Dominican Republic*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking; *Country Reports on Human Rights Practices for 2013: Dominican Republic*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>.

⁶² *Public Report of Review of U.S. Submission 2011-03 (Dominican Republic)*, U.S. Department of Labor, Office of Trade and Labor Affairs (Sept. 27, 2013), available at <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>.

⁶³ *Ibid.*; *Country Reports on Human Rights Practices for 2013: Dominican Republic*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>.

⁶⁴ Known in Spanish as the *Ministerio de Trabajo y Previsión Social*.

recommendations also focus on facilitating stronger government outreach and collaboration with the labor and business sectors, including through the tripartite Superior Labor Council.

During the reporting period the Salvadoran government implemented measures to address the challenges and recommendations discussed in the White Paper. The Ministry of Labor's labor inspection budget increased from \$1.6 million in 2011 and 2012 to \$1.8 million in 2013 and 2014.⁶⁵ The Ministry of Labor reported that the labor inspectorate issued roughly \$4.5 million in fines for labor violations between June 2013 and May 2014, compared to \$1.8 million in fines between June 2012 and May 2013.⁶⁶ The labor inspectorate also reportedly collected \$2.2 million in fines between June 2013 and May 2014, compared to \$0.6 million between June 2012 and May 2013.⁶⁷

To address issues of gender discrimination and promote economic opportunities for women, the government established a specialized Department of Equity and Gender within the Ministry of Labor, and worked with the Inter-American Development Bank to establish support centers throughout the country to provide health, education, career advice, and legal services to women.⁶⁸

To address issues related to child labor, the government also launched an online platform to enhance monitoring of child labor law enforcement in collaboration with the ILO.⁶⁹ Further, the \$14 million DOL-funded technical assistance project implemented by the ILO between 2011 and 2016 has aimed to strengthen Salvadoran national and municipal government capacity to enforce child labor laws, and provide education services to children, and economic livelihood services to households with working children.⁷⁰

The government also implemented various public outreach initiatives to raise labor rights awareness and enhance engagement with labor and business stakeholders. For instance, the Ministry of Labor established worker rights centers, a mobile outreach unit, and a telephone

⁶⁵ *2013 Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; *2011 Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2011TDA.pdf>.

⁶⁶ *Labor Report for 2013-2014*, Government of El Salvador, Ministry of Labor and Social Welfare, available at http://www.mtps.gob.sv/index.php?option=com_phocadownload&view=category&id=3:memorias&Itemid=139.

⁶⁷ *Ibid.*

⁶⁸ "Unidad de Equidad Entre los Géneros" (Gender Equity Unit), Ministry of Labor and Social Provision, http://www.mtps.gob.sv/index.php?option=com_content&view=article&id=1874&Itemid=176; "El Salvador to Improve the Living Conditions of Women," Inter-American Development Bank (May 11, 2011), <http://www.iadb.org/en/news/news-releases/2011-05-11/el-salvador-to-improve-the-living-conditions-of-women.9366.html>.

⁶⁹ *2013 Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

⁷⁰ *ILAB Technical Cooperation Project Summary: Eliminating Child Labor in El Salvador through Economic Empowerment and Social Inclusion*, U.S. Department of Labor, Office of Child, Labor Forced Labor, and Human Trafficking, available at http://www.dol.gov/ilab/projects/summaries/El_Salvador_CCL.pdf.

hotline to receive labor violation complaints and to provide free legal advice to workers.⁷¹ Additionally, the government established the Presidential Commission for Labor Affairs, composed of representatives of the Ministry of Labor and other government entities, which aims to enhance inter-agency coordination on economic and labor rights policies aimed at the country's working class, including policies pertaining to the minimum wage and social security, as well as to promote engagement with labor and business stakeholders.⁷²

Despite these efforts to address the White Paper recommendations, challenges remain. The Ministry of Labor issued and collected far more fines over the reporting period, but lengthy administrative and judicial processes have delayed the issuing and collection of fines (only \$2.2 million in fines were collected out of \$4.5 million issued) and other enforcement activities.⁷³ Challenges also remain in ensuring that fines are imposed consistent with the law where labor violations are found and that the fine levels are sufficient to deter violations.⁷⁴ Budget and personnel constraints within the Ministry of Labor limit labor law enforcement efforts, including workplace inspections.⁷⁵ For example, in 2014, the Ministry of Labor employed 114 labor inspectors, compared to 203 in 2013, 120 in 2012, and 208 in 2011.⁷⁶

⁷¹ Call Center 130 is featured prominently on the Ministry's website at www.mtps.gob.sv, while the mobile unit reported many instances of offering information to workers, with the last instance in the reporting period on December 6, 2014, in San Miguel's "Feria Productiva," "MTPS participa con kiosco móvil en feria," (MTPS participates in festival with mobile unit), Ministry of Labor and Social Provision (December 8, 2014), http://www.mtps.gob.sv/index.php?option=com_content&view=article&id=2097:mtps-participa-con-kiosco-movil-en-feria&catid=1:noticias-ciudadano&Itemid=77.

