

LABOR RIGHTS MONITORING AND ACTION PLAN
AS MUTUALLY DETERMINED BY
THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF HONDURAS

Background Note on Cooperative Activities

On February 27, 2015, the United States and Honduras released a Joint Statement announcing the publication of the U.S. Department of Labor (USDOL)'s "*Public Report of Review of U.S. Submission 2012-01 (Honduras)*" (Public Report). The Honduran Secretariat of Labor and Social Security (STSS) and the USDOL pledged to work together to implement the recommendations set forth in the Public Report to strengthen the protection of internationally recognized labor rights in Honduras through improved labor law enforcement.

The Public Report recommended consultations between the Government of Honduras (GOH) and the Government of the United States (USG) through the contact points designated in Chapter 16 (the Labor Chapter) of the Dominican Republic – Central America – United States Free Trade Agreement (CAFTA-DR) to develop and implement a Monitoring and Action Plan (MAP). The Public Report recommended that the MAP include time-bound steps and benchmarks to measure progress in resolution of underlying enforcement concerns identified in the Public Report, taking into consideration the Report's core recommendations.¹

The USG and the GOH held a series of bilateral and "tripartite" meetings (with representatives from business and labor groups) in Honduras between March and October 2015. The MAP memorializes the agreement reached through this process and reflects input from other government agencies in the United States and Honduras, as well as input received through regular meetings and communication with Honduran business, labor, and civil society stakeholders.

The USG and the GOH have agreed to adopt the seven core recommendations in the Public Report as the "Mutually Agreed-Upon Intended Outcomes" of this MAP. Each specific commitment articulated in this MAP reflects a concrete measure that the GOH is committed to take to improve the application of its labor laws, includes a timeframe for completion, and contributes to achieving at least one of these Outcomes.

The USG and the GOH have established an assessment framework to measure and demonstrate progress and impact. For each commitment, the STSS and the USDOL will establish milestones and/or workload indicators and/or output indicators. These tools are designed to be monitored periodically. The STSS and the USDOL will work together, seeking the input of civil society stakeholders, to finalize the development of these quantitative and qualitative milestones and indicators to assess progress on each of the commitments in the MAP. In addition, the STSS will share legislation, regulations, decrees, interagency accords, and other measures that contribute to the effective enforcement of Honduran labor laws and support the MAP with other relevant GOH

¹ The core recommendations can be found on pp. 88-91 of USDOL's *Public Report of Review of U.S. Submission 2012-01 (Honduras)*, Section VI.B. Available at: http://www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf.

institutions, the USG, civil society, and the private sector, prior to their finalization. The USG and the GOH have agreed to hold bimonthly technical meetings through the contact points to discuss progress on the MAP and once a year at the senior official level through at least September 2018.

The Mutually Agreed-Upon Intended Outcomes are:

1. STSS inspectors respond to written and verbal requests for inspections, in accordance with the applicable laws and internal protocols.
2. Relevant institutions develop a procedure or mechanisms to assist STSS inspectors to take appropriate steps to compel access to worksites, and impose fines and notify Labor Courts when access is denied, in accordance with the applicable laws and internal protocols.
3. STSS inspectors investigate known violations of law and, upon receipt of notice, all alleged, potential, or previously identified violations, in accordance with the applicable laws and internal protocols.
4. The STSS imposes sanctions for labor law violations, in accordance with applicable laws, calculates fines that create appropriate penalties to deter violations, and collects fines in a timely fashion.
5. STSS inspectors enforce their remediation orders and compel employer compliance.
6. Improved enforcement of laws related to freedom of association and collective bargaining.
7. Improved enforcement of laws related to child labor.

Overview of the Monitoring and Action Plan

The MAP is divided into four sections: (I) Enhancement of Policy, Legal, and Regulatory Frameworks; (II) Strategic Planning, Institutional Improvements, and Capacity Building; (III) Intensified, Targeted Enforcement Actions; and (IV) Transparency, Outreach, and Engagement. The organization of the commitments into four thematic sections reflects an understanding that, for the GOH to achieve the Outcomes noted above, the GOH needs to undertake reforms related to labor law enforcement at multiple levels so that the activities build on one another and create synergies for continual improvement. This includes improvements at the foundational level to strengthen policy, legal, and regulatory frameworks, at the systems level to enhance the STSS's institutional capacity and strategic planning, at the execution level to better apply laws, and at the community level to increase public and stakeholder engagement.

