

V. Guatemala

1. Ministry of Labor and Social Welfare

Prevention and monitoring compliance with labor laws are an essential function of the Labor Ministries. Under Convention No. 81 concerning Labor Inspection in Industry and Commerce (1947), these Ministries should have an system of inspection that is capable of securing *“the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work”*; consequently, they must be given the tools and the necessary legal, human, technical, financial and logistic resources to carry out their functions effectively. Furthermore, Labor Ministries should provide information and advice to employers and workers about the best way to comply with labor laws and to manage labor relations, as measures to prevent disputes.

One of the challenges identified in the White Paper relates to the need to *“issue a decree to legally restore the authority of the Ministry of Labor to impose fines”*,¹⁷³ a power that was eliminated by a decision of the Constitutional Court declaring some aspects of Decree 18-2001 unconstitutional.¹⁷⁴ However, *“an assessment made after publication of the White Paper found that this recommendation was not legally possible. Since the main objective is to establish prompt and effective labor laws, the Tripartite Commission on International Labor Affairs (CTAIT)”*¹⁷⁵ is seeking consensus on a viable alternative”.¹⁷⁶

As regards the inspection work for which MTPS is responsible, the White Paper indicated the need to *“provide the labor inspectorate with professional civil service status, and enhance salaries, training and equipment”*, as well as to continue and complete *“the classification and salaries study initiated in 2003”*.¹⁷⁷ Regarding mediation and conciliation, mention was made of the need to implement *“the same type of personnel changes”* as in the case of inspectors, to *“provide specialized training on negotiation and dispute settlement skills”*, and to *“coordinate changes with the developments related to the new alternative dispute resolution center”*.¹⁷⁸

In addition, at the regional level, all the Governments undertook to increase resources to provide the Labor Ministries with trained personnel, infrastructure and equipment to enable them to perform their functions satisfactorily.¹⁷⁹

Over the period August-December 2010, during three meetings of the CTAIT, the employer and worker sectors examined a proposal for the reform of the Labor Code establishing a combined procedure for the investigation and sanction of labor offenses. At December 31, 2010, a bill for the reform of the Labor Code had not yet been agreed on tripartitely.

With regard to reinforcing inspections, at December 31, the proposal for the new MTPS Internal Regulations was awaiting examination by the Ministry and the issue of its technical opinion before being forwarded to the Presidency of the Republic for approval.

173. The White Paper, p. 45.

174. Constitutional Court Files 898-2001 and 1014-2001. Ruling on partial unconstitutionality of Articles 2, 4, 6, 8, 12, 13, 15, 16, 17, 21, 22 and 23 of Decree 18-2001 of the Congress of the Republic, amending Articles 81, 209, 214, 233, 243, 269, 271, 272, 281, 364, 379, and 380 of the Labor Code, Decree 1441 of the Congress of the Republic of August 3, 2004.

175. Commission “composed of representatives of the Government of the Republic, employers and workers, through their most representative organizations that enjoy the right to freedom of association, to ensure effective consultation and express opinions on the promotion of the implementation of international labor standards in accordance with ILO Convention No. 144.” Government Order No. 285-2004 of September 9, 2004, Article 1).

176. Literal quotation of the amendment made by the MTPS to the White Paper recommendations, published in the 2007-2010 Plan for the Implementation of the White Paper Recommendations, Guatemala, August 2007.

177. The White Paper, p. 45. After publication of the White Paper, MTPS added a note clarifying this recommendation “The personnel of the Labor Inspectorate General, as the other MTPS employees, are governed by the statutes of the National Civil Service Office, which apply to all public administration employees.” (MTPS. 2007-2010 Plan for the Implementation of the White Paper Recommendations. Guatemala, August 2007).

178. The White Paper, p. 45

179. Ibid., p. 64.

In addition, 7 training activities were organized for inspectors on different topics, in particular: the collective dispute procedure, the automated case management system, the labor inspection experiences of other countries, and the sanction procedure for violations of the labor laws and social welfare. Furthermore, 11 new computers were acquired and installed for inspectors in the central office and 21 for inspectors in the departmental offices, for a total of 264 computers in this area.

At December 2010, the MTPS had 225 posts of inspector, the lowest figure in the last 5 years, and 13 less than in 2009. The number of inspectors dedicated to conciliation in the central office decreased from 29 in 2009 to 27 in 2010 and those who make visits increased from 27 to 32 in the central office over this period. In the departmental delegations, the 162 posts of inspection that existed in 2009 were reduced to 147 in 2010, 15 less than the previous year.

In the Metropolitan Area, 4,090 inspections were made in 2010, 593 less than the previous year, while in the departmental offices, 4,920 inspections were made (5 less than in 2009). There were 466 inspections less at the national level and the percentage of routine inspections decreased from 21.6% to 18.8% over the same period.

At the national level, inspection visits also declined from 13,131 in 2009 to 12,317 in 2010. However, there was a significant increase in the violations detected, rising from 1,944 in 2009 to 3,852, mainly due to the large number of violations detected by the departmental offices.

In the area of conciliation, in 2010 the number of posts for inspectors dedicated to conciliation decreased in both the central office and in the departmental delegations. In the central office they were reduced from 29 in 2009 to 24 in 2010, while in the other offices, the officials who perform both tasks (visits and conciliation) decreased from 76 to 64 over the same period. The total number of conciliation posts fell from 138 to 124 between 2009 and 2010.

The individual and collective cases conciliated in the Metropolitan Area declined from 2,633 in 2009 to 2,453 in 2010, contrary to the situation in the departmental offices where they increased from 3,194 to 3,698 over the same period.

In 2010, the conciliation percentage in the central office was 29% while, in the rest of the country, it was 51%.

Regarding collective conciliation, over the period, the MTPS established 6 new sectoral social dialogue committees of a preventive and reactive nature; these are in addition to the 11 reported in the previous Verification Report.

As regards financial aspects, in 2010, the initial MTPS budget subject to verification was the same as the previous year (Q54,382,984). In real terms, the initial and modified budget decreased in 2010 compared to 2009 by -3.7% and -2.8% respectively. The 2010 executed budget increased by 3.5 % in relation to the previous year, representing 77.7% of the initial budget and 93.7% of the modified budget.

Regarding the budget for application of labor law, in 2010, both the initial, and also the modified and executed budgets decreased compared to 2009 (-3.7%, -10.9% and -6.1% respectively).

The percentage of the budget dedicated to the application of labor law in relation to the institutional budget remained at 28.8% in 2009 and 2010, while the executed budget decreased from 49.1% in 2009 to 44.6% in 2010.

The initial MTPS budget represented 0.11% of the national budget in 2009 and 2010, while the executed budget decreased from 0.09% in 2009 to 0.08% in 2010.

Over the period, plans of operation were prepared to focus inspection on specific issues and regions.

Lastly, as regards reinforcing the MTPS special units, in 2010, the staff assigned to the Working Women's Department and to the Unit for the Protection of Adolescent Workers decreased by one and two officials respectively in relation to 2009. The staff assigned to the Office of the Workers' Ombudsman remained stable with 17 officials, which was unchanged in relation to 2009.

To make progress in implementing the White Paper recommendations, the country should take the following suggestions into account:

- Prepare (MTSS) a coordinated proposal for the reform of the Labor Code, taking into the consideration the conclusions of the bipartite discussions reached by consensus, and proceed to socialize the document with the social actors.
- Make the necessary effort to increase the number of labor inspectors at both the central and departmental level.
- Continue implementing specific training for inspectors based on their real needs.
- Accelerate the administrative and technical procedures that will permit prompt approval of the Internal Regulations and continue the efforts to focus inspections on specific issues and regions.
- Continue efforts that permit the acquisition of new equipment and vehicles, as well as the reparation of existing assets.
- Increase the number of inspections at the central and the national level, especially routine or scheduled inspections.
- Increase the number of officials dedicated to conciliation in both the central office and the departmental delegations.
- Evaluate the experience of the sectoral social dialogue committees in order to improve the way they function.
- Take the required measures and lobby Government authorities and other branches of State, as required, so as to obtain a larger budget for the MTPS, and improve the programming of activities in order to achieve a higher level of budget execution.
- Strengthen all MTPS Special Units technically and financially, as indicated in the previous Verification Report.

Challenges and recommendations	Indicators	August - December 2010
I. Authority to impose fines		
Challenge: - A decision of the Constitutional Court limited the authority of the Ministry to impose fines for labor law violations. Recommendations: - Issue a decree to legally restore the authority of the Ministry of Labor to impose fines. Note in the 2007-2010 Plan of Implementation of the White Paper Recommendations of the MTPS of Guatemala: - An evaluation, carried out after the White Paper was published, found that this recommendation is not legally possible. Considering that the main objective is to reach a labor legislation that is effective, the Tripartite Commission on International Labor Affairs will reach a consensus for a viable alternative.	Authority to sanction	
	I.1 Existence of a consensual tripartite proposal on an appropriate procedure for sanctioning violations of labor law.	In May, the ILO forwarded the CTAIT an official proposal for the reform of the Labor Code, establishing a combined procedure for the investigation and sanction of labor violations and also occupational health and safety violations. Although the proposal has been examined by the sectors that are members of the commission, at December 31, 2010, there was no consensual tripartite proposal for the reform of the law.
	I.2. Number of tripartite meetings to consult and reach consensus on a proposal.	- Over the verification period, the ILO proposal for the reform of the law was discussed at 3 meetings of the CTAIT: - During the meeting of September 2, 2010, the Commission examined the proposal presented by the ILO in May that year and agreed, on a bipartite basis (employer and worker sectors on the Commission), that they would try to achieve a consensual text. - During the meeting of December 2, the representatives of the worker sector in the CTAIT reported that they were still consulting the proposed reform with the trade union organizations UGT and FENASTEG. - During the meeting of December 6, the representatives of the employer and worker sectors on the Commission indicated to the delegation of the United States Government that attending the session that they still did not have a consensual proposal and required more time to prepare it.
	I.3. Approval of the proposal.	No relevant bill exists as yet.
	I.4. Number and type of promotion, monitoring and lobbying actions to ensure effective implementation of the approved proposal.	