⁷² Executive Decree No. 86; Presidente Sánchez Cerén anuncia Comisión Presidencial para Asuntos Laborales, durante Reunión con Sindicatos, Government of El Salvador, Presidency of the Republic (Feb. 20, 2015), available at <http://www.presidencia.gob.sv/presidente-sanchez-ceren-anuncia-comision-presidencial-para-asuntos-laborales-durante-reunion-con-sindicatos/>; Gobierno Inicia Dialogo con Respresentates de Trabajadores y Trabajadoras, CEAL (Feb. 23, 2015), available at <http://ceal-dlca.org/?p=2011>.

⁷³ 2013 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; Country Reports on Human Rights Practices for 2013: El Salvador, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>.

⁷⁴ Country Reports on Human Rights Practices for 2013: El Salvador, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/documents/organization/236900.pdf>; 2014 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at http://www.dol.gov/ilab/reports/child-labor/el_salvador.htm.

⁷⁵ 2014 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at http://www.dol.gov/ilab/reports/child-labor/el_salvador.htm.

⁷⁶ 2014 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at http://www.dol.gov/ilab/reports/child-labor/el_salvador.htm; 2013 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/elsalvador.pdf>; 2012 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>; 2011 Findings on the Worst Forms of Child Labor: El Salvador, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2011TDA.pdf>.

Further, labor representatives raised concerns with government enforcement of laws pertaining to freedom of association and collective bargaining in the security, manufacturing, and construction sectors, as well as among migrant workers.⁷⁷ There were also concerns about government enforcement of laws regarding minimum wage, hours of work, and occupational safety and health in the informal sector, as well as among subcontracted construction workers and immigrant workers, despite widespread reports of employer violations.⁷⁸ Additionally, concerns remained about the length of delays in labor court proceedings and appeals.⁷⁹

Challenges to government enforcement efforts pertaining to child labor included limitations on inter-agency coordination between government institutions and resources.⁸⁰ The Salvadoran government reportedly focused its forced labor and human trafficking efforts reportedly focused predominantly on child sex trafficking cases, which may have limited other forced labor and human trafficking cases.⁸¹ Even with this focus, law enforcement officials reportedly did not receive adequate training pertaining to commercial sexual exploitation of children.⁸²

Guatemala

The White Paper recommendations attempt to address concerns regarding the institutional capacity of Guatemala's Ministry of Labor through enhancing its enforcement authority under the law, and increasing resources and training opportunities. The recommendations aim to strengthen the labor justice system by increasing the number of judges and courts, establishing professional accountability oversight mechanisms for judges and other officials, and implementing training programs. The recommendations also aim to strengthen mediation, conciliation, and arbitration services through increased training and resources. The White Paper recommends that the Government of Guatemala improve inter-agency enforcement coordination to address child labor. Further, the White Paper urges the government to implement initiatives to raise public awareness on domestic labor law and international labor rights standards, and to expand engagement and dialogue between the government, labor, and business sectors.

To address the concerns raised in the White Paper, the Government of Guatemala has implemented a variety of measures aimed at strengthening enforcement capacity. For instance,

⁷⁷ *Country Reports on Human Rights Practices for 2013: El Salvador*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/documents/organization/236900.pdf>.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ *2014 Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at http://www.dol.gov/ilab/reports/child-labor/el_salvador.htm; *2013 Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/elsalvador.pdf>.

⁸¹ *Trafficking in Persons Report 2014: El Salvador*, U.S. Department of State, available at <http://www.state.gov/j/tip/rls/tiprpt/2014/>.

⁸² *Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at http://www.dol.gov/ilab/reports/child-labor/el_salvador.htm; *2013 Findings on the Worst Forms of Child Labor: El Salvador*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/elsalvador.pdf>.

the labor inspectorate's budget grew from \$3.1 million in 2012 to \$3.6 million in 2013.⁸³ The labor inspectorate also grew from 218 inspectors in 2011 to 328 in 2012, dropping to 300 in 2013.⁸⁴ To address trafficking in persons violations, the National Civil Police provided special trainings on anti-trafficking enforcement for a team of 50 investigators in 2013, while the Public Ministry doubled the size of its Anti-Trafficking Unit to over 24 staff members.⁸⁵