Section I on "Policy, Legal, and Regulatory Frameworks" contains benchmarks pertaining to the GOH's commitment to expand and improve frameworks for labor law enforcement. These include establishing formal agreements between the STSS and other GOH enforcement authorities to better coordinate labor law enforcement and clarifying vague aspects of the labor

law governing key enforcement activities (such as guaranteeing labor inspectors' access to worksites and calculating, imposing, and collecting fines) through the adoption of new interagency agreements, decrees, accords, and a new Inspection Law.

Section II on "Strategic Planning, Institutional Improvements, and Capacity Building" contains benchmarks pertaining to the GOH's commitment to enhance the STSS's institutional performance with respect to labor law enforcement. These include increasing resource allocation to the STSS, including resources for hiring additional inspectors; developing and implementing new targeted inspection strategies and inspection plans; establishing new mechanisms for enhanced internal STSS coordination; streamlining administrative enforcement procedures; developing a new inspection manual and training inspectors on the effective utilization of the inspection manual; providing training on enforcement of laws on freedom of association, collective bargaining, child labor, and occupational safety and health, and on conciliation of collective conflicts; and establishing new auditing units within the STSS to oversee the performance of labor inspectors and their supervisors and to develop and implement individualized plans for their continual improvement.

Section III on "Intensified, Targeted Enforcement Actions" contains benchmarks pertaining to the GOH's commitment to effectively implement and utilize the improved enforcement frameworks and institutional capacity discussed in Sections I and II. While the benchmarks in this section contain timeframes for the STSS to complete the specified enforcement actions (as an initial demonstration of its ability to effectively use the enhanced frameworks and institutional capacity), it should be noted that the STSS commits to carrying out such enforcement actions well beyond the timeframes specified in this document, with an eye to improving its labor law enforcement in a sustained and ongoing manner.

Section IV on "Transparency, Outreach, and Engagement" contains benchmarks pertaining to the GOH's commitment to share labor law enforcement information with the public and to strengthen partnerships with stakeholders, in particular with employers and workers and their organizations, to promote knowledge about internationally recognized labor rights, local labor law and the implementation of the new frameworks and institutional capacity discussed in Sections I and II.

Specific Commitments of the Labor Rights Monitoring and Action Plan

I. Enhancement of Policy, Legal, and Regulatory Frameworks

Access to Worksites

1. The GOH, through passage of the new Inspection Law, will establish and implement an expedited mechanism to provide labor inspectors access to worksites with support from the authorities. (Outcome 2) (Timeframe: Draft agreed by the Social and Economic Council by December 31, 2015; Introduced in Congress by February 1, 2016)
2. The GOH, through passage of the new Inspection Law, will prohibit obstruction of the work of the labor inspector and will set out the circumstances under which inspectors must impose fines for denial of worksite access and report such violations to the Labor Courts. (Outcome 2) (Timeframe: Draft agreed to by the Social and Economic Council by December 31, 2015; Introduced in Congress by February 1, 2016)

Procedure to Guarantee Fuero Sindical and Protección del Estado

3. The STSS will issue and implement a ministerial accord outlining an administrative procedure to give effect to *fuero sindical* and *protección del estado*, including steps that inspectors must take upon receipt of a complaint regarding the alleged violation of those protections, including investigating, ordering reinstatement, and fining the employer, in accordance with Labor Code Articles 516 and 517. (Outcome 6) (Timeframe: Ministerial Accord approved June 26, 2015; Administrative implementation by December 31, 2015; First evaluation by March 31, 2016)