Challenges and recommendations	Indicators	August - December 2010																																									
2. Inspectorate																																											
Challenge: - Despite recent efforts, significant concerns remain regarding the professional training, status and General authority of the labor inspectorate. Filling a significant number of inspector positions with political appointments does not enhance the confidence of all sectors in their objectivity and credibility. Recommendations: - Provide the labor inspectorate professional civil service status, and enhance salaries, training, and equipment. Continue and complete the classification and salaries study initiated in 2003. Note in the 2007-2010 Plan of Implementation of the White Paper Recommendations of the MTPS of Guatemala: - The personnel of the Labor Inspectorate General are governed by the Statutes of the National Civil Service Office, which apply to all public administration employees	Human resources 1.5 Number of inspectors (indicate how many inspectors visit places of work exclusively; number of inspectors who carry out both inspection and conciliation, and number of inspectors who perform other tasks, such as notifications, advisory services, customer service).																																										
	- The number of visiting inspectors increased from 27 to 32 officials in the MTPS central office between 2009 and 2010, while the number of conciliation inspectors decreased by 2, falling from 29 to 27 over the same period. - Between 2009 and 2010, the number of visiting inspectors decreased from 25 to 23 in the departmental delegations; the officials dedicated to conciliation remained stable at 33 and the officials who perform both functions decreased from 76 to 64. - The MTPS had a total of 225 posts for inspectors in 2010, the lowest figure in the last 5 years. Number of posts of inspector in the MTPS Labor Inspectorate. Period January 2006 – December 2010 <table><tr><th>Functions of personnel with the post of inspector</th><th>2006*</th><th>2007*</th><th>2008</th><th>2009</th><th>2010**</th></tr><tr><td>Visiting Inspectors (Head Office)</td><td rowspan="7">257</td><td rowspan="7">239</td><td>26</td><td>27</td><td>32</td></tr><tr><td>Conciliation Inspectors (Head Office)</td><td>29</td><td>29</td><td>27</td></tr><tr><td>Other functions that support inspection (Head Office)</td><td>20</td><td>20</td><td>19</td></tr><tr><td>Visiting inspectors in the 21 Delegations</td><td></td><td>25</td><td>23</td></tr><tr><td>Conciliation inspectors in the 21 Delegations</td><td></td><td>33</td><td>33</td></tr><tr><td>Visiting and Conciliation posts in the 21 Delegations</td><td>163</td><td>76</td><td>64</td></tr><tr><td>Other functions that support inspection in the 21 departmental delegations</td><td></td><td>28</td><td>27</td></tr><tr><td>Total plazas de inspectores</td><td>257</td><td>239</td><td>238</td><td>238</td><td>225</td></tr></table> * It was not possible to obtain detailed information on the functions of those holding the post of inspector for 2006 and 2007. ** The data for 2010 were taken from a list provided by the MTPS Human Resources Department, and corroborated by the departmental delegations, with the exception of Petén, where the data was taken from the consolidated sheet in the IGT files. Source: MTPS, Human Resources Department. May 2011.		Functions of personnel with the post of inspector	2006*	2007*	2008	2009	2010**	Visiting Inspectors (Head Office)	257	239	26	27	32	Conciliation Inspectors (Head Office)	29	29	27	Other functions that support inspection (Head Office)	20	20	19	Visiting inspectors in the 21 Delegations		25	23	Conciliation inspectors in the 21 Delegations		33	33	Visiting and Conciliation posts in the 21 Delegations	163	76	64	Other functions that support inspection in the 21 departmental delegations		28	27	Total plazas de inspectores	257	239	238	238
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	I.6. Number of training actions for inspectors (number of officials trained) and, if available, the results of the participants' evaluation of the pertinent training event or program).	Over the verification period, the labor inspectors took part in 7 training sessions covering issues related to the inspection management model, the automated case management system, and the sanction procedure for violations of the labor and social welfare laws, among others. Training sessions for MTPS Labor Inspectors. Period August-December 2010. <table> <tr> <th>Date</th><th>Training</th><th>Supported by</th><th>No. Participants</th></tr> <tr> <td>August 19 and 20</td><td>The process for collective disputes and the participation of the Labor Inspector</td><td>Network of Labour Advisory Services for Central America and the Dominican Republic (REAL- CARD) and the Asociación de Investigaciones y Estudios Sociales (ASIES)</td><td>60</td></tr> <tr> <td>August 20</td><td>Model for the operation of the Dominican Republic Inspectorate General</td><td>Project: Cumple y Gana III, Inspection</td><td>15</td></tr> <tr> <td>August 27</td><td>Socialization of the agrarian policy and the integral rural development policy in force</td><td>Agricultural Affairs Secretariat of the Presidency of the Republic</td><td>23</td></tr> <tr> <td>September 10</td><td>Workshop on good practice in the use and application of the automated case management system in the departmental delegations of Escuintla, Chimaltenango and Quetzaltenango</td><td>Project: Cumple y Gana III, Inspection and the United States Government</td><td>28</td></tr> <tr> <td>September 24, 25 and 26</td><td>First National meeting of Labor Inspectors of Guatemala</td><td>ILO/PROFIL</td><td>189</td></tr> <tr> <td>November 12</td><td>Proceedings for violations of the labor and social welfare laws</td><td>American-Guatemalan Chamber of Commerce (AMCHAM)</td><td>30</td></tr> <tr> <td>November 19</td><td>Analysis of the labor situation of social and trade union organizations for women in the economy</td><td>Consortium of Social and Trade Union Organizations for Women in the Economy (COSME)</td><td>23</td></tr> </table> Source: Labor Inspectorate General, Ministry of Labor and Social Welfare. April 2011.		Date	Training	Supported by	No. Participants	August 19 and 20	The process for collective disputes and the participation of the Labor Inspector	Network of Labour Advisory Services for Central America and the Dominican Republic (REAL- CARD) and the Asociación de Investigaciones y Estudios Sociales (ASIES)	60	August 20	Model for the operation of the Dominican Republic Inspectorate General	Project: Cumple y Gana III, Inspection	15	August 27	Socialization of the agrarian policy and the integral rural development policy in force	Agricultural Affairs Secretariat of the Presidency of the Republic	23	September 10	Workshop on good practice in the use and application of the automated case management system in the departmental delegations of Escuintla, Chimaltenango and Quetzaltenango	Project: Cumple y Gana III, Inspection and the United States Government	28	September 24, 25 and 26	First National meeting of Labor Inspectors of Guatemala	ILO/PROFIL	189	November 12	Proceedings for violations of the labor and social welfare laws	American-Guatemalan Chamber of Commerce (AMCHAM)	30	November 19	Analysis of the labor situation of social and trade union organizations for women in the economy	Consortium of Social and Trade Union Organizations for Women in the Economy (COSME)	23
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	1.7. Existence of an assessment of the inspection system that includes an analysis of the reclassification of the posts and salaries of inspectors and status of implementation of the recommendations of the said assessment.	At December 31, 2010, the proposal for the new MTPS Internal Regulations was still in the Minister's office awaiting the opinion of the MTPS Technical Committee, before it could be forwarded to the Presidency of the Republic for approval.																																																							
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	1.8. Number and type of improvements in infrastructure, information technology, computer equipment, transportation, and inspection and conciliation case management training in the regional offices and the central office (disaggregate the information by inspection or conciliation service, and indicate the budget for maintenance of the items).	- During the second half of 2010, 11 more computers were acquired for inspectors in the central office and 21 more for the departmental delegations, giving a total of 264 computers in good working order for inspection work. - Regarding vehicles, at December 2010, there were 11 for the Metropolitan Area and 25 for the rest of the country, with a total of 34 vehicles in good conditions, 8 less than at the end of July that year. The departmental offices also had 29 motorcycles in good conditions, 5 less than at the end of the first half of the year. Labor Inspectorate General computers and vehicles Period 2010. <table><tr><th rowspan="2">Computers and vehicles</th><th colspan="2">Central offices</th><th colspan="2">Departmental delegations</th><th colspan="2">Total</th></tr><tr><th>At July 2010</th><th>At December 2010</th><th>At July 2010</th><th>At December 2010</th><th>At July 2010</th><th>At December 2010</th></tr><tr><td>Computers in good condition</td><td>99</td><td>110</td><td>133</td><td>154</td><td>232</td><td>264</td></tr><tr><td>Computers in need of repair</td><td>0</td><td>0</td><td>44</td><td>50</td><td>44</td><td>50</td></tr><tr><td>Vehicles in good working order</td><td>9</td><td>9</td><td>33</td><td>25</td><td>42</td><td>34</td></tr><tr><td>Vehicles in need of repair</td><td>11</td><td>11</td><td>8</td><td>14</td><td>19</td><td>25</td></tr><tr><td>Motorcycles in condition</td><td>0</td><td>0</td><td>34</td><td>29</td><td>34</td><td>29</td></tr><tr><td>Motorcycles in need of repair</td><td>0</td><td>0</td><td>53</td><td>56</td><td>53</td><td>56</td></tr></table> Source: Prepared by the authors based on information provided by the Labor Inspectorate General and the MTPS Planning, Cooperation and International Labor Affairs Department. May 2011.	Computers and vehicles	Central offices		Departmental delegations		Total		At July 2010	At December 2010	At July 2010	At December 2010	At July 2010	At December 2010	Computers in good condition	99	110	133	154	232	264	Computers in need of repair	0	0	44	50	44	50	Vehicles in good working order	9	9	33	25	42	34	Vehicles in need of repair	11	11	8	14	19	25	Motorcycles in condition	0	0	34	29	34	29	Motorcycles in need of repair	0	0	53	56	53	56
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	I.9. Number of inspections (routine, based on reports, re-inspections) and number of cases sanctioned. Include details of inspections by size and sector of the companies inspected.	• The number of inspections made by the MTPS central office in 2010 was the lowest since 2007. Similarly, the number of inspection visits, re-inspections and violations detected in 2010 was the lowest since 2005. Number of inspections in the Metropolitan Area. Period January 2005 – December 2010. <table><tr><th>Activity</th><th>2005</th><th>2006</th><th>2007</th><th>2008*</th><th>2009*</th><th>2010</th></tr><tr><td>Routine inspections</td><td>606</td><td>777</td><td>1,039</td><td>1,225</td><td>1,012</td><td>771</td></tr><tr><td>Inspections based on complaints</td><td>3,273</td><td>2,988</td><td>3,080</td><td>3,546</td><td>3,671</td><td>3,319</td></tr><tr><td>Total inspections</td><td>3,879</td><td>3,765</td><td>4,119</td><td>4,771</td><td>4,683</td><td>4,090</td></tr><tr><td>Re-inspections</td><td>1,161</td><td>1,260</td><td>1,396</td><td>549</td><td>496</td><td>424</td></tr><tr><td>Total visits</td><td>5,040</td><td>5,025</td><td>5,515</td><td>5,320</td><td>5,179</td><td>4,514</td></tr><tr><td>Percentage routine inspections**</td><td>15.6%</td><td>20.6%</td><td>25.2%</td><td>25.7%</td><td>21.6%</td><td>18.8%</td></tr><tr><td>Cases opened</td><td>3,879</td><td>3,765</td><td>4,119</td><td>4,771</td><td>4,683</td><td>4,090</td></tr><tr><td>Violations detected</td><td>467</td><td>572</td><td>654</td><td>370</td><td>413</td><td>286</td></tr></table> * The percentage is calculated based on the number of inspections and not on the number of visits. Source: Statistics of the Labor Inspectorate General. April 2011. • For their part, in 2010, the departmental delegations reported a slight increase in the number of inspections in relation to the previous year (6,219 compared to 6,092); however, a reduction in the number of re-inspections (1,860 in 2009 and 1,584 in 2010), resulted in fewer visits in 2010 (7,803) than in 2009 (7,952).	Activity	2005	2006	2007	2008*	2009*	2010	Routine inspections	606	777	1,039	1,225	1,012	771	Inspections based on complaints	3,273	2,988	3,080	3,546	3,671	3,319	Total inspections	3,879	3,765	4,119	4,771	4,683	4,090	Re-inspections	1,161	1,260	1,396	549	496	424	Total visits	5,040	5,025	5,515	5,320	5,179	4,514	Percentage routine inspections**	15.6%	20.6%	25.2%	25.7%	21.6%	18.8%	Cases opened	3,879	3,765	4,119	4,771	4,683	4,090	Violations detected	467	572	654	370	413	286
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		Number of inspections nationwide. Period 2008 - December 2010. <table><tr><th rowspan="2">Activity</th><th colspan="3">2008</th><th colspan="3">2009</th><th colspan="3">2010</th></tr><tr><th>Metropolitan area</th><th>Departmental delegations</th><th>National Total 2008</th><th>Metropolitan area</th><th>Departmental delegations</th><th>National Total 2009</th><th>Metropolitan area</th><th>Departmental delegations</th><th>National Total 2010</th></tr><tr><td>Regular inspections</td><td>1,225</td><td>3,629</td><td>4,854</td><td>1,012</td><td>4,925</td><td>5,937</td><td>771</td><td>4,920</td><td>5,691</td></tr><tr><td>Inspections based on complaints</td><td>3,546</td><td>1,109</td><td>4,655</td><td>3,671</td><td>1,167</td><td>4,838</td><td>3,319</td><td>1,299</td><td>4,618</td></tr><tr><td>Total inspections</td><td>4,771</td><td>4,738</td><td>9,509</td><td>4,683</td><td>6,092</td><td>10,775</td><td>4,090</td><td>6,219</td><td>10,309</td></tr><tr><td>Re-inspections</td><td>549</td><td>1,069</td><td>1,618</td><td>496</td><td>1,860</td><td>2,356</td><td>424</td><td>1,584</td><td>2,008</td></tr><tr><td>Total visits</td><td>5,320</td><td>5,807</td><td>11,127</td><td>5,179</td><td>7,952</td><td>13,131</td><td>4,514</td><td>7,803</td><td>12,317</td></tr><tr><td>Percentage of regular inspections*</td><td>25.7%</td><td>76.6%</td><td>51.0%</td><td>21.6%</td><td>80.8%</td><td>55.1%</td><td>18.9%</td><td>79.1%</td><td>55.2%</td></tr><tr><td>New cases</td><td>4,771</td><td>1,822</td><td>6,593</td><td>4,683</td><td>1,675</td><td>6,358</td><td>4,090</td><td>4,077</td><td>8,167</td></tr><tr><td>Violations detected</td><td>370</td><td>502</td><td>872</td><td>413</td><td>1,531</td><td>1,944</td><td>286</td><td>3,566</td><td>3,852</td></tr></table> * The percentage is calculated based on the number of inspections and not on the number of visits. Source: Statistics of the Labor Inspectorate General, to July 31, 2010 and consolidated departmental statistics prepared by the MTPS Planning, Cooperation and International Labor Affairs Department. May 2011.	Activity	2008			2009			2010			Metropolitan area	Departmental delegations	National Total 2008	Metropolitan area	Departmental delegations	National Total 2009	Metropolitan area	Departmental delegations	National Total 2010	Regular inspections	1,225	3,629	4,854	1,012	4,925	5,937	771	4,920	5,691	Inspections based on complaints	3,546	1,109	4,655	3,671	1,167	4,838	3,319	1,299	4,618	Total inspections	4,771	4,738	9,509	4,683	6,092	10,775	4,090	6,219	10,309	Re-inspections	549	1,069	1,618	496	1,860	2,356	424	1,584	2,008	Total visits	5,320	5,807	11,127	5,179	7,952	13,131	4,514	7,803	12,317	Percentage of regular inspections*	25.7%	76.6%	51.0%	21.6%	80.8%	55.1%	18.9%	79.1%	55.2%	New cases	4,771	1,822	6,593	4,683	1,675	6,358	4,090	4,077	8,167	Violations detected	370	502	872	413	1,531	1,944	286	3,566	3,852
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I.10. Ratio of inspectors / working population	In 2008, the proportion of inspectors to working population was 28,521 workers to each inspector. The country does not have current data on the working population; consequently no information is provided on this indicator for subsequent years.																																																																																																				
I.11. Percentage of the working population covered by inspections.	Although there is insufficient information to calculate the percentage of the working population covered by labor inspection in 2009 and 2010, the following table shows the decrease in the number of companies and workers that received inspection visits during 2010. Percentage of working population covered by inspections. Period 2008 – December 2010. <table><tr><th>Year</th><th>Working population</th><th>Number of companies visited</th><th>Workers employed in the companies inspected</th><th>% population covered by inspections in relation to the working population</th></tr><tr><td>2008</td><td>5,390,512</td><td>6,573</td><td>462,750</td><td>8.6%</td></tr><tr><td>2009</td><td>n.d.</td><td>8,207</td><td>481,223</td><td>n.d.</td></tr><tr><td>2010</td><td>n.d.</td><td>6,015</td><td>227,542</td><td>n.d.</td></tr></table> Source: Regional Observatory of the Labor Market of Central America and the Dominican Republic, ILO, based on data from the National Survey on Living Conditions (ENCOVI) 2006. San José, Costa Rica, April 2009. Information on companies visited provided by the Labor Inspectorate General and Departmental Delegations. May 2011.	Year	Working population	Number of companies visited	Workers employed in the companies inspected	% population covered by inspections in relation to the working population	2008	5,390,512	6,573	462,750	8.6%	2009	n.d.	8,207	481,223	n.d.	2010	n.d.	6,015	227,542	n.d.																																																																																
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Challenges and recommendations	Indicators	August - December 2010																										
3. Mediation and conciliation																												
Challenge: - The conciliation and mediation role assigned to the labor ministry needs to become more effective. There appears to be a lack of confidence in the ability of labor ministry officials to oversee a balanced mediation process, rather they may encourage resolutions that reflect a lack of confidence in their authority, and the weakness in the judicial system that would need to underpin their efforts. Recommendations: - Implement the same type of personnel changes for mediation and conciliation personnel as necessary for inspectors, and provide specialized training on negotiation and dispute settlement skills. - Coordinate changes with the developments related to the new alternative dispute resolution center.	Human resources																											
	1.12. Number of conciliation inspectors (indicate the number of officials who work exclusively in the area of conciliation).	According to data provided by the Human Resources Department, in 2010, there was a decrease in the number of officials dedicated to conciliation, in both the central office and the departmental delegations, compared to the previous years. Number of posts for MTPS conciliation inspectors. Period 2005 – December 2010. <table><tr><th>Year</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Inspectors working exclusively on conciliation at the national level in the Central Office.</td><td>28</td><td>28</td><td>29</td><td>29*</td><td>27</td></tr><tr><td>Inspectors dedicated exclusively to conciliation in the 21 departmental delegations*</td><td rowspan="2">n.d.</td><td rowspan="2">162</td><td rowspan="2">163</td><td>33</td><td>33</td></tr><tr><td>Inspectors dedicated to visits and conciliation in the 21 departmental delegations*</td><td>76</td><td>64</td></tr></table> * For 2006, 2007 and 2008, it was not possible to verify whether the inspectors in the Departmental Delegations performed tasks other than inspection, or whether officials who occupy the post of inspector perform other functions that support inspection, such as providing legal advice, notifications, and estimate of benefits. However, for 2009 and 2010, it was possible to separate the conciliation inspectors in the departmental offices. Source: MTPS. Human Resources, May 2011.						Year	2006	2007	2008	2009	2010	Inspectors working exclusively on conciliation at the national level in the Central Office.	28	28	29	29*	27	Inspectors dedicated exclusively to conciliation in the 21 departmental delegations*	n.d.	162	163	33	33	Inspectors dedicated to visits and conciliation in the 21 departmental delegations*	76	64
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1.13. Number of training actions for conciliators (number of officials trained and, if available, the results of the participants' evaluation of the pertinent training event or programs).	See indicator 1.6.																											