To address child labor concerns, the Guatemalan government adopted the "My Secure Subsidy" program, offering conditional cash transfers to impoverished families as an incentive for keeping children in school.⁸⁶ Further, the tripartite National Commission for the Eradication of Child Labor, composed of government, labor, and business representatives, coordinated policies and efforts to combat child labor, including providing trainings for department level government officials.⁸⁷ Labor inspectors conducted 7,398 inspections in 2013 of industries and areas that were deemed to have a high potential of employing child labor, compared to 1,883 inspections in 2012, and 1,205 in 2011.⁸⁸

Germane to the White Paper recommendation on public awareness and engagement, in 2013, the government agreed to work with the ILO, as well as local corporate, labor, and civil society stakeholders, to raise public awareness on labor rights and labor law enforcement issues.⁸⁹ Further, international organizations and foreign governments have implemented technical assistance projects aimed at strengthening union advocacy, social dialogue, and human rights defense efforts, as well as capacity building for Guatemala's Ministry of Labor, and employment training for youth.⁹⁰

Although steps have been taken to address the White Paper recommendations, challenges remain with respect to addressing fully many of the White Paper recommendations concerning enforcement of labor laws. Several of these challenges are at issue in the pending CAFTA-DR arbitration as it pertains to minimum wage, health and safety, and the right of association, the right to organize, and the right to collective bargaining. Government failures in these areas including lack of response to complaints, inadequately inspecting and detecting violations, not

⁸³ *2013 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

⁸⁴ *Ibid.*; *2012 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>.

⁸⁵ *2013 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

⁸⁶ *2012 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>.

⁸⁷ *Ibid.*

⁸⁸ *2013 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

⁸⁹ *Country Reports on Human Rights Practices for 2013: Guatemala*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor; *Observation (CEACR)*, adopted 2013, published 103rd ILC Session (2014): *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, CEACR, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3145149.

⁹⁰ Embassy Guatemala reporting (2014).

referring violations to the labor courts for sanction, lengthy sanction procedures, inability of labor courts to secure compliance with court orders requiring reinstatement and compensation of workers that were wrongfully dismissed for union activities, insufficient government resources, delays in the conciliation process, and delays in registering unions were concerns during the reporting period.⁹¹ For instance, in November 2011 a Guatemalan labor court ordered that an apparel manufacturer reinstate 17 workers that had been wrongfully dismissed earlier that year, and pay them their wages and benefits for the period of dismissal. As of November 2014, however, the workers had not been reinstated.⁹² Unions have also reportedly experienced arbitrary delays and denials of union registration by the Ministry of Labor.⁹³

The government also conducted limited inspection and enforcement activities pertaining to wage and hour violations in the agricultural sector, where such violations were highly prevalent.⁹⁴ Additionally, labor groups reported that the Ministry of Labor call center hotline, which was designed to provide callers with labor law information and to receive violation complaints, often misdirected or failed to answer calls.

There are also challenges with regards to the enforcement of child labor and forced labor, including ensuring fines for forced labor violations that are sufficient to deter future violations and that are enforced.⁹⁵ The government also lacked sufficient personnel, vehicles, and equipment to effectively conduct investigations, and there existed few mechanisms for the public to report crimes related to human trafficking and commercial sexual exploitation to the government.⁹⁶ Guatemala also reportedly lacks programs targeting specific sectors where exploitative child labor is prevalent, such as domestic service, mining, and construction.⁹⁷

⁹¹ *Initial Witten Submission of the United States* (Nov. 3, 2014), available at <https://ustr.gov/sites/default/files/US%20Initial%20Written%20Submission.pdf>; *Country Reports on Human Rights Practices for 2013: Guatemala*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>; *2013 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

⁹² *Initial Witten Submission of the United States* (Nov. 3, 2014), available at <https://ustr.gov/sites/default/files/US%20Initial%20Written%20Submission.pdf>

⁹³ *Ibid*; *Country Reports on Human Rights Practices for 2013: Guatemala*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor; *Observation (CEACR), adopted 2012, published 102nd ILC session (2013): Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, CEACR, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3084277.

⁹⁴ *In the Matter of Guatemala – Issues Relating to the Obligations Under Article 16.2.1(a) of the CAFTA-DR*, Office of the U.S. Trade Representative; *Initial Written Submission of the United States* (Nov. 3, 2014), available at <https://ustr.gov/issue-areas/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>.