Calculation, Imposition, and Collection of Fines

4. Through passage of the new Inspection Law, the GOH will increase sanctions for labor law violations to ensure that the fines are an effective deterrent to those violations, and will increase the fines annually in proportion to the rate of inflation. The new law will also provide that the calculation and imposition of fines for violations that cause economic damage to workers are applied per worker affected based on a percentage of the economic damage caused, that fines for other violations are proportionate to the noneconomic damage caused to workers, and that fines must be increased for repeat or flagrant violations. (Outcomes 4 and 6) (Timeframe: Draft agreed by the Social and Economic Council by December 31, 2015; Introduced in Congress by February 1, 2016)
5. The STSS will develop and implement an interagency cooperative agreement with the Attorney General that establishes a direct link between the two agencies for expediting and prioritizing the process of collecting of fines imposed for labor law violations. (Outcome 4) (Timeframe: Developed by October 31, 2015; First evaluation by January 31, 2016)

Other Interagency Coordination

6. The STSS will develop and implement interagency agreements, beginning with the Executive Directorate of Revenue to ensure that the STSS has electronic access to labor-related information, including the location and name of work sites, to construct its own database. (Outcomes 1, 3, 4, 5, 6, and 7) (Timeframe for STSS: First version of database June 31, 2016) (Timeframe: First agreement signed by November 30, 2015; Communication protocol established by March 15, 2016; First evaluation of implementation by June 30, 2016; First version of database by June 30, 2016)
7. The STSS, in its role as the President of the National Commission for the Gradual and Progressive Eradication of Child Labor, will create and implement a national interagency strategy for establishing regional technical sub-commissions for the prevention and eradication of child labor through local plans. (Outcome 7) (Timeframe: Beginning October 1, 2015)
8. The STSS, in coordination with the Secretary of Development and Social Inclusion, will create and implement a referral mechanism to provide the families of children removed from child labor, particularly the worst forms, with social protection services such as conditional cash transfers for families in poverty, health and nutrition programs, and education programs. (Outcomes 3, 4, 5, and 7) (Timeframe: Beginning January 1, 2017)

II. Strategic Planning, Institutional Improvements, and Capacity Building

Strategic Planning and Resource Allocation

1. The GOH will increase the general resources budgeted for STSS (including resources for regional and central offices), including resources dedicated to hiring and training additional labor inspectors, in particular in areas that are under-resourced and where exploitative child labor occurs, such as in rural areas and indigenous communities. The STSS will ensure that the distribution of resources within the STSS is consistent with the national inspection strategy (see Section II.2) and will take into account the incidence of worker complaints received (complaint-driven) and industries and regions with a high incidence of labor law violations (targeted, high-risk). (Outcomes 1, 3, 6, and 7) (Timeframe: Budget for 2016 presented to Congress on September 12, 2015 with 35,000,000 HNL (US \$1,590,000) increase; Approval by December 31, 2015; Access to resources by the last week of January 2016; Revised strategy for 2017 developed by May 31, 2016).
2. The STSS will develop and implement a national inspection strategy that identifies and targets high-risk and priority sectors, regions, and employers, including the informal, agriculture, and manufacturing sectors, in rural areas in indigenous communities, and where exploitative child labor is found. (Outcomes 3, 6, and 7) (Timeframe: Development of strategy by December 31, 2015; First evaluation by June 1, 2016)
3. The STSS will streamline its administrative processes related to inspections, with the objective of complying with time periods established by law, through initiatives such as assignment of human resources, designation of space for archives, and better use of

technology, taking into account the recommendations from the fall 2015 administrative audit to be conducted by the International Labor Organization and other relevant sources. (Outcomes 1, 3, 4, 5, 6, and 7) (Timeframe: ILO audit begins October 12, 2015; Results of ILO audit available by December 31, 2015; Implementation of improvements by February 1, 2016; Evaluation reports every 4 months beginning in April 2016)

