



July 30, 2010

The Honorable Erick Haroldo Coyoy Echeverría
Minister of Economy
Guatemala City, Guatemala

The Honorable Edgar Alfredo Rodríguez
Minister of Labor and Social Protection
Guatemala City, Guatemala

Dear Minister Coyoy and Minister Rodríguez:

The United States hereby requests consultations with the Government of Guatemala pursuant to Article 16.6.1 of *The Dominican Republic-Central America-United States Free Trade Agreement* (CAFTA-DR) to discuss issues and matters related to Guatemala's obligations under Article 16.2.1(a) of the CAFTA-DR, as well as under Chapter Sixteen of the CAFTA-DR more broadly. Article 16.6.1 establishes that "[a] Party may request consultations with another Party regarding any matter arising under this Chapter"

Article 16.2.1(a) of the CAFTA-DR requires that "[a] Party shall not fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties, after the date of entry into force of this Agreement." Over the last 11 months, the United States has conducted an extensive examination of Guatemala's compliance with its obligations under Chapter Sixteen. This examination has included (1) a careful review of Guatemala's labor laws, within the meaning of Article 16.8, particularly with respect to laws intended to protect the right of association, the right to organize and bargain collectively, and the right to acceptable conditions of work, (2) extensive collection of factual evidence, and (3) a careful analysis of Guatemala's obligations under Article 16.2.1(a).

Based on this examination and review of matters of law and fact, the Government of Guatemala appears to be failing to meet its obligations under Article 16.2.1(a) with respect to effective enforcement of Guatemalan labor laws related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. For example, we have identified a significant number of failures to enforce,

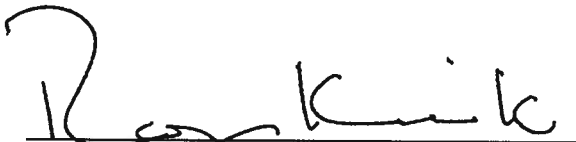
constituting a sustained or recurring course of action or inaction, including: (1) Ministry of Labor failures to investigate alleged labor law violations; (2) Ministry of Labor failures to take enforcement action once the Ministry has identified a labor law violation; and (3) court failures to enforce Labor Court orders in cases involving labor law violations.

We note that Article 16.6.6 provides that “[i]f the matter concerns whether a Party is conforming to its obligations under Article 16.2.1(a), and the consulting Parties have failed to resolve the matter within 60 days of a request ..., the complaining Party may request ... a meeting of the Commission under Article 20.5 ... and, as provided in Chapter Twenty (Dispute Settlement), thereafter have recourse to the other provisions of that Chapter.” We also note that Article 16.6.7 provides that “[n]o Party may have recourse to dispute settlement under this Agreement for any matter arising under any provision of this Chapter other than Article 16.2.1(a)” and Article 20.5 provides for a meeting of the Free Trade Commission if the consulting Parties fail to resolve the matter.

We look forward to your reply to the present request for consultations under the CAFTA-DR and to fixing a mutually convenient date to hold consultations.

The United States also has grave concerns about the problem of labor-related violence in Guatemala, which is serious and is apparently deteriorating. The United States is seriously concerned about the Government of Guatemala’s response to the use and threats of violence that appear to be related to the exercise or attempted exercise of labor rights in Guatemala, including the right of association and the right to organize and bargain collectively. The concerns of the United States include apparent failures by the Government of Guatemala to respond adequately to protect those threatened with violence and apparent failures to adequately investigate and prosecute such crimes. The United States has repeatedly raised this serious problem with the Government of Guatemala and intends to examine and take this issue up with the Government of Guatemala in the near future.

Sincerely,



Ron Kirk
U.S. Trade Representative



Hilda L. Solis
U.S. Secretary of Labor

cc: Ambassador Francisco Villagrán de León
Embassy of Guatemala

Ms. Luz de María Morales
Director of International Affairs, Planning, and Cooperation
Ministry of Labor and Social Protection