⁹⁵ *Country Reports on Human Rights Practices for 2013: Guatemala*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

⁹⁶ *2013 Findings on the Worst Forms of Child Labor: Guatemala*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; *Country Reports on Human Rights Practices for 2013: Guatemala*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

Honduras

The White Paper recommendations to the Government of Honduras aim to strengthen labor rights protections and procedures under domestic law, and enhance the enforcement capacity and effectiveness of the Honduran Ministry of Labor.⁹⁸ The recommendations seek to strengthen the administration of labor law through the implementation of training programs for judicial sector personnel and government officials on international labor rights standards and the application of domestic labor law. The recommendations also aim to enhance government initiatives to raise public awareness on domestic labor laws and procedures, particularly for women. Further, the recommendations seek to enhance government engagement with labor and business sector stakeholders through outreach mechanisms.

The Government of Honduras undertook efforts to address the challenges and recommendations discussed in the White Paper. The government reported that the labor inspectorate conducted 18,342 inspections in 2012, and 18,205 inspections in 2013, compared to 14,508 in 2011.⁹⁹ The labor inspectorate increased in size from 91 inspectors in 2011 to 103 in 2014.¹⁰⁰ Although the Ministry of Labor budget declined from \$23 million in 2013¹⁰¹ to roughly \$22 million in 2014,¹⁰² the government leveraged international donor support to acquire 24 new computers and 16 vehicles for the Labor Inspectorate between 2011 and 2014, many of which were donated by the Inter-American Development Bank and the Government of Canada through a technical assistance project implemented by the non-governmental organization, *Fundación para la Paz y la Democracia*.¹⁰³ Additionally, the government implemented various workshops and training programs for labor inspectors on issues of substantive labor law, investigative techniques, and managerial skills, including regional programs implemented in Tegucigalpa, San Pedro Sula, and various other provinces throughout the country.¹⁰⁴ The ILO financed general labor trainings for 97 percent of STSS inspectors.¹⁰⁵ The government also reported it took steps to develop a new Labor Inspection Act to be eventually submitted to the legislature for approval, which would implement a more efficient and standardized process for receiving complaints and conducting inspections.¹⁰⁶

⁹⁸ Known in Spanish as the *Secretaría de Trabajo y Previsión Social*.

⁹⁹ *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

¹⁰⁰ *Ibid.*

¹⁰¹ *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

¹⁰² *Ibid.*; See the U.S. Department of Treasury's Bureau of Fiscal Service historical exchange rates of 20.42 Honduran Lempiras per \$1 for December 31, 2013, and 21.72 Honduran Lempiras per \$1 for December 31, 2014, available at <http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/historicalRates.htm>.

¹⁰³ *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

¹⁰⁴ *Ibid.*

¹⁰⁵ *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

¹⁰⁶ *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

The Honduran government reported that the budget for the labor courts increased from roughly \$1.3 million in 2011 to \$1.6 million in 2014, while the number of judges focusing on labor matters also increased from 18 in 2011 to 21 in 2014.¹⁰⁷ The government reported that it implemented judicial sector training programs on international labor rights and domestic labor law and procedure during the reporting period.¹⁰⁸ Further, the government reportedly held a series of trainings and workshops for labor inspectors and workers on issues pertaining to labor rights and gender, and provided job skills trainings for women.¹⁰⁹

To address child labor, the government coordinated interagency enforcement activities, trained inspectors on child labor violations, and provided outreach and support services for the public.¹¹⁰ In 2013, the government amended various provisions of its domestic laws aimed at harmonizing legal protections and enforcement procedures pertaining to child labor.¹¹¹ The government also implemented the “Voucher 10,000” program, which aims to reduce poverty and promote childhood education and health by providing financial assistance to families.¹¹² With funding support from the ILO, the Ministry of Labor also organized and trained regional sub-committees in seven cities, composed of representatives from the government, employer, worker, and civil society sectors, aimed at developing and monitoring child labor prevention policies.¹¹³

The Honduran government also reported that it implemented outreach mechanisms to facilitate collaboration among government, labor, and business stakeholders on labor and economic policy issues. For instance, the Tripartite Minimum Wage Committee reportedly held regular meetings during the reporting period aimed at increasing the minimum wage.¹¹⁴ The government also reported that it provided training to 6,161 workers in 2012 and 12,082 workers in 2013 on labor rights awareness.¹¹⁵ The government formed a Follow-Up Commission with labor sector

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

¹¹¹ *Decree No. 35-2013: Integral Reforms in Family and Childhood; Comments Regarding the CAFTA-DR Implementation Act*, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov. When browsing for these comments, please make reference to Docket DOL-2014-0005-0002.; *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

¹¹² *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

¹¹³ *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

¹¹⁴ *Minimum Wage Agreement, 599-2013*, Government of Honduras, Secretariat of Labor and Social Security (2013); *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