Challenges and Recommendations	Indicators	August - December 2010																																																								
	Conciliation and mediation coverage																																																									
	I.14. Number of requests and number of cases resolved by individual and collective conciliation.	In 2010, the number of individual and collective cases conciliated in the Metropolitan Area fell in relation to the previous year. Although the percentage of conciliations is similar to 2009 (29% and 28% respectively), these figures are very much lower than those recorded in the previous years.																																																								
		Labor conciliation cases in the Metropolitan Area. Period 2005 – December 2010.																																																								
		<table><tr><th></th><th>2005</th><th>2006</th><th>2007*</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Individual cases handled</td><td>6,994</td><td>7,268</td><td>6,976</td><td>6,912</td><td>8,911</td><td>7,931</td></tr><tr><td>Collective cases handled</td><td>464</td><td>587</td><td>379</td><td>577</td><td>663</td><td>495</td></tr><tr><td>Total cases handled</td><td>7,458</td><td>7,855</td><td>7,355</td><td>7,489</td><td>9,574</td><td>8,426</td></tr><tr><td>Cases conciliated*</td><td>2,896</td><td>3,231</td><td>3,175</td><td>2,935</td><td>2,633</td><td>2,453</td></tr><tr><td>Settlement percentage</td><td>39%</td><td>41%</td><td>43%</td><td>39%</td><td>28%</td><td>29%</td></tr><tr><td>Conciliation amounts (Quetzales)</td><td>10,779,743</td><td>14,798,595</td><td>17,800,572</td><td>15,831,518</td><td>18,337,029</td><td>18,952,317</td></tr><tr><td>Amount for conciliations US\$**</td><td>1,399,967</td><td>1,921,895</td><td>2,311,763</td><td>2,056,041</td><td>2,182,980</td><td>2,354,325</td></tr></table>		2005	2006	2007*	2008	2009	2010	Individual cases handled	6,994	7,268	6,976	6,912	8,911	7,931	Collective cases handled	464	587	379	577	663	495	Total cases handled	7,458	7,855	7,355	7,489	9,574	8,426	Cases conciliated*	2,896	3,231	3,175	2,935	2,633	2,453	Settlement percentage	39%	41%	43%	39%	28%	29%	Conciliation amounts (Quetzales)	10,779,743	14,798,595	17,800,572	15,831,518	18,337,029	18,952,317	Amount for conciliations US\$**	1,399,967	1,921,895	2,311,763	2,056,041	2,182,980	2,354,325
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For their part, in the departmental delegations there was a reduction in the number of individual cases dealt with by conciliation; but collective cases tripled compared to 2009. The percentage of conciliations (51%) was slightly higher than that of the previous year (48%), but much higher than the percentage recorded in the central office (29%).																																																										
Labor conciliation cases in the Departmental Delegations. Period 2008 – 2010.																																																										
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Challenges and recommendations	Indicators	August - December 2010																																
		- At the national level, individual conciliation cases decreased by more than 1,300 cases in 2010 compared to the previous year, while collective disputes increased by 755 cases. The percentage of conciliations and the amount mobilized by conciliatory arrangements also increased compared to 2009. Labor conciliation cases, nationwide. Period 2008 - 2010. <table><tr><th>Activity</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Individual cases handled</td><td>12,339</td><td>15,176</td><td>13,872</td></tr><tr><td>Individual cases handled</td><td>1,239</td><td>1,069</td><td>1,824</td></tr><tr><td>Total cases handled</td><td>13,578</td><td>16,245</td><td>15,696</td></tr><tr><td>Cases conciliated*</td><td>7,134</td><td>5,827</td><td>6,151</td></tr><tr><td>Settlement percentage</td><td>53%</td><td>36%</td><td>39%</td></tr><tr><td>Conciliation amounts (Quetzales)</td><td>29,066,755</td><td>30,595,542</td><td>34,682,855</td></tr><tr><td>Conciliation amounts US\$**</td><td>3,774,903</td><td>3,642,326</td><td>4,308,429</td></tr></table> * Individual and collective cases conciliated. ** Exchange rate for 2005, 2006, 2007 and 2008: 7.70 Quetzales = US\$1.00. For 2009 the exchange rate was: 8.40 Quetzales = US\$1.00 and in 2010: 8.05 Quetzales = US\$1.00. Source: Statistics of the Labor Inspectorate General and consolidated departmental statistics prepared by the Department of Planning, Cooperation and International Labor Affairs, May 2011. - In addition, regarding collective conciliation, the MTPS promoted the establishment of 6 dialogue committees to harmonize labor relations in keeping with article 40(b) of the Law of the Executive Branch, Decree 114-97 of the Congress of the Republic of Guatemala, and with the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.¹⁸⁰	Activity	2008	2009	2010	Individual cases handled	12,339	15,176	13,872	Individual cases handled	1,239	1,069	1,824	Total cases handled	13,578	16,245	15,696	Cases conciliated*	7,134	5,827	6,151	Settlement percentage	53%	36%	39%	Conciliation amounts (Quetzales)	29,066,755	30,595,542	34,682,855	Conciliation amounts US\$**	3,774,903	3,642,326	4,308,429
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4. Regional recommendations