New Internal Mechanisms for Enhanced Coordination and Communication

4. The General Labor Inspectorate (IGT) will coordinate with the Solicitor General of Labor (PGT) to inform workers whose rights under Honduran law have been violated how to claim complete payment of any compensation owed to them, including their back wages, with free assistance from the PGT. (Outcome 5) (Timeframe: Implementation by February 29, 2016; First evaluation by June 31, 2016)
5. The General Labor Directorate (DGT) shall notify the IGT when it receives a request to register a collective pact. Upon receiving this notification, the IGT will carry out an inspection regarding freedom of association and collective bargaining (see Section III.6). The IGT will communicate the findings of its inspection to the DGT prior to the registration of the collective pact, and the DGT will deny the registration if violations are found during the inspection. (Outcomes 3 and 6) (Timeframe: First evaluation by March 1, 2016)
6. The STSS will ensure that there are tools and strategies for coordination of activities among the IGT, PGT, DGT, General Directorate for Social Services, General Directorate for Salaries, and General Directorate for Employment, including improved use of technology, to exchange information prior to and subsequent to inspections. (Outcome: 1, 2, 3, 4, 5, 6, and 7) (Timeframe: December 31, 2016)

Inspection Manual and Trainings

7. The STSS will prepare, with input from the IGT and other experts, and implement an inspection manual through the issuance of a ministerial accord. The manual will include general on-site investigation techniques and, among other topics, specific steps and techniques for:
 - Responding to both verbal and written inspection requests under Labor Code Article 618;
 - Preparing for inspections;
 - Re-inspecting worksites regularly where violations have been identified and applying sanctions where violations have not been remedied, until remediation of labor law violations is verified, even where fines have been paid, and confirming remediation before closing out cases;
 - Reporting to Labor Courts obstruction of access to worksites, including when inspectors encounter “unjustified resistance” to worksite entry and “immediate action” is required under Labor Code Article 617(b);
 - Investigating all alleged, potential, and previously identified violations;

- Enforcing laws related to freedom of association and collective bargaining, including steps to take in response to alleged illegal dismissal of union leaders and founding union members in violation of Labor Code Articles 516 and 517, employer interference in union activity, and anti-union reprisals, discrimination, and other retaliation;
 - Enforcing laws related to minimum wages and hours of work;
 - Enforcing laws related to child labor, including steps to take to ensure that working children have proper STSS authorization; and
 - Enforcing laws related to occupational safety and health.
(Outcomes 1, 2, 3, 4, 5, 6, and 7) (Timeframe: Approval by February 29, 2016; First evaluation by June 30, 2016)
8. The STSS will train all inspectors on the inspection manual to ensure that all inspectors are adequately prepared to conduct inspections, including in issue areas requiring high technical specialization. (Outcome 3) (Timeframe: March 1, 2016 – June 1, 2016)
 9. The STSS, with support from the USDOL-funded project announced in February 2015, will provide additional and targeted trainings to STSS inspectors in San Pedro Sula, Tegucigalpa, and Choluteca on the enforcement of laws related to freedom of association and collective bargaining, specifically related to conducting investigations of alleged unlawful dismissal of founding union members and union leaders in violation of Labor Code Articles 516 and 517, employer interference in union activity, and anti-union reprisals, discrimination, and other retaliation. (Outcomes 3, 5, and 6) (Timeframe: by September 30, 2016)
 10. In partnership with the USDOL, the U.S. Federal Mediation and Conciliation Service organized and provided trainings to STSS conciliators and mediators for addressing collective conflicts. (Outcome 6) (Timeframe: by November 17-21, 2015)

Internal Audits for Ongoing Performance Improvement

11. The STSS will develop and implement an improved performance measurement system, with emphasis on inspections, accompanied by a technology tool that improves traceability of inspection records to determine the length of time between each step and notifying supervisors automatically if deadlines have lapsed. (Outcomes 1, 2, 3, 4, 5, 6, and 7) (Timeframe: by March 31, 2017)
12. The STSS will create an Internal Audit Unit for the IGT with the mandate to oversee labor inspectors' performance with respect to inspectors' responsibilities under the law and other relevant instruments, including the MAP. (Outcomes 1, 2, 3, 4, 5, 6, and 7) (Timeframe: Within one year of the approval of the inspection law)
 - A. The STSS will develop and implement performance measurement standards and review processes to assess and identify shortcomings in individual labor inspectors' work and will conduct audits of inspectors' work based on those standards.