¹¹⁵ *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

representatives to serve as a cooperative forum for addressing the labor rights concerns raised in the AFL-CIO's 2012 Public Submission.¹¹⁶

Despite efforts to address the White Paper recommendations and concerns, challenges remain. During its review of U.S. Submission 2012-01, DOL found that in many instances the Honduran Ministry of Labor did not appear adequately to investigate, sanction, and ensure remediation of labor law violations regarding freedom of association, collective bargaining, minimum wage, hours of work, and occupational safety and health in the manufacturing, agriculture, and port sectors.¹¹⁷ DOL also expressed concern regarding the enforcement of laws regarding child labor, particularly in the agriculture sector.¹¹⁸

Similarly, although resources have been increased to the Ministry of Labor, government enforcement efforts have been impeded due to protracted and inefficient administrative procedures.¹¹⁹ Challenges remain due to a lack of adequate numbers of labor inspectors, transportation, and other resources, particularly in rural and indigenous areas.¹²⁰ Challenges also remain concerning enforcement of administrative and criminal penalties for forced labor violations,¹²¹ criminal convictions in cases involving trafficking in persons,¹²² and government inspection activities sufficient to deter employers from using child labor.¹²³

¹¹⁶ Union and non-governmental organization representatives on the Follow-Up Commission produced and presented a report to the Follow-Up Commission outlining key recommendations for addressing the labor concerns in the Public Submission. OTLA participated in a meeting of the Follow-Up Commission on May 20, 2013 to discuss the recommendations. See *Recommendations for a Remediation Plan for the State of Honduras to Achieve Labor Law Compliance related to the CAFTA-DR Complaint* (Jan. 9, 2013), available at <http://www.aflcio.org/content/download/66811/1761401/Honduras+CAFTA+Recommendations+January+2013+English.pdf>.

¹¹⁷ Though the report falls out of the reporting period, it has since been published: Public Report of Review of U.S. Submission 2012-01 (Honduras), U.S. Department of Labor, Office of Trade and Labor Affairs (Feb. 27, 2015), available at http://www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf.

¹¹⁸ Ibid.

¹¹⁹ *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; Public Report of Review of U.S. Submission 2012-01 (Honduras), U.S. Department of Labor, Office of Trade and Labor Affairs (Feb. 27, 2015), available at http://www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf.

¹²⁰ *Country Reports on Human Rights Practices for 2013: Honduras*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/j/drl/rls/hrrpt/>; Public Report of Review of U.S. Submission 2012-01 (Honduras), U.S. Department of Labor, Office of Trade and Labor Affairs (Feb. 27, 2015), available at http://www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf.

¹²¹ *Country Reports on Human Rights Practices for 2013: Honduras*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

¹²² *Trafficking in Persons Report 2014: Honduras*, U.S. Department of State, available at <http://www.state.gov/j/tip/rls/tiprpt/2014/>.

¹²³ *2013 Findings on the Worst Forms of Child Labor: Honduras*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>.

Nicaragua

The White Paper recommendations focus on strengthening the enforcement capacity of Nicaragua's Ministry of Labor¹²⁴ through the increased allocation of resources and expanded enforcement authority for the labor inspectorate under the law. In particular, the recommendations aim to address concerns of ineffective enforcement of labor laws in the country's free trade zones. Additionally, the White Paper calls for increased allocation of resources for the labor court system, as well as increased trainings for labor judges and other judicial sector personnel. The White Paper also recommends that the government implement outreach initiatives to raise public awareness on labor law and labor rights issues, as well as labor rights enforcement in the free trade zones. Finally, the recommendations aim to strengthen government engagement with the labor and business sectors through the implementation of tripartite consultation initiatives.

The Government of Nicaragua took measures to address these challenges and recommendations during the reporting period. The Ministry of Labor increased the number of inspectors from 87 in 2011 to 90 in 2013.¹²⁵ Fines imposed for violations of minimum wage, hours of work, and occupational safety and health standards were reportedly sufficient to deter violations in most instances.¹²⁶ Revisions to the Procedural Labor and Social Security Code in 2012 aimed to streamline labor law enforcement and adjudication procedures, including by establishing administrative conciliation procedures as a prerequisite to having a case adjudicated by a court, and establishing specialized labor law judges in the judicial process.¹²⁷

During the reporting period, the Ministry of Labor held tripartite meetings with business and labor representatives to address labor issues such as the minimum wage, health and safety, and professional training, as well as labor rights issues specifically pertaining to the free trade zones.¹²⁸ The Ministry of Labor maintained a hotline for receiving labor violation complaints from the workers.¹²⁹ The Office of Hygiene and Occupational Safety, the agency responsible for implementing occupational health and safety laws, collaborated with other government agencies and civil society organizations to develop training and awareness activities for workers and

¹²⁴ Known in Spanish as the *Ministerio de Trabajo*.