- Increase resources for key compliance functions, including inspectorates, and mediation and conciliation services. - Improve training of compliance personnel.	Core budget of the Labor Ministry	
	1.15. Amount of the annual MTPS budget.	- For the effects of the verification process, only activities that are truly labor-related are relevant; therefore, the following programs are included in this monitoring process: - Program 01 Central Activities which includes 11 activities: 001 Senior management; 002 Management and legal advisory services; 003 Administrative matters; 004 Management of cooperation and planning; 005 Internal control services; 006 Financial Administration Unit/ (UDAF); 007 Departmental coordination services; 008 Human resource management; 009 Administration of information systems; 010 International labor affairs, and 011 Public relations and protocol.

180. Committee for dialogue between employers and workers of the Department of Quetzaltenango; Committee for dialogue of Banana Companies and the Trade Union of Workers of the Department of Izabal; Committee for tripartite dialogue of the Department of Escuintla; Committee for dialogue for the solution of labor disputes in the Department of Retalhuleu; Committee for dialogue of the Campania Agrícola Industrial Palo Gordo, S.A.; Committee for technical and political dialogue to analyze the labor situation of the Social and Trade Union Organizations of Women in the Economy.

Challenges and recommendations	Indicators	August - December 2010
• Improve infrastructure, information technology and case management capacity. • Reorganize operations of labor ministries to effectively focus on key priorities. • Enhance or establish where necessary offices focused on women's workplace issues and child labor. • Enhance or establish offices where necessary of special advocates for worker rights who can further assist workers and employers on effective compliance with labor laws. • Institutionalize improved enforcement procedures and initiatives focused on high priority concerns such as the dismissal of workers for legitimate trade union activities and gender discrimination, including any illegal pregnancy testing.		- Program 09 Construction of regional offices. - Program 11 Wage and employment issues which includes 5 activities: 001 Management and coordination; 002 Worker protection; 003 National Wages Service; 005 Calculation of minimum wages, and 006 Professional training and employment services for workers. - Program 12 Application and monitoring of labor standards which includes 4 activities: 001 Management and coordination; 002 Labor inspection and control services; 003 Office of the Workers' Ombudsman and 004 Alternative Labor Dispute Resolution. - Program 13 Workers social welfare includes 7 activities: 001 Management and coordination; 002 Monitoring occupational health and safety standards; 004 Assistance for workers with disabilities; 006 Assistance for underage workers; 007 Assistance for indigenous peoples; 008 Assistance for working women, and 009 Promotion of women's participation. - Program 15 Services for promotion of employment and human resource training includes 6 activities: 001 Management and coordination; 002 National Employment Service; 003 Assistance for workers; 004 Assistance for working women; 005 Education and training for workers, and 006 Promotion of grants. - Program 99 Budgetary items that cannot be allocated; this program was divided into two parts: ILO quotas that do form part of the verification process, and others that are excluded (transport subsidies and others). • Five programs are excluded: - Program 13 Workers social welfare: activity 010 Attention to the elderly, only charged to the program in 2008. - Program 14 Recreation for State employees - Program 16 Attention to the elderly, for 2009 and 2010, which corresponded to activity 010 or program 13 in 2008. - Program 98 Special allocations of the Congress of the Republic - Program 99 Budgetary items that cannot be allocated to programs' from which transport subsidies and others are excluded.

Challenges and recommendations	Indicators	August - December 2010						
		Initial MTPS budget by program (in quetzales). Period 2005-2010						
		Programs	2005	2006	2007	2008	2009	2010*
		Total MTPS budget	58,468,587	68,517,311	68,517,311	351,570,786	357,686,684	357,686,684
		Programs included for verification purposes:						
		01 Central activities	15,809,746	15,858,769	15,858,769	12,261,362	14,953,450	14,953,450
		09 Construction of regional offices	0	0	0	0	14,190,983	14,190,983
		11 Wage and employment issues	2,370,683	2,309,479	2,309,479	2,309,479	2,761,324	2,761,324
		12 Application and monitoring of labor standards	14,609,080	14,871,019	14,871,019	14,838,019	10,944,794	10,944,794
		13 Social Security for workers*	1,193,910	1,539,262	1,539,262	3,179,752	1,960,413	1,960,413
		15 Services for promotion of employment and human resource training'	3,256,214	2,941,073	2,941,073	5,076,174	8,572,020	8,572,020
		99 Budgetary items that cannot be allocated to programs-ILO quota**	600,000	700,000	700,000	0	1,000,000	1,000,000
		Total for effects of the verification process	37,839,633	38,219,602	38,219,602	37,664,786	54,382,984	54,382,984
		Programs not included for verification purposes:						
		13 Social Security for workers-010 Attention to the elderly	0	0	0	250,000,000	0	0
		14 Recreation for State employees	20,628,954	30,297,709	30,297,709	30,106,000	24,303,700	24,303,700
		16 Attention to the elderly	0	0	0	0	250,000,000	250,000,000
		98 Special allocations of the Congress of the Republic	0	0	0	33,800,000	0	0
		99 Budgetary items that cannot be allocated to programs -others-**	0	0	0	0	29,000,000	29,000,000
		Total excluded from the verification process	20,628,954	30,297,709	30,297,709	313,906,000	303,303,700	303,303,700
		* The total for 2008 differs from the total published in the budget for Program 010 'Attention to the elderly' which, in this case, was considered among the items excluded from the verification process.						
** This program was divided into two parts: the quotas to the ILO that form part of the verification process, and others that are excluded (transport subsidies and others).								
Source: Ministry of Public Finance. The State's General Budget for Income and Expenditure. Fiscal Exercises 2005, 2006, 2007, 2008, 2009 and 2010, Budget of expenditure by institution. April 2011.								

Challenges and recommendations	Indicators	August - December 2010																																																																																																										
		• The budget assigned to the MTPS for both 2009 and 2010 represented a 44% increase in relation to 2008; however, at the level of the modified and executed budget, the growth was much less. In 2010, the modified budget grew by 0.9% in relation to the previous year and the executed budget by 7.5%. In real terms, both the initial and the modified budget fell in relation to 2009, but the executed budget increased by 3.5% compared to 2009. Annual MTPS budget subject to verification and rates of growth. Period January 2005 – 2010. <table><tr><th rowspan="3">Year</th><th colspan="3">Initial budget</th><th colspan="3">Modified budget</th><th colspan="3">Executed budget</th></tr><tr><th rowspan="2">Quetzales</th><th colspan="2">% annual increase</th><th rowspan="2">Quetzales</th><th colspan="2">% annual increase</th><th rowspan="2">Quetzales</th><th colspan="2">% annual increase</th></tr><tr><th>current</th><th>real*</th><th>current</th><th>real*</th><th>current</th><th>real*</th></tr><tr><td>2005</td><td>37,839,633</td><td>-</td><td>-</td><td>38,689,378</td><td>-</td><td>-</td><td>38,086,115</td><td>-</td><td>-</td></tr><tr><td>2006</td><td>38,219,602</td><td>1.0</td><td>-5.2</td><td>39,964,252</td><td>3.3</td><td>-3.1</td><td>37,071,947</td><td>-2.7</td><td>-8.7</td></tr><tr><td>2007</td><td>38,219,602</td><td>0.0</td><td>-6.4</td><td>41,925,992</td><td>4.9</td><td>-1.8</td><td>39,702,938</td><td>7.1</td><td>0.3</td></tr><tr><td>2008</td><td>37,664,786</td><td>-1.5</td><td>-11.5</td><td>42,404,786</td><td>1.1</td><td>-9.2</td><td>39,396,037</td><td>-0.8</td><td>-10.9</td></tr><tr><td>2009</td><td>54,382,984</td><td>44.4</td><td>41.8</td><td>44,692,001</td><td>5.4</td><td>3.5</td><td>39,321,373</td><td>-0.2</td><td>-2.0</td></tr><tr><td>2010</td><td>54,382,984</td><td>0.0</td><td>-3.7</td><td>45,103,777</td><td>0.9</td><td>-2.8</td><td>42,266,223</td><td>7.5</td><td>3.5</td></tr></table> * To calculate the increase, inflation measured by the Consumer Prices Index (base December 2000) was subtracted, using the annual average rate each year. Source: Ministry of Public Finance. General Budget for the State's Income and Expenditure. Fiscal Exercises 2005, 2006, 2007, 2008, 2009 and 2010. April 2011. • In 2010, the MTPS executed budget represented 77.7% of the initial budget and 93.7% of the modified budget. Percentage of execution of the annual MTPS budget subject to verification. Period January 2005 – December 2010. <table><tr><th>Budget</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Executed in relation to the initial budget</td><td>100.7</td><td>97.0</td><td>103.9</td><td>104.6</td><td>72.3</td><td>77.7</td></tr><tr><td>Executed in relation to the modified budget</td><td>98.4</td><td>92.8</td><td>94.7</td><td>92.9</td><td>88.0</td><td>93.7</td></tr></table> Source: Prepared by the authors based on data provided by the Integrated Financial Management System (SIAF) of the Ministry of Public Finance. April 2011.	Year	Initial budget			Modified budget			Executed budget			Quetzales	% annual increase		Quetzales	% annual increase		Quetzales	% annual increase		current	real*	current	real*	current	real*	2005	37,839,633	-	-	38,689,378	-	-	38,086,115	-	-	2006	38,219,602	1.0	-5.2	39,964,252	3.3	-3.1	37,071,947	-2.7	-8.7	2007	38,219,602	0.0	-6.4	41,925,992	4.9	-1.8	39,702,938	7.1	0.3	2008	37,664,786	-1.5	-11.5	42,404,786	1.1	-9.2	39,396,037	-0.8	-10.9	2009	54,382,984	44.4	41.8	44,692,001	5.4	3.5	39,321,373	-0.2	-2.0	2010	54,382,984	0.0	-3.7	45,103,777	0.9	-2.8	42,266,223	7.5	3.5	Budget	2005	2006	2007	2008	2009	2010	Executed in relation to the initial budget	100.7	97.0	103.9	104.6	72.3	77.7	Executed in relation to the modified budget	98.4	92.8	94.7	92.9	88.0	93.7
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Challenges and recommendations

Indicators

August - December 2010

I.16. Percentage of annual institutional budget devoted to compliance with labor laws.