- B. Based on the results of regular, ongoing audits of inspectors, the Internal Audit Unit will develop and implement individualized performance improvement plans for inspectors that focus on remedying identified shortcomings and verifying performance improvement for labor inspectors who receive lower than satisfactory performance reviews to improve the quality of the inspectors' work, while ensuring the application of relevant legal procedures from the Civil Service Law.
 - C. The USDOL's Wage and Hour Division provided expert advice to the STSS on its model for overseeing the work of regional offices and assist the STSS in identifying and incorporating any aspect of the model that may be useful and applicable to the Internal Audit Unit and the improvement of supervisors detailed in Section II.13. (Timeframe: December 8, 2015)
13. The STSS will establish and implement procedures and standards to modernize and systematize the supervision of inspectors, complemented by a system for improvement that includes training for IGT supervisors. (Outcomes 1, 2, 3, 4, 5, 6, and 7) (Timeframe: Create procedures and standards by December 31, 2016; First evaluation in March 31, 2017)

III. Intensified, Targeted Enforcement Actions

1. For the employers named in the Public Report, the STSS will develop and enforce remediation plans for identified labor law violations. The plans will include clear timeframes for remediation that are consistent with relevant Labor Code provisions. Compliance with the plans will be verified through unannounced inspections. (Outcomes 5, 6, and 7) (Timeframe: Initial consultations with each company by September 30, 2015; Full inspections at each company by March 31, 2016; Follow up inspections completed, if necessary, between July 31, 2016 and September 20, 2016)
2. The STSS will create and launch an electronic application for smartphones, tablets, and the internet. The application will allow the public to file complaints alleging labor law violations with the STSS and allow inspectors to enter findings electronically. (Outcome 1) (Timeframe: Available for inspectors February 29 2016; Available to the public March 31, 2016)
3. The STSS will implement inspection plans based on the above-referenced national inspection strategy (see Section II.2) targeting high-risk and priority sectors, regions, and employers, including the informal, agriculture, and manufacturing sectors. (Outcomes 1, 3, 4, 5, 6, and 7) (Timeframe: Starting January 1, 2016; First evaluation by May 1, 2016)
4. The STSS will undertake follow-up actions where violations have been identified, including conducting regular inspections to verify remediation and applying sanctions where violations have not been corrected, even when all fines have been paid, and

confirming remediation before closing out cases. (Outcomes 5, 6, and 7) (Timeframe: Beginning October 1, 2015; First evaluation by April 30, 2016)

5. The STSS will establish an email address for receiving copies of notifications from workers intending to organize a union at a company. When the workers notify their employer through email, the DGT will require that they copy this address and will acknowledge receipt to both the employer and the workers. In its acknowledgement of receipt, the DGT will indicate that the undersigned workers are protected by *protección del Estado* from the moment they notified the employer. (Outcome 6) (Timeframe: Created by December 1, 2015; First evaluation by February 29, 2016)
6. The STSS will conduct inspections of workplaces where a collective pact has been registered, triggered by and using the communication mechanism developed in Section II.5, to ensure that collective pacts are not used to undermine freedom of association and the right to organize and bargain collectively. (Outcomes 3 and 6) (Timeframe: Ongoing; First evaluation by March 31, 2016)
7. In cases of unlawful dismissal, transfer, or worsening of working conditions of workers under *protección del Estado*, the STSS will issue notification reports to employers that require reinstatement of unlawfully dismissed workers, both union members and leaders, and will conduct follow up inspections to verify compliance. In cases of noncompliance, the STSS will impose sanctions and encourage workers to use the free services available from the PGT to pursue judicial action. (Outcomes 5 and 6) (Timeframe: First evaluation by April 30, 2016)
8. In accordance with Labor Code Article 516, the STSS will impose fines amounting to six months' salary of each illegally dismissed union member and leader and will confirm payment of those fines. (Outcomes 4, 5, and 6) (Timeframe: First evaluation by April 30, 2016)
9. The STSS, as part of the national inspections strategy, will conduct inspections aimed at the prevention and eradication of child labor, in accordance with national laws, including following appropriate steps and techniques laid out in the above-referenced inspection manual (see Section II.7). (Outcomes 3, 4, 5, 6, and 7) (Timeframe: First evaluation by May 1, 2016)
10. The STSS will ensure that working children have proper authorization for protected adolescent work,² including verification of the safety and appropriateness of their working conditions in conformity with the law. (Outcome 7) (Timeframe: Ongoing; First evaluation by October 31, 2016)