¹²⁵ *2013 Findings on the Worst Forms of Child Labor: Nicaragua*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/2013TDA.pdf>; *2012 Findings on the Worst Forms of Child Labor: Nicaragua*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2012TDA.pdf>; *2011 Findings on the Worst Forms of Child Labor: Nicaragua*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/pdf/2011TDA.pdf>.

¹²⁶ *Country Reports on Human Rights Practices for 2014: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/documents/organization/236916.pdf>.

¹²⁷ *Labor and Social Security Procedure Code of Nicaragua*, arts. 6, 72.

¹²⁸ *Country Reports on Human Rights Practices for 2013: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

¹²⁹ *Ministry of Labor of Nicaragua* (Aug. 9, 2011), "MITRAB ofrece a usuarios nuevo servicio de asesoría telefónica en sus instalaciones" (MOL offers clients a new hotline service for phone consultations), <http://www.mitrab.gob.ni/news/2011/mitrab-ofrece-a-usuarios-nuevo-servicio-de-asesoria-telefonica-en-las-instalaciones/>.

employers.¹³⁰ Additionally, the “Everyone Works” project funded by DOL and implemented by Catholic Relief Services established worker rights centers throughout Nicaragua and other Central American countries to provide legal advice and services for workers on labor rights issues.¹³¹ Further, the ILO’s “Better Work” program in Nicaragua, also funded by DOL, provided technical assistance to garment businesses in the country’s free trade zone to ensure compliance with domestic labor laws and international labor standards.¹³²

Nevertheless, challenges remain in addressing the White Paper recommendations and concerns. With respect to the right of association, concerns remain about political interference in unions and retaliation against unionized workers, particularly of those not affiliated with the ruling Sandinista National Liberation Front political party.¹³³ Conciliation proceedings, established under the law as a mandatory step before workers can stage a strike, were often prolonged.¹³⁴ Challenges concerning labor law enforcement included established fines that were insufficient to deter violations, limited inspections and imposition of fines for labor violations, and low levels of reinstatement of workers dismissed for union activity.¹³⁵ Further, child labor inspections, particularly in the agricultural sector, were limited due to resource and personnel constraints.¹³⁶ In areas where the DOL-funded “Everyone Works” project operated, the Ministry of Labor frequently referred workers’ cases to the project.¹³⁷ With respect to White Paper goals for labor courts, case backlogs and lengthy, complicated judicial arbitration reduced the ability of workers to resolve cases in the courts, and workers seeking free legal services from the DOL-funded Everybody Works project frequently opted to settle out of court.¹³⁸ There was no information on

¹³⁰ *Ministry of Labor of Nicaragua* (June 11, 2010), “Consejo Nacional de Higiene y Seguridad del Trabajo continua en se ardua tarea para propiciar una nueva cultura en materia de salud, higiene y seguridad de las personas trabajadoras” (National Occupational Safety and Health Council continues its hard work of facilitating a new culture around the health, hygiene and safety of workers), <http://www.mitrab.gob.ni/news/2010/consejo-nacional-de-higiene-y-seguridad-del-trabajo-continua-en-su-ardua-tarea-para-propiciar-una-nueva-cultura-en-materia-de-salud-higiene-y-seguridad-de-las-personas-trabajadoras/>; *Ministry of Labor of Nicaragua* (January 2014), “Nota de Prensa 10” (Press Release 10), <http://www.mitrab.gob.ni/news/2014/nota-de-prensa-10/>.

¹³¹ *ILAB Technical Cooperation Project Summary: Working Together-Labor Rights for All*, U.S. Department of Labor (Mar. 20, 2013), available at http://www.dol.gov/ilab/projects/summaries/Central_America_Worker_Rights.pdf.

¹³² *Better Work Nicaragua*, International Labor Organization, available at http://betterwork.org/global/?page_id=324.

¹³³ *Country Reports on Human Rights Practices for 2013: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

¹³⁴ *Constitution of Nicaragua*, art. 83; *Labor Code of Nicaragua*, arts. 244, 250, 323-25; *Country Reports on Human Rights Practices for 2013: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor.

¹³⁵ *Country Reports on Human Rights Practices for 2013: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor; *Country Reports on Human Rights Practices for 2014: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, available at <http://www.state.gov/documents/organization/236916.pdf>.

¹³⁶ *2013 Findings on the Worst Forms of Child Labor: Nicaragua*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking.

¹³⁷ *Independent Final Evaluation of the Everybody Works Project: Worker Rights Centers in Central America and the Dominican Republic*, O’Brien and Associates International (February 2013).

¹³⁸ *Country Reports on Human Rights Practices for 2014: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor; *Independent Final Evaluation of the Everybody Works Project: Worker Rights Centers in Central America and the Dominican Republic*, O’Brien and Associates International (February 2013).

enforcement of laws and regulations pertaining to employment discrimination, though the Nicaraguan government has engaged in outreach to businesses and workers to prevent discrimination in employment and occupation.¹³⁹ Nicaragua was in the process of drafting a law against trafficking in persons at the end of the reporting period.¹⁴⁰

III. Recommendations on How the United States Government Can Facilitate Implementation of the White Paper

USG efforts to facilitate implementation of the White Paper recommendations in the region should include enhancement of already robust engagement with the CAFTA-DR governments at the ministerial and technical levels on labor issues, including through the CAFTA-DR Labor Affairs Council and Labor Cooperation and Capacity Building Mechanism. This engagement should encompass collaborative bilateral and multilateral initiatives to identify and address important labor priorities in the respective countries and the region as a whole, share best practices on labor law enforcement and public outreach, and monitor progress on the implementation of USG-funded technical assistance projects. Continued engagement between the United States and the CAFTA-DR countries will play an important role in strengthening labor rights protection in the region, and demonstrate the USG's continued commitment to completion of the White Paper recommendations.

The USG should also enhance its engagement with labor and business stakeholders in the CAFTA-DR countries. In particular, the USG should more actively consult these stakeholders throughout all phases of its regional engagement, including the development and implementation of labor rights initiatives and technical assistance projects. The USG should also facilitate greater engagement between the respective CAFTA-DR governments and these non-governmental actors. The active participation of stakeholders throughout these processes will help improve the effectiveness of these initiatives and their impact on workers in the region.

The USG should also strengthen its inter-agency collaboration on labor issues in the CAFTA-DR region to ensure a whole-of-government approach to monitoring and enforcement. DOL should work closely with the Office of the USTR, DOS, and other inter-agency partners to build upon existing initiatives to enhance monitoring and enforcement of the CAFTA-DR Labor Chapter, as well as facilitation of implementation of the White Paper recommendations. This includes enhancing the efficiency of reporting procedures, identifying priority issues for engagement, and developing clear benchmarks for measuring progress in the region. The USG, in conjunction

¹³⁹ *Country Reports on Human Rights Practices for 2014: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor; *Nota 72: MITRAB entrega reconocimiento a empresas cumplidoras en materia de Igualdad y no Discriminación en el Empleo* (Release 72: Ministry of Labor recognizes companies with records of compliance on equality and non-discrimination in employment), Ministerio de Trabajo (Jul. 25, 2013), <http://www.mitrab.gob.ni/news/2013/julio-2013/mitrab-entrega-reconocimiento-a-empresas-cumplidoras-en-materia-de-igualdad-y-no-discriminacion-en-el-empleo>.

¹⁴⁰ *Country Reports on Human Rights Practices for 2013: Nicaragua*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor; *2014 Findings on the Worst Forms of Child Labor: Nicaragua*, U.S. Department of Labor, Office of Child Labor, Forced Labor and Human Trafficking, available at <http://www.dol.gov/ilab/reports/child-labor/nicaragua.htm>.

with the other CAFTA-DR parties, should consider revising and updating priorities and recommendations for technical assistance and other initiatives in the region to address capacity building needs.

IV. Summary of Public Comments Received in Response to DOL's Federal Register Notice

This section summarizes comments received in response to DOL's *Federal Register Notice* (79 Fed. Reg. 64217) that was published on October 28, 2014, which invited the public to comment on the implementation of the CAFTA-DR Labor Chapter and the White Paper recommendations. ILAB received three comments, two of which, from the Ministry of Labor of Honduras and the AFL-CIO, are summarized below. The third comment was non-responsive to the solicitation and is not discussed.

Comments from the Ministry of Labor of Honduras

On November 21, 2014, the Ministry of Labor of Honduras¹⁴¹ submitted a report describing Honduras' implementation of the White Paper recommendations.¹⁴² The Ministry reported that it has drafted new legislation, including amendments to the Labor Code and a new Labor Procedure Code, to strengthen labor rights in Honduras. The Ministry of Labor noted that its total budget dropped from 561,407,000 Honduran *Lempiras* (HNL, or US\$25,281,314) in 2011 to 476,872,929 HNL (US\$21,474,570) in 2013.¹⁴³ Nonetheless, it reported that it increased the number of labor inspectors from 91 in 2011 to 105 in 2013. The Ministry also expanded the number of mediation and conciliation officers from 16 in 2011 to 21 in 2013. While the percentage of cases settled during this period remained approximately the same (68 percent to 71 percent), the monetary amount of settlements collected grew from 498,220,280 HNL (US\$22,435,886) in 2011 to 592,408,874 HNL (US\$26,677,392) in 2013. Between 2011 and 2013, labor court budgets grew from 26,802,346 HNL (US\$1,206,965) to 31,633,243 HNL (US\$1,424,510). During the same period, the average duration of cases decided by the courts of first instance fell from 32 months in 2011 to 20 months in 2013. Further, the Ministry reported that in 2013 the government amended various domestic laws aimed at strengthening the prevention and prosecution of child labor cases, and adopted new electronic registration and data compilation systems to track cases. Since 2013, 30 government institutions, employer associations, labor groups, and civil society organizations have worked together in municipalities throughout the country to eliminate child labor, including through the adoption of public awareness campaigns. The Ministry of Labor also increased its budget for child labor enforcement from 615,642 HNL in 2011 to 3,056,015 HNL in 2013.¹⁴⁴

¹⁴¹ Known in Spanish as the *Secretaría de Trabajo y Previsión Social*.

¹⁴² *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

¹⁴³ See U.S. Department of Treasury's Bureau of Fiscal Service historical exchange rates for Honduran Lempiras, available at <http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/historicalRates.htm>.

¹⁴⁴ *Comments Regarding the CAFTA-DR Implementation Act*, Docket DOL-2014-0005-0002, Secretariat of Labor and Social Security of Honduras (Nov. 10, 2014), available at www.regulations.gov.

Comments received from the AFL-CIO

The AFL-CIO submitted comments on November 28, 2014. In its submission, the AFL-CIO noted that despite considerable efforts to strengthen labor ministries and to promote a culture of compliance, labor rights violations continued in the CAFTA-DR countries.¹⁴⁵ The AFL-CIO stated that technical assistance programs in the CAFTA-DR countries have had limited success in improving labor rights, focusing primarily on labor laws and compliance frameworks while providing too little focus on actual enforcement or trade union strengthening measures.¹⁴⁶ The AFL-CIO recommended that ministries of labor and judiciaries receiving trade-related technical assistance from the United States be required to demonstrate quantifiable improvement in the enforcement of labor standards. The AFL-CIO also concluded that capacity-building efforts should include efforts to empower workers and organizations to advocate for the protection of fundamental rights and ensure that governments enforce laws and policies to protect workers.¹⁴⁷ The comments also stated that trade unions could be strengthened if given assistance from other established unions and labor organizations that possess appropriate expertise and can gain the confidence of the trade unions they assist. For instance, the AFL-CIO reported that since 2007, the Solidarity Center has conducted labor rights trainings and other capacity building initiatives for worker organizations in the CAFTA-DR countries, resulting in the reinstatement of over 1,000 wrongfully terminated workers across the region, the formation of at least 34 new unions, and the negotiation of wage increases by unions.

V. Conclusion

Despite facing capacity and resource challenges, the CAFTA-DR countries have made progress in a number of areas, including through the implementation of initiatives to strengthen institutional enforcement capacity and raise public awareness of labor rights. Specific ongoing labor rights concerns include anti-union discrimination; employer interference in union organizing; use of child labor; and failure to pay wages and benefits to workers. Remaining common enforcement challenges include: failure to effectively investigate, sanction, and remediate violations; lack of adequate government resources, particularly within labor inspection units; lack of sufficient sanctions to deter future violations; and inefficient administrative and judicial processes.

The USG has played and will continue to play an important role in facilitating progress on labor rights in CAFTA-DR countries. Now that the White Paper implementation period, as well as the USG-funded projects to build the capacity of CAFTA-DR country labor ministries and courts according to the White Paper priorities, has ended, the USG has employed a broader approach to increase capacity in the CAFTA-DR countries and address existing challenges. This has included increasing efforts to strategically identify and monitor key issues of concern in the region, developing strategies for engaging with the countries on the issues identified, reviewing and following up on public submissions where they have been received, and supporting other

¹⁴⁵ *Labor Capacity-Building Efforts Under the Dominican Republic-Central America-United States Free Trade Agreement, Comments from the AFL-CIO*, Docket DOL-2014-0005-0003, available at www.regulations.gov.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*

capacity-building projects being implemented in the region. In this context, a requirement to set up a new mechanism to collect data in the absence of the ILO project and to continually report on the narrower and, in some cases, dated White Paper priorities would divert needed resources away from ILAB's overall efforts in CAFTA-DR implementation. ILAB therefore, recommends, reconsideration of the White Paper reporting requirement going forward.