

**Sixth Periodic Review of Implementation of
Recommendations in the U.S. Department of Labor's
Public Report of Review of Submission 2011-03 (Dominican Republic)
May 16, 2018**

On September 27, 2013, the U.S. Department of Labor (USDOL) issued a public report in response to a submission filed under Chapter 16 (the Labor Chapter) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) (the report is available in full at <http://www.dol.gov/ilab/reports/pdf/20130926DR.pdf>). USDOL's Public Report of Review of Submission 2011-03 identified labor concerns in the sugar sector in the Dominican Republic and offered recommendations to the Government of the Dominican Republic (GODR) to address the report's findings and improve enforcement of Dominican labor laws in that sector. In the report, USDOL committed to engage with the GODR to address the identified concerns and to review any progress.

Since publication of the report, the U.S. government (USG) has engaged at senior and technical levels with the GODR to address the concerns identified in the report. As part of this engagement, USDOL has undertaken seven site visits to the Dominican Republic with the support of the U.S. Embassy to the Dominican Republic. During these trips, the USDOL delegation met with GODR officials, representatives of the three major sugar companies of the Dominican sugar industry, and civil society, as well as directly with sugar sector workers to discuss labor rights and working conditions in the sugar sector. Since the last review, USDOL has continued to engage with the GODR and relevant stakeholders, including a December 2017 visit to the Dominican Republic.

This ongoing engagement and the December 2017 visit demonstrated that, while concerns remain, the GODR continues to take positive steps towards addressing some of the labor issues identified in the public report. For example, since the last review statement, the Ministry of Labor (MOL) reports that it conducted a review of inspections in the sugar sector, and MOL inspection records demonstrate an effort to inspect the remote small farms (*colonos*) down the supply chain where knowledge of legal obligations may be limited and violations more likely to occur. It also appears that the MOL addressed a technical issue that prevented the GODR from registering workers without a Dominican citizenship document (*cédula*) number for social security benefits and has since enrolled over 12,000 workers of Haitian descent for social security. This is a positive step that is expected to improve access to public medical services for workplace illnesses and accidents and to reduce improper deductions from workers' salaries highlighted in the 2013 report, particularly as it is coupled with the MOL's current prioritization of strengthening inspections related to social security compliance.

The MOL once again shared with the USG a sample of reports of the inspections conducted in the sugar sector during the 2017 harvest, continuing a positive, open, and transparent exchange of information. After carefully reviewing the MOL inspection reports, USDOL notes that the GODR has undertaken improvements recommended in the 2013 DOL report, such as inspecting for a broader set of violations of relevant labor laws than had been inspected for in the past.

These actions include ordering a reinspection for remediation when violations were found, and inspecting *colonos* that often are challenging to inspect because they are remote and have shorter production periods than larger farms. USDOL and the MOL discussed steps that would facilitate the verification of labor law compliance, such as identifying ways to reach workers who do not speak Spanish and encouraging employers to issue written contracts.

USDOL notes, however, that some inspection reports also reflect problematic practices, including those that are poorly suited to identifying and ensuring remediation of labor violations. While recognizing the MOL's efforts to continue to improve labor inspections in the sugar sector, USDOL reiterates that the MOL should implement and strengthen measures to address continued weaknesses in its inspection regime. Some of the suggested measures that have been identified in past reports and that remain unaddressed include:

- ensuring that Haitian Creole interpreters accompany labor inspectors on inspections in the sugar sector;
- training labor inspectors on best practices for labor inspections, such as interviewing workers outside the presence of management representatives and speaking with significant numbers of workers chosen by inspectors on each inspection, and ensuring they use those best practices consistently;
- discussing matters related to labor law compliance with workers and not just supervisors in all cases; and
- expanding existing initiatives to conduct outreach campaigns to sugar sector workers to inform them of their labor rights and of methods to anonymously report labor law violations to appropriate authorities.

Inspection reports reviewed by DOL also lack documentation of the process that inspectors took to determine employer compliance with labor laws and all evidence they collected or received during the inspections. Because the Ministry of Labor does not have the authority to assess sanctions for violations and can only issue a recommendation that labor tribunals impose applicable sanctions, these reports should be as complete as possible.

USDOL notes that some of these deficiencies stem from limited resources and encourages the GODR to increase support for labor inspections and outreach, particularly in remote areas. Additionally, because the MOL does not have sanctioning authority and the Public Ministry must impose sanctions for labor law violations, USDOL encourages strengthening communication between the ministries on the status of MOL recommendations to impose appropriate sanctions to deter labor law violations and on the evidence needed in inspection reports for courts to apply appropriate sanctions. USDOL is committed to working together with the inspectorate and other relevant GODR agencies to address existing shortcomings and to identify and encourage the continued use of best practices. As an indication of this commitment, USDOL is currently providing targeted technical assistance to support the GODR in strengthening labor law enforcement and outreach across the Dominican agricultural sector. In December 2017, after a request from the GODR and in-depth discussions between USDOL and the GODR, USDOL awarded \$5 million to the International Labor Organization (ILO) to implement a four-year technical assistance project that will help strengthen labor law enforcement and improve working conditions in agriculture.¹ Separately, under the USDOL-funded Bridge Project, the ILO will

¹ A project summary is available at <https://www.dol.gov/agencies/ilab/project-reduce-child-labor-and-working-conditions-agriculture-dominican-republic>.

assess the MOL's data management systems and the capacities of labor inspectors to enforce labor laws. The new \$5 million project will build on these activities.²

USDOL also recognizes that certain Dominican sugar companies continue to take positive steps towards addressing some of the labor issues identified in the public report. These include:

- further expanding and modernizing systems to better record all workers' hours of work and compensation due, which helps to facilitate compliance with laws governing hours of work and the minimum wage;
- taking steps to ensure that workers are provided with free and adequate personal safety equipment and sufficient quantities of potable water;
- continuing to use and expand verifiable systems to ensure that workers know about and receive a 36-hour rest period each week;
- providing orientation sessions in Spanish and Haitian Creole at the beginning of the harvest to inform workers of their rights, company policies prohibiting child labor, and an overview of good occupational safety and health practices;
- providing workers with written employment contracts; and
- visibly posting the minimum wage in Spanish and Haitian Creole in major *bateyes* (housing centers for sugar workers) and payment stations, including in some *colonos*.

Efforts and progress, however, continue to vary significantly across companies and down the major companies' supply chains, and many workers remain distrustful of grievance mechanisms even in the most improved worksites. Although companies continue to take steps to communicate their policies on labor law compliance and good working conditions down their supply chains, these efforts are inconsistent in effectiveness and oversight. In at least one instance, small farms in the supply chain of at least one company have implemented biometric systems for tracking hours of work but appear to use the system sporadically, invalidating its value in ensuring compliance with laws on working hours. USDOL continues to emphasize the importance of cross-company collaboration and encourages all major companies to participate in a proposed effort among sugar companies to create a sector-wide compliance office that would share best practices, including on labor law compliance and respect for international labor standards, and use the combined efforts of the major producers to better identify and remediate potential problems in their supply chains.

Over the next twelve months, USDOL, in coordination with the Office of the U.S. Trade Representative and the U.S. Department of State, including the U.S. Embassy in Santo Domingo, will continue to monitor and assess progress towards addressing the labor concerns identified in the USDOL report, in particular those reiterated above, and to consider whether further action is needed, including, but not limited to, providing additional, targeted support to facilitate further progress.

² A project summary is available at <https://www.dol.gov/agencies/ilab/protocol-practice-bridge-global-action-forced-labor-bridge-project>.