² Protected adolescent work is work performed by persons 14 to 17 years old that complies with the requirements of domestic and international laws.

IV. Transparency, Outreach, and Engagement

1. The STSS will make all results for current and future inspections publicly available online, in accordance with guidance from the Institute for Access to Public Information. The information will include: the name of the company, the date of the inspection, a list of any violations identified by inspectors, the fine(s) imposed, and the status of the case in the administrative process, including whether fine(s) imposed have been collected and violations remediated. (Outcomes 1, 3, 4, 5, 6, and 7) (Timeframe: by June 30, 2016)
2. The STSS will develop and implement outreach actions to inform employers of their obligation to grant inspectors access to the employers' worksites and the consequences of failure to do so. In particular, the STSS will inform employers that the absence of management from the premises at the time of an inspection is not legitimate grounds for denial of access. (Outcome 2) (Timeframe: Development February 29, 2016; First evaluation by August 1, 2016)
3. The STSS will develop and implement outreach actions for employer associations and unions to inform them of legal protections for founding union members and union leaders, the process that employers must follow to legally dismiss workers under these protections, and the consequences for illegal firings. (Outcome 6) (Timeframe: Development by February 29, 2016; First evaluation by August 1, 2016)
4. The STSS will develop and implement an orientation procedure for dismissed workers. In particular, the procedure will relate to the workers' rights under Honduran law related to freedom of association and collective bargaining, including their right to reinstatement, the loss of the right to reinstatement upon acceptance of severance, and the steps the STSS will take if workers choose to assert their right to reinstatement. (Outcome 6) (Timeframe: Development and implementation of procedure by March 31, 2016; implemented with the confederations August 31, 2016; First evaluation December 31, 2016)
5. The STSS will continue coordinating with the Tripartite Follow-up Commission of accredited representatives from employer associations and worker organizations and encourage the member sectors to advise, support, and ensure the sustainability of the GOH's efforts to achieve the Outcomes identified in this MAP. (Outcomes 1, 2, 3, 4, 5, 6, and 7) (Timeframe: Beginning March 2015)
6. The STSS will develop and implement public awareness campaigns at the local level regarding child labor, particularly the worst forms, focusing in particular on rural areas and indigenous communities. (Outcome 7) (Timeframe: Ongoing beginning December 2015)
7. The STSS will continue to engage with business, labor, civil society, and other stakeholders within the framework of the USDOL project announced in February 2015, seeking to combat child labor and improve working conditions and respect for workers' rights, in particular freedom of association and the rights to organize and bargain collectively, including through capacity building, training, outreach and other activities in

support of this MAP. (Outcomes 1, 2, 3, 4, 5, 6, and 7) (Timeframe: February 2015 – September 2018 (or the life of the project))

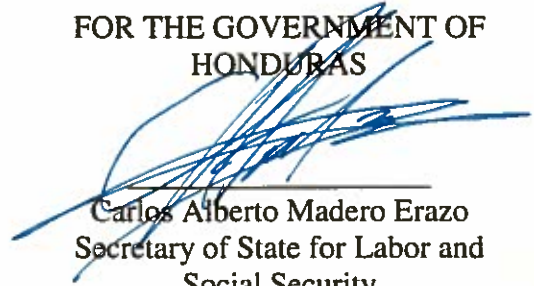
Signed in Washington, D.C., in duplicate, this 9th day of December 2015, in the English and Spanish languages.

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA



Thomas E. Perez
Secretary of Labor

FOR THE GOVERNMENT OF
HONDURAS



Carlos Alberto Madero Erazo
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