

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

May 16, 2011

The Honorable Luis Velásquez
Minister of Economy
Guatemala City, Guatemala

Dear Minister Velásquez:

The United States hereby requests a meeting of the Free Trade Commission (Commission) pursuant to Article 20.5.2 of the *The Dominican Republic-Central America-United States Free Trade Agreement* (CAFTA-DR) to attempt to resolve outstanding issues from our July 2010 consultation request under Chapter 16 of the CAFTA-DR.

On July 30, 2010, the United States requested consultations with the Government of Guatemala 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 16.2.1(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."

As indicated in our request for consultations, 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. 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.

In an effort to address these concerns, consultations meetings between our governments were held in September and December, 2010. At various times since the filing of the consultations request, the Government of Guatemala has presented proposed workplans and other information regarding enforcement of labor law in Guatemala. The United States notes that while some positive steps have been taken, the overall actions taken and proposals presented have been insufficient to address the apparent systemic failures to enforce Guatemala's labor laws. We have seen little evidence of concrete enforcement actions that have resulted in measurable progress in addressing our identified areas of concern.

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." To date, our concerns have not been resolved, and we therefore request a meeting of the Commission.

We note that Article 20.5.4 provides that “[u]nless it decides otherwise, the Commission shall convene within ten days of delivery of the request and shall endeavor to resolve the dispute promptly.”

In order to ensure that your government has enough time to prepare for the meeting, we propose that it take place on June 2 or 3, 2011.

We await your reply to this request for a meeting of the Commission under the CAFTA-DR and look forward to fixing a mutually-convenient date to enable the Commission meeting to be held in Guatemala City, Guatemala, at that time.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Kirk". The signature is written in a cursive style with a large initial "R" and "K".

Ambassador Ron Kirk
United States Trade Representative

cc: Anabel González
Minister of Foreign Trade
Republic of Costa Rica

Manuel García Arévalo
Minister for Industry and Trade
The Dominican Republic

Héctor Miguel Antonio Dada Hirezi
Minister of Economy
Republic of El Salvador

José Francisco Zelaya
Secretary of State, Offices of Industry and Commerce
Republic of Honduras

Orlando Solórzano Delgadillo
Minister of Development, Industry and Commerce
Republic of Nicaragua

The Honorable Mario Roberto Illescas
Minister of Labor and Social Protection
Guatemala City, Guatemala

Ambassador Francisco Villagrán de León
Embassy of Guatemala

The Honorable Hilda L. Solis
U.S. Secretary of Labor