- Verification of the budget allocated to the application of labor laws is based on the activities included in the programs: 11 Wages and labor issues; 12 Application and monitoring of labor standards and 13 Social Security for workers (excluding activity 010 Attention to the elderly) in the 2008 budget
- As can be seen from the following table, the 2010 initial, modified and executed budget for the application of labor law had negative growth compared to the previous year.

Annual MTPS budget subject to verification for the enforcement of labor laws and rates of growth (in quetzales and percentages). Period January 2005 – December 2010.

Year	Initial budget			Modified budget			Executed budget		
	Quetzales	% annual increase		Quetzales	% annual increase		Quetzales	% annual increase	
		current	real*		current	real*		current	real*
2005	18,173,673	-	-	17,173,821	-	-	16,821,585	-	-
2006	18,719,760	3.0	-3.3	18,800,763	9.5	2.7	18,054,464	7.3	0.7
2007	18,719,760	0.0	-6.4	19,208,797	2.2	-4.4	18,142,091	0.5	-5.9
2008	20,327,250	8.6	-2.5	19,738,525	2.8	-7.7	18,454,930	1.7	-8.6
2009	15,666,531	-22.9	-24.3	21,229,695	7.6	-5.6	19,322,959	4.7	2.8
2010	15,666,531	0.0	-3.7	19,642,401	-7.5	-10.9	18,849,975	-2.4	-6.1

* To calculate this increase, inflation measured by the Consumer Prices Index (baseline December 2000) was subtracted, using the annual average rate each year. Source: Ministry of Public Finance. General Budget for the State's Income and Expenditure. Fiscal Exercises 2005, 2006, 2007, 2008, 2009 and 2010 and data provided by the Integrated Financial Management System (SIAF) of the Ministry of Public Finance. April 2011.

- The percentage represented by the budget dedicated to the application of labor law in relation to the total MTPS budget subject to verification decreased from 54% in 2008 to 29% in 2009 and 2010 for two reasons: the reduction in expenditure for program 12 Application and monitoring of labor standards, and the significant increase in program 09 Construction of regional offices.
- If the percentage of this budget at the level of executed expenses is analyzed, it was similar between 2005 and 2006, and between 2008 and 2009, but declined in 2007 and 2010 in relation to the preceding years.

Percentage of the budget dedicated to labor law enforcement in relation to the MTPS institutional budget subject to verification. Period January 2005 – December 2010.

Budget	2005	2006	2007	2008	2009	2010
Initial in relation to initial	48.0	49.0	49.0	54.0	28.8	28.8
Executed in relation to executed	44.2	48.7	45.7	46.8	49.1	44.6

Source: Prepared by the authors on the basis of data provided by the Integrated Financial Management System of the Ministry of Public Finance. April 2011.

Challenges and recommendations	Indicators	August - December 2010																					
	I.17. Percentage of the MTPS budget in relation to the national budget.	The initial MTPS budget represented 0.11% of the National Budget in 2009 and 2010, and revealed an improvement in relation to 2006, 2007 and 2008, but a decline compared to 2005 (0.12%). As for the MTPS executed budget in relation to the executed National Budget, there has been a downward trend, since it decreased from 0.12% in 2005 to 0.08% in 2010. Percentage of the MTPS institutional budget subject to verification in relation to the National Budget. Period January 2005 – December 2010. <table><tr><th>Budget</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Initial in relation to initial</td><td>0.12</td><td>0.10</td><td>0.10</td><td>0.09</td><td>0.11</td><td>0.11</td></tr><tr><td>Executed in relation to executed</td><td>0.12</td><td>0.10</td><td>0.10</td><td>0.09</td><td>0.09</td><td>0.08</td></tr></table> Source: Prepared by the authors on the basis of data provided by the Integrated Financial Management System of the Ministry of Public Finance April 2011.	Budget	2005	2006	2007	2008	2009	2010	Initial in relation to initial	0.12	0.10	0.10	0.09	0.11	0.11	Executed in relation to executed	0.12	0.10	0.10	0.09	0.09	0.08
Budget	2005	2006	2007	2008	2009	2010																	
Initial in relation to initial	0.12	0.10	0.10	0.09	0.11	0.11																	
Executed in relation to executed	0.12	0.10	0.10	0.09	0.09	0.08																	
Labor law enforcement procedures																							
	I.18. Number and type of actions to improve the procedures for enforcing labor laws. Include: a) Existence and enactment of laws and regulations to improve enforcement of labor laws. b) Design of policies, plans, procedures and protocols. c) Dissemination of policies, plans, procedures and protocols by means of manuals or training.	As regards the planning of inspection, 5 plans of operation were prepared to focus inspection on specific issues and regions. These plans were: (a) plan of operation to verify compliance with labor laws in the maquila industries of Chimaltenango (April–August 2010); (b) plan of operation for the prevention and elimination of the worst forms of child labor in the fireworks industries (November–December 2010); (c) plan of operation to verify compliance with the payment of the Christmas bonus to public and private sector workers (December 2010); (d) plan of operation to verify compliance with the labor laws in farms located in the departments of Jutiapa, Jalapa, Zacapa, Santa Rosa, Suchitepéquez, Escuintla and Guatemala (October - December 2010), and (e) plan of operation to verify compliance with payment of the annual bonus to workers in the private and public sector (July–December 2010).																					

Challenges and recommendations	Indicators	August - December 2010																																		
	Strengthening of special units (Working Women's Department, Unit for the Protection of Adolescent Workers, Office of the Workers' Ombudsman)																																			
	I.19. Number and type of actions to reinforce the departments with personnel, infrastructure, financial resources, or other means, including: - Number of professional staff assigned to the Department - Amount allocated to the Department.	Working Women's Department: • In 2010, the Working Women's Department had a staff of 6 (4 technical personnel, 1 secretary and 1 professional/department head). There were 2 people less than in 2009. Staff assigned to the Working Women's Department Period 2007-December 2010 <table><tr><th></th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Staff assigned</td><td>3</td><td>3</td><td>8</td><td>6</td></tr></table> Source: Prepared by the authors based on information from the MTPS Social Welfare Directorate. April 2011. • The National Office for Women (ONAM), attached to the MTPS, has staff members who complement the work of the Working Women's Department. In 2010, there were 5 ONAM officials in the central offices (one director, one coordinator of departmental offices, two secretaries and one person responsible for the documentation center), and four departmental coordinators, in Huehuetenango, San Marcos, El Petén and Cobán. Unit for the Protection of Adolescent Workers: • At December 2010, the staff of the Unit for the Protection of Adolescent Workers decreased to 6 officials (1 head and 5 technical personnel). 5 less than in 2005. Staff assigned to the Unit for the Protection of Adolescent Workers Period 2005-December 2010 <table><tr><th></th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Staff assigned</td><td>11</td><td>11</td><td>11</td><td>9</td><td>7</td><td>6</td></tr></table> Source: Prepared by the authors based on information from the MTPS Social Welfare Directorate. April 2011. Directorate General of the Office of the Workers' Ombudsman (PDT) • At December 2010, there were still 17 officials assigned to the Directorate General of the Office of the Workers' Ombudsman: the director, 4 advisors, 1 prosecutor, 7 officials responsible for drafting labor complaints, 4 officials to provide administrative support. Staff assigned to the Directorate General of the Office of the Workers' Ombudsman. Period 2005-December 2010 <table><tr><th></th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Staff assigned</td><td>11</td><td>12</td><td>17</td><td>17</td></tr></table> Source: Prepared by the authors based on information from MTPS Directorate of the Office of the Workers' Ombudsman. April 2011.		2007	2008	2009	2010	Staff assigned	3	3	8	6		2005	2006	2007	2008	2009	2010	Staff assigned	11	11	11	9	7	6		2007	2008	2009	2010	Staff assigned	11	12	17	17
	2007	2008	2009	2010																																
Staff assigned	3	3	8	6																																
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Staff assigned	11	12	17	17																																

2. Labor courts

To ensure an effective administration of labor justice for workers, the States should guarantee promptness in the proceedings, facilitate access to information and to the courts, provide legal assistance to the parties that require this, and ensure the aptness of the officials responsible for delivering justice. In this regard, the Judicial Branch should promote measures, in coordination with the other Branches of the State, to ensure that it has specialized labor courts throughout national territory; to offer a permanent training program on international conventions and current domestic legislation for judges and other labor justice administrators, and develop an efficient management model that includes systems that provide appropriate and timely information for decision-making.

The White Paper expressed the following concerns with regard to the Labor Courts: (1) non-compliance with judicial orders for reinstatement in the case of unlawful dismissal of trade union members; (2) the need to “*advance a systematic reform program on labor justice*” that included “*improving training and professional oversight*” of those involved in the administration of justice, and “*strengthening the labor law and international labor standards in the curricula of national law schools*”, and “*implementing additional ethical and disciplinary procedures for labor judges and magistrates*”¹⁸¹; (3) the lack of sufficient judges and labor law courts to handle the existing demand; (4) the delays in labor justice proceedings and the difficulty met by workers in obtaining relief even if they win their case; and (5) the need to increase the capacity to administer labor law by implementing a mediation, conciliation and arbitration service, and new courts and tribunals, as well as the creation of an independent advocate to defend the rights of workers.

In addition, all the Governments undertook to increase resources destined to provide the Labor Courts with the trained personnel, infrastructure and equipment to enable them to fulfill their functions satisfactorily.¹⁸²

Over the period August-December 2010, no actions were recorded with regard to the study on non-compliance with reinstatement orders in cases of unlawful dismissal in Guatemala. In addition, no measures were recorded to expedite compliance with reinstatement orders or to monitor them.

In 2010, there were fewer ordinary cases and court reinstatements than in 2009.

In the area of enhancing the capabilities of agents of justice, the Judiciary’s School of Judicial Studies did not report any training events on labor matters during the current verification period.

In 2010, there were 46 courts of first instance with jurisdiction in labor matters, of which 22 had single jurisdiction (48%). Owing to the elimination of jurisdiction in labor matters in one of the combined courts, the total number of courts with jurisdiction to hear such cases decreased from 54 in 2009 to 53 in 2010.

The number of regular posts of judge in courts of first instance with single jurisdiction in labor matters remained at 22. In second instance, the number of regular posts of judge in the appeals chambers has also remained unchanged (4).

Regarding the bill to reform the Law on Amparo, Habeas Corpus and Constitutionality (No. 3319), no actions were recorded to promote the processing of the bill in the Legislative Assembly.

181. White Paper; p. 46

182. Ibid., p. 64

In 2010, the number of new cases filed before the courts of first instance decreased from 10,623 cases in 2009 to 9,700 (81% in specialized courts in 2010). However, the number of labor cases heard by the appeals chambers increased from 2,548 to 3,271 over the same period (95% in specialized chambers in 2010).

Regarding conciliation of individual labor disputes, 1,412 cases were settled by conciliation in 2010. In the case of collective disputes, there has been a downward trend in the number of disputes settled in this way.

No information was obtained on the amount disbursed for the Judiciary's courts with single jurisdiction in labor matters.

To make progress in implementing the White Paper recommendations, the country should take the following suggestions into account:

- Disseminate the study on non-compliance with reinstatement orders in cases of unlawful dismissal in Guatemala.
- Continue the study and design of strategies to expedite compliance with reinstatement orders resulting from unlawful dismissals, such as discriminatory anti-trade union dismissals, taking into account the study mentioned above, and consult the workers' and employers' organizations, as appropriate.
- Analyze the need to establish control mechanisms to ensure compliance with procedural time limits.
- Incorporate the study on the application of national and international norms into the permanent programs of the basic, specialization, upgrading, and distance education courses offered by the School of Judicial Studies.
- Improve the coverage and offer of training under the academic cooperation agreements signed by the Judiciary with different institutions.
- Continue efforts to specialize labor justice, providing it with resources and training for its members, and increasing the number of specialized courts in the regions where they are needed
- Evaluate the experience of the courts with single jurisdiction over recent years.
- Set up an adequate system of judicial statistics, implementing a statistical monitoring system on the number of cases pending and on the duration of proceedings.
- Create an autonomous body to provide legal defense to workers, in order to ensure independent legal services for the protection of their rights before the courts.
- Request technical cooperation to improve the alternative labor dispute resolution system, so that it can function before cases go to court, as mentioned in the previous report.
- Make the necessary investments to increase the number of courts with jurisdiction in labor matters, their geographical distribution and their effectiveness, and to improve the capabilities of agents of justice.

Challenges and recommendations	Indicators	August - December 2010																																
I. Reinstatement																																		
Challenge: - Despite judicial remedies for the dismissal of trade union members that include reinstatement, the judicial system has not effectively been able to implement such authority. Recommendations: - Pass a reform to Legislative Decree 41- 99, Judicial Profession Law that includes a specific sanction to be imposed by the Judicial Disciplinary Board on labor judges when they show negligence in executing reinstatement orders for illegally dismissed workers. Note in the 2007-2010 Plan of Implementation of the White Paper Recommendations of the MTPS of Guatemala: - In cases of unlawful dismissal, delay in the reinstatement of a worker should not be attributed to the negligence of the judges, since this results from the use of the remedies of appeal and applications for protection of constitutional rights,	Compliance with reinstatement orders																																	
	2.1. Existence of a study determining the reasons for delays or failure to comply with reinstatement orders, an action plan to facilitate compliance with such orders, and progress made in the implementation of the plan.	- On March 12, 2010, the study of non-compliance with reinstatement orders in cases of unlawful dismissals in Guatemala was forwarded to the Supreme Court of Justice. - No relevant actions were recorded during this verification period.																																
	2.2. Number of cases of unlawful dismissal reported, number of court reinstatement orders, and number of reinstatements.	In 2010, fewer ordinary court proceedings and reinstatements were recorded than in 2009; however, cases of a socio-economic nature within collective disputes increased in relation to that year. Ordinary proceedings, socio-economic collective disputes and reinstatements. Period 2005-2010. <table><tr><th>Proceedings before the courts</th><th>2005</th><th>2006</th><th>2007</th><th>2008*</th><th>2009*</th><th>2010</th></tr><tr><td>Ordinary proceedings</td><td>4,862</td><td>4,833</td><td>4,888</td><td>5,344</td><td>5,600</td><td>5,021</td></tr><tr><td>Cases related to socio-economic collective disputes</td><td>401</td><td>1,343</td><td>894</td><td>1,836</td><td>1,169</td><td>1,202</td></tr><tr><td>Reinstatements ordered</td><td>249</td><td>391</td><td>314</td><td>678</td><td>408</td><td>322</td></tr></table> * The information for 2008 and 2009 has been updated in relation to the data presented in previous reports by the National Judicial Documentation and Analysis Center (CENADOJ) with the data entered in 2009 and 2010 corresponding to that period. Source: Prepared by the authors based on information provided by the National Judicial Documentation and Analysis Center (CENADOJ), Judiciary, April 2011.						Proceedings before the courts	2005	2006	2007	2008*	2009*	2010	Ordinary proceedings	4,862	4,833	4,888	5,344	5,600	5,021	Cases related to socio-economic collective disputes	401	1,343	894	1,836	1,169	1,202	Reinstatements ordered	249	391	314	678	408
Proceedings before the courts	2005	2006	2007	2008*	2009*	2010																												
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Reinstatements ordered	249	391	314	678	408	322																												

183. The purpose of this study is to obtain information on the obstacles that cause delays or non-compliance with reinstatement orders in the cases of discriminatory trade union dismissals and for gender-based discrimination, as well as the formulation of legal solutions that contribute to overcoming the impediments detected, including the draft bills or internal directives that are necessary, as well as reviewing and giving an opinion on the bills that are being processed by the Congress of the Republic. The document includes a plan of action to overcome the situation. The study was financed by the ILO /Verification Project and was prepared by the consultant, Miguel Canessa, in June and July 2009, and the process of reviewing it has been completed.

Challenges and recommendations	Indicators	August - December 2010																																																																					
2. Improving training and accountability																																																																							
Challenge - Despite recent efforts and some improvements in the courts in Guatemala, the access to the judiciary for labor disputes and the professional capacity of the courts still needs to be strengthened. Moreover, there are still problems in assuring that employers respect the judgments of the courts on labor matters and implement the relevant orders issued. Recommendations: - Continue efforts to advance a systematic reform program on labor justice. Key elements for the reform program include: a) Improve training and professional oversight of judges, lawyers and other officials involved in the administration of labor justice, including an intensive and on-going training program on international labor standards. b) Strengthen the labor law and international labor standards curricula of the national law schools. c) Implement additional ethical and disciplinary procedures for labor judges and magistrates.	Ethical and disciplinary procedures																																																																						
	2.3. Number and type of actions implemented by the Judiciary to improve the ethical and disciplinary control procedures of labor justice administrators.	It was not possible to obtain information on the cases processed by the Judiciary's Judicial Disciplinary Board against judges with competence in labor matters for the whole of 2010, so that the data recorded in the following table only corresponds to the first two months of that year. Cases against labor judges processed by the Judicial Disciplinary Board. Period January 2005 – February 2010 <table><tr><th>Cases against labor judges</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Not admitted for processing</td><td>57</td><td>76</td><td>52</td><td>46</td><td>51</td><td>0</td></tr><tr><td>Being processed</td><td>0</td><td>0</td><td>0</td><td>0</td><td>11</td><td>4</td></tr><tr><td>Declared inadmissible</td><td>7</td><td>2</td><td>1</td><td>15</td><td>6</td><td>0</td></tr><tr><td>Dismissed</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Processed on appeal</td><td>0</td><td>2</td><td>0</td><td>0</td><td>1</td><td>0</td></tr><tr><td>Closed</td><td>0</td><td>1</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Sanction confirmed*</td><td>0</td><td>2</td><td>2</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Sanctions revoked</td><td>1</td><td>0</td><td>0</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Total cases</td><td>65</td><td>83</td><td>55</td><td>63</td><td>69</td><td>4</td></tr></table> * In 2006, 2 judges were sanctioned, one for serious offenses, with a 30-day suspension, the other for a minor offense and a serious offense, sentenced to a written reprimand and 10 days suspension; in 2007, 2 judges were sanctioned, one for a minor offense, who received a written reprimand, and the other was suspended for a month because he had committed a very serious offense; in 2008, one judge was suspended for 5 days. Source: Prepared by the authors base on information provided by the Judiciary's Judicial Disciplinary Board. August 2010.	Cases against labor judges	2005	2006	2007	2008	2009	2010	Not admitted for processing	57	76	52	46	51	0	Being processed	0	0	0	0	11	4	Declared inadmissible	7	2	1	15	6	0	Dismissed	0	0	0	0	0	0	Processed on appeal	0	2	0	0	1	0	Closed	0	1	0	0	0	0	Sanction confirmed*	0	2	2	1	0	0	Sanctions revoked	1	0	0	1	0	0	Total cases	65	83	55	63	69
Cases against labor judges	2005	2006	2007	2008	2009	2010																																																																	
Not admitted for processing	57	76	52	46	51	0																																																																	
Being processed	0	0	0	0	11	4																																																																	
Declared inadmissible	7	2	1	15	6	0																																																																	
Dismissed	0	0	0	0	0	0																																																																	
Processed on appeal	0	2	0	0	1	0																																																																	
Closed	0	1	0	0	0	0																																																																	
Sanction confirmed*	0	2	2	1	0	0																																																																	
Sanctions revoked	1	0	0	1	0	0																																																																	
Total cases	65	83	55	63	69	4																																																																	

184. See web site of the School of Judicial Studies. Activities Section. Report on Activities (in Spanish only):http://www.oj.gob.gt/uci/index.php?option=com_content&view=article&id=131&Itemid=118

Challenges and recommendations	Indicators	August - December 2010
	Ethical and disciplinary procedures	
	2.4. Existence of a permanent training program for administrators of labor justice that includes: • Existence of a permanent system for monitoring and assessing training needs (indicate the results of the monitoring and assessment of the activities). • Number and type of relevant training and information workshops, forums and events each year. • Number of judicial officials participating in the training events. • Number of academic establishments taking part in the training initiatives for labor justice administrators.	• Over this verification period, the Judiciary's School of Judicial Studies did not report any specialized training events on labor matters as part of its permanent programs, which include the Basic Training program, the Upgrading/ Specialization Program, and the areas of Training for Judicial Officials, Training for Judicial Auxiliaries, Training for Administrative Staff, and Distance Education.¹⁸⁴
	2.5. Number of academic establishments with which MTPS and the Judiciary have signed coordination and cooperation agreements to train labor justice administrators (inclusion of International Labor Standards in the curricula).	• No relevant information was obtained for this verification period.

Challenges and recommendations	Indicators	August - December 2010																																																																																																		
3. Number of courts																																																																																																				
Challenge: - The administration of labor justice could be further improved with an increase in the number of judges and courts. Recommendations: - Review the modernization of justice program funded by the Inter-American Development Bank to assure that it is placing sufficient emphasis on the needs of labor justice in Guatemala. Note in the MTPS 2007-2010 Plan of Implementation of the White Paper Recommendations: - The Inter-American Development Bank Modernization Program ended in 2006. Currently the modernization process is financed by a World Bank loan, which terminated in June 2007.	Coverage of services 2.6. Number of labor courts (labor courts, tribunals and chambers). Include the number of judges dedicated to labor matters.	- According to the data provided by the Judiciary, in 2010, there were 46 courts with jurisdiction in labor matters; of these, 22 have single jurisdiction (48%), which represents a significant increase in the number of such courts since 2005, when there were only 8 labor courts with single jurisdiction. Number of labor courts, by type of court and jurisdiction. Period January 2005 - 2010. <table><tr><th>Court and jurisdiction</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>First instance</td><td>34</td><td>34</td><td>36</td><td>41</td><td>47</td><td>46</td></tr><tr><td>Courts with single jurisdiction</td><td>8</td><td>9</td><td>11</td><td>13</td><td>22</td><td>22</td></tr><tr><td>Courts with combined jurisdiction</td><td>26</td><td>25</td><td>25</td><td>28</td><td>25</td><td>24</td></tr><tr><td>Second instance</td><td>4</td><td>5</td><td>5</td><td>6</td><td>7</td><td>7</td></tr><tr><td>Chambers with single jurisdiction</td><td>4</td><td>4</td><td>4</td><td>4</td><td>4</td><td>4</td></tr><tr><td>Chambers with combined jurisdiction</td><td>0</td><td>1</td><td>1</td><td>2</td><td>3</td><td>3</td></tr><tr><td>Total</td><td>38</td><td>39</td><td>41</td><td>47</td><td>54</td><td>53</td></tr></table> Source: Prepared by the authors on the basis of information provided by CENADOJ, Judicial Documentation and Statistics Area, Judiciary. April 2011. - As regards the regular posts of judge in the courts with single jurisdiction in labor matters, there has also been an increase in first instance from 8 officials in 2005 to 22 in 2010. In second instance, the number of regular posts of judge in the appeals chambers has remained unchanged. Regular posts of judge in labor courts with single jurisdiction, by type of court. Period January 2005 - 2010. <table><tr><th>Court and jurisdiction</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>First instance</td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Labor courts</td><td>8</td><td>9</td><td>11</td><td>13</td><td>22</td><td>22</td></tr><tr><td>Second instance</td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Appeals chambers</td><td>4</td><td>4</td><td>4</td><td>4</td><td>4</td><td>4</td></tr><tr><td>Total</td><td>12</td><td>13</td><td>15</td><td>17</td><td>26</td><td>26</td></tr></table> Source: Prepared by the authors on the basis of information provided by CENADOJ, Judicial Documentation and Statistics Area, Judiciary. April 2011.	Court and jurisdiction	2005	2006	2007	2008	2009	2010	First instance	34	34	36	41	47	46	Courts with single jurisdiction	8	9	11	13	22	22	Courts with combined jurisdiction	26	25	25	28	25	24	Second instance	4	5	5	6	7	7	Chambers with single jurisdiction	4	4	4	4	4	4	Chambers with combined jurisdiction	0	1	1	2	3	3	Total	38	39	41	47	54	53	Court and jurisdiction	2005	2006	2007	2008	2009	2010	First instance							Labor courts	8	9	11	13	22	22	Second instance							Appeals chambers	4	4	4	4	4	4	Total	12	13	15	17	26	26
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Challenges and recommendations	Indicators	August - December 2010																																																								
4. Procedural reforms																																																										
Challenge: - Workers also tend to give up on the use of the courts as an option to protect their rights due to delays in the process, and difficulty in getting relief even if they win. Decisions on labor law matters that now should take three months can take two years or more. Recommendations: - Pass the reform proposed by the Supreme Court on the law permitting actions to enforce constitutional rights ("recursos de amparo"), which currently slows the judicial process. - Pass the proposed reform permitting all judicial proceedings on labor matters to be oral rather than in writing, and under specified timelines. Note in the MTPS 2007-2010 Plan of Implementation of the White Paper Recommendations: - According to Judiciary officials, the recommendations should be modified to read as follows: - Provide follow-up for the draft bill regulating the use of the constitutional remedy of amparo (to protect rights). - Improve the conditions and the capabilities for implementing and applying the principle of orality in judicial proceedings on labor.	Case backlog status in the courts 2.7. Number of active files being processed and executed by the different courts. 2.8. Percentage of labor cases decided (decision rate¹⁸⁵). Include rate of cases pending,¹⁸⁶ rate of congestion¹⁸⁷ and average duration in months of proceedings according to the type of court. - Although, there is insufficient data to determine the case backlog in the courts, the following table reveals the upward trend in the number of new cases filed before the judicial system and the growing specialization in labor matters. While, in 2005, 71% of the new cases in first instance were dealt with by courts with single jurisdiction, in 2010, 80% were filed before these courts. - In second instance, the number of new labor cases doubled in 2010. However, only 5% of new labor cases were filed before chambers with combined jurisdiction in 2010. New labor cases, by court and type of jurisdiction. Period January 2005 - 2010. <table><tr><th>Court and jurisdiction</th><th>2005</th><th>2006</th><th>2007</th><th>2008*</th><th>2009*</th><th>2010</th></tr><tr><td>First instance</td><td>7,449</td><td>9,647</td><td>9,091</td><td>10,377</td><td>10,632</td><td>9,700</td></tr><tr><td>Courts with single jurisdiction</td><td>5,298</td><td>7,504</td><td>7,161</td><td>8,019</td><td>8,550</td><td>7,811</td></tr><tr><td>Courts with combined jurisdiction</td><td>2,151</td><td>2,143</td><td>1,930</td><td>2,358</td><td>2,082</td><td>1,889</td></tr><tr><td>Second instance</td><td>1,153</td><td>1,978</td><td>1,957</td><td>2,634</td><td>2,548</td><td>3,271</td></tr><tr><td>Chambers with single jurisdiction</td><td>1,153</td><td>1,931</td><td>1,863</td><td>2,487</td><td>2,359</td><td>3,105</td></tr><tr><td>Chambers with combined jurisdiction</td><td>0</td><td>47</td><td>94</td><td>147</td><td>189</td><td>166</td></tr><tr><td>Total</td><td>8,602</td><td>11,625</td><td>11,048</td><td>13,011</td><td>13,180</td><td>12,971</td></tr></table> * The information for 2008 and 2009 has been updated in relation to the data presented in the previous report by the National Judicial Documentation and Analysis Center (CENADOJ) with data entered in 2009 and 2010 corresponding to those periods. Source: Prepared by the authors based on information provided by the National Judicial Documentation and Analysis Center (CENADOJ), Judicial Documentation and Statistics Area, the Judiciary. April 2011.		Court and jurisdiction	2005	2006	2007	2008*	2009*	2010	First instance	7,449	9,647	9,091	10,377	10,632	9,700	Courts with single jurisdiction	5,298	7,504	7,161	8,019	8,550	7,811	Courts with combined jurisdiction	2,151	2,143	1,930	2,358	2,082	1,889	Second instance	1,153	1,978	1,957	2,634	2,548	3,271	Chambers with single jurisdiction	1,153	1,931	1,863	2,487	2,359	3,105	Chambers with combined jurisdiction	0	47	94	147	189	166	Total	8,602	11,625	11,048	13,011	13,180	12,971
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185. Calculated as follows: Decision rate = Total files concluded during a year / Total files entered in the same year X 100. This indicates the proportion between files pending in a year and those concluded in that same year.

186. Pending rate: this indicates the percentage of files that are pending processing and those in which proceedings have begun but have not concluded.

187. Backlog rate: this determines the case overload or delay in the courts. If the backlog rate exceeds 1, there is backlog in the court; if it is equal to 1, there is no backlog. If the backlog is 2.2, it indicates that the court should have processed 2.2 times more cases than it did in order to eliminate the backlog.

Challenges and recommendations	Indicators	August - December 2010
	Draft bill: remedy of amparo (application for protection of constitutional rights)	
	2.9. Status of the bill in the legislative process (committee reports, place on the agenda, position of the employer and worker sectors with regard to the draft bill).	• Bill No. 3319 to reform National Constituent Assembly Decree No. 1-86, Law on Amparo, Habeas Corpus and Constitutionality, is still before the Special Committee on Reforms to the Justice Sector. The Committee has not yet issued an opinion on the bill. • During this verification period no actions were recorded concerning the bill.
	2.10. Number and type of promotion and lobbying actions to ensure the bill's passage.	• Not applicable, because the bill has not yet been approved.
	2.11. Bill passed by the Legislative Assembly and published for implementation.	
	2.12. Number and type of dissemination and training activities on the newly approved law.	
	Implementation of oral judicial proceedings	
	2.13. Number and type of actions to improve implementation of the oral principle in labor judicial proceedings.	• No actions were reported for this verification period.
5. Institucional Enhancements		
Challenge: • Despite increases in the number of labor court judges in recent years, some additional capacities with regard to labor law administration could be useful.	Alternative dispute resolution	
	2.14. Number and type of actions to establish and put in practice a service of mediation, conciliation and arbitration in labor matters.	• No information was reported in this regard for this verification period..
	2.15. Number of cases handled and decided by conciliation or mediation.	• Regarding conciliation of individual labor disputes, 1,412 cases were settled by conciliation in 2010; the highest number recorded in the last 6 years. However, with regard to collective disputes, there has been a downward trend in the number of disputes settled by this means.

Challenges and recommendations	Indicators	August - December 2010																												
Recommendations: • Implement the Supreme Court recommendation to establish a mediation, conciliation and arbitration service to try to divert cases from court where the parties can agree. • Establish two additional courts of first instance in the capital and a labor appellate tribunal outside the capital. • Create an independent advocate to defend the rights of workers.		Labor matters settled by conciliation in labor and social welfare courts. Period January 2005 – December 2010. <table><tr><th>Conciliations</th><th>2005</th><th>2006</th><th>2007</th><th>2008*</th><th>2009</th><th>2010</th></tr><tr><td>Individual agreements</td><td>1.190</td><td>1.121</td><td>1.243</td><td>1.163</td><td>1.211</td><td>1.412</td></tr><tr><td>Collective agreements</td><td>180</td><td>15</td><td>21</td><td>27</td><td>15</td><td>9</td></tr><tr><td>Total</td><td>1.370</td><td>1.136</td><td>1.264</td><td>1.190</td><td>1.226</td><td>1.421</td></tr></table> * The information for 2008 and 2009 has been updated in relation to the data presented in the previous report by the National Judicial Documentation and Analysis Center (CENADOJ) with the data entered in 2009 and 2010 corresponding to those periods. Source: Prepared by the authors based on information provided by CENADOJ, Judiciary. April 2011.	Conciliations	2005	2006	2007	2008*	2009	2010	Individual agreements	1.190	1.121	1.243	1.163	1.211	1.412	Collective agreements	180	15	21	27	15	9	Total	1.370	1.136	1.264	1.190	1.226	1.421
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Total	1.370	1.136	1.264	1.190	1.226	1.421																								
	Independent advocacy (Office of the Workers’ Ombudsman/PDT)																													
	2.16. Number of individual and collective cases handled, decided and won by the PDT. The measures to reinforce the PDT are reported under indicator 1.19.	• No information was obtained on the actions taken by the Office of the Workers’ Ombudsman over this verification period.																												

6. Regional recommendations

• Make further investments in labor courts, judges and other personnel and equipment. • Enhance operation of the labor courts. • Establish comprehensive labor standards training initiative for judges, prosecutors, government officials and others involved in labor law administration. • Involve appropriate academic organizations in establishing a network of labor law training centers in each country. • Establish a regional labor law center to integrate best practices and assist in the harmonization of training capacity and other practices in the labor law administration area. • Establish additional alternative dispute resolution centers in countries that do not have one, and assure that the resources and training are available to make them successful.	Institutional budget																												
	2.17. Amount of the annual operating budget of the labor courts.	• Although it was not possible to obtain information on the amount of the Judiciary's 2010 executed budget for courts with single jurisdiction in labor matters, the 72% increase recorded between 2008 and 2009 is worth highlighting; this corresponded to the creation, in 2009, of 9 courts of first instance specialized in labor matters, increasing the courts of this type from 13 to 22. Executed budget of the Judiciary dedicated to labor matters (in quetzales). Period January 2005 - July 2010. <table><tr><th>Year</th><th>Executed budget of the Judiciary</th><th>Cost of labor matters in courts with single jurisdiction</th><th>Percentage</th></tr><tr><td>2005</td><td>789,191,183</td><td>14,919,122</td><td>1.89%</td></tr><tr><td>2006</td><td>911,033,844</td><td>14,304,438</td><td>1.57%</td></tr><tr><td>2007</td><td>944,481,162</td><td>16,083,799</td><td>1.70%</td></tr><tr><td>2008</td><td>1,107,927,529</td><td>18,746,680</td><td>1.69%</td></tr><tr><td>2009</td><td>1,444,259,456</td><td>32,150,738</td><td>2.23%</td></tr><tr><td>2010*</td><td>1,321,710,062</td><td>17,970,132</td><td>1.36%</td></tr></table> * The data corresponds to the period January–July 2010. Source: Budget Department of the Judiciary, July 2009, January 2010 and August 2010. Reports on budget execution from the Integrated Accounting System (SICOI).	Year	Executed budget of the Judiciary	Cost of labor matters in courts with single jurisdiction	Percentage	2005	789,191,183	14,919,122	1.89%	2006	911,033,844	14,304,438	1.57%	2007	944,481,162	16,083,799	1.70%	2008	1,107,927,529	18,746,680	1.69%	2009	1,444,259,456	32,150,738	2.23%	2010*	1,321,710,062	17,970,132
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3. Gender and discrimination

The right of women and other discriminated groups, such as indigenous people, ethnic minorities and people living with HIV/AIDS, to receive equal treatment, free from discrimination based on sex, ethnic origin, religion, political opinions, age, or any other reason that is irrelevant to their job performance is embodied in numerous instruments of international law, such as ILO Convention No. 100 concerning Equal Remuneration (1951); ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation (1958); the 1998 ILO Declaration on Fundamental Principles and Rights at Work, and the Convention for the Elimination of all Forms of Discrimination against Women (United Nations General Assembly, Resolution 34/180, 18 December 1979). On ratifying the said instruments, the States are bound to formulate and implement national policies that promote equal opportunities and the elimination of discrimination in the workplace.

The White Paper identified the need to pass the pending reforms to the laws on discrimination and gender, to implement actions to prohibit the practice of requesting pregnancy tests in the workplace, and also the difficulties of enforcing labor law in the agricultural sector, especially in relation to the disputes and tensions that arise between indigenous peoples and employers.¹⁸⁸ At the regional level, all the Governments undertook to establish a regional center for employment equality that would provide training, educational materials and information to support efforts to eliminate discrimination in the workplace.¹⁸⁹

Over the period August-December 2010, the MTPS, the ONAM, and other organizations took different measures to promote the reforms to the Labor Code, including 6 events to analyze bill No. 4075; workshops and meetings to socialize it, and lobbying with the Committee on Women's Affairs of the Congress of the Republic and the Presidential Secretariat for Women (SEPREM). In December 2010, the Committee on Women's Affairs issued a positive opinion on Bill No. 4075 to reform the Labor Code with regard to equity.

Regarding the promotion of women's labor rights, the MTPS Working Women's Department organized 12 talks on labor rights for 1,365 students and workers. In addition, it provided advisory services on labor matters in response to 119 requests by women in person or by telephone. In addition, the ONAM organized a conference on gender, women's leadership and labor rights for 29 members of the Women in Peacebuilding Network; it broadcast a radio program on breastfeeding and labor rights, and held 4 workshops to socialize the module for training on women's human rights and international norms in favor of women.

In 2010, of the 735 complaints submitted at the national level for gender-based discrimination, 58% were filed with the central office, most of them related to the dismissal of pregnant or nursing workers. The 17 complaints based on requests for a certification concerning pregnancy were submitted in the departmental delegations.

In the sphere of labor rights and the agricultural sector, the MTPS organized 2 training workshops on ILO Convention No. 169 concerning Indigenous and Tribal Peoples (1989); and 3 talks to socialize this convention for 89 municipal employees, women municipal leaders and students. Furthermore, 13 MTPS officials successfully took courses on the K'iche' and Kaqchikel languages, in compliance with the Law on National Languages.

In 2010, it was reported that 475 complaints had been submitted to the MTPS Inspectorate for violations of labor rights in the agricultural sector; of these, 9% ended with a case filed before the courts.

188. The White Paper, p. 47.

189. Ibid., p. 65.

Lastly, in order to promote equity in employment, a web site was designed to promote equality addressed to adults under the age of 30, and a program of 3-month job internships for young people was started in order to improve their employability

To make progress in implementing the White Paper recommendations, the country should take the following suggestions into account:

- Continue providing support to the Congress of the Republic to ensure approval of the reforms to the Labor Code concerning equity.
- Plan the communication strategy to socialize the reforms to the law when they are approved.
- Draw up an inspection protocol on gender-based discrimination, which includes the prohibition of requesting pregnancy tests or certificates before and during the labor relationship, especially for hiring or dismissing.
- Reinforce training for inspectors on the issues of gender-based discrimination to improve their dual function of applying labor law and providing technical advice to improve compliance by employers.
- Implement communication activities to promote equality addressed to the social sectors.
- Keep the data on compliance with national and international laws concerning indigenous and tribal people updated; especially as regards the agricultural sector.
- Continue disseminating national and international law, with special emphasis on rural areas, and offering training activities for the indigenous peoples.
- Intensify training for the Labor Inspectorate on non-discrimination, particularly in the agricultural sector.
- Continue implementing a communication strategy on the issue of equal job opportunities and job permanence, taking advantage of the resources, content, reports and materials made available by international cooperation agencies.
- Seek funding and technical assistance from international cooperation as well as tripartite support, in order to program training activities for the worker and employer sectors, as suggested in the previous report.
- Establish the necessary inter-institutional and internal coordination of MTPS in order to obtain updated information on the evolution of the situation of inequality based on gender and race in the labor sphere.

Challenges and recommendations	Indicators	August - December 2010
I. Legal reform		
Challenge: - There is a continued need to reform the laws on discrimination with regard to gender issues which has been pending for several years. Recommendation: - Pass the pending legal reform on discrimination and gender.	Reform of the law with regard to discrimination and gender	
	3.1. Existence of a consensual draft bill, sent to the Legislative Assembly.	- The Committee on Women' Affairs of the Congress of the Republic issued a favorable opinion on Bill No. 4075 to reform the Labor Code concerning gender equity on December 7, 2010. - The MTPS and the ONAM, together with other public and non-governmental organizations working in favor of women, organized various activities to promote the reforms to the Labor Code, such as an analysis of the bill by experts in labor law; 4 workshops to analyze the bill with civil society organizations; 4 meetings to socialize the progress made with the social actors; one meeting with the President of the Committee on Women's Affairs of the Congress of the Republic to provide information on the progress made and request support for the approval of the bill, and a workshop of a political nature with the participation of the Presidential Secretariat for Women's Affairs (SEPREM) addressed to members of the congressional committees that examine legal reforms concerning gender.
	3.2. Status of the bill in the legislative process (committee reports, place on the agenda, position of the employer and the worker sectors with regard to the bill).	
	3.3. Number and type of promotion and lobbying actions to ensure the passage of the bill.	
	3.4. Draft bill passed by the Legislative Assembly and published for implementation.	Bill 4,075 has not been approved yet.
	3.5. Number and type of dissemination and training actions on the newly approved law.	

Challenges and recommendations	Indicators	August - December 2010																																						
2. Pregnancy testing and enforcement initiative																																								
Challenge: - There are concerns expressed about the continued use of pregnancy testing in the workplace. Recommendations: - Initiate broad-based public education and advocacy campaigns on women's protections in the workplace. - Issue legal guidance to the inspectorate that all labor complaints involving discrimination allegations, including pregnancy testing, will be punished to the maximum extent of the law. - Assure that this legal guidance is made public and broadly disseminated.	Guidelines on pregnancy testing																																							
	3.6. Existence and status of application of legal guidelines prohibiting and sanctioning pregnancy testing when hiring or dismissing female workers.	• No legal directives were issued, and none of the existing laws on the issue were modified over the verification period.																																						
	Awareness-raising and training on women's rights																																							
	3.7. Number and type of training and information activities on labor rights, especially on the use of pregnancy tests when hiring or dismissing female workers (include the number of participants in these activities and, if available, the results of the participants' evaluation of the pertinent training event or programs).	• Over the period August–December 2010, the MTPS Working Women's Department organized 14 talks on labor rights in which 1,365 students and workers from different sectors participated. In addition, it provided advisory services on labor matters to 119 women who visited the ministry or submitted inquiries by telephone.																																						
Training and information activities of the MTPS Working Women's Department. Period August-December 2010																																								
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Challenges and recommendations	Indicators	August - December 2010																																																															
		For its part, the ONAM, attached to the MTPS, organized the Conference on Gender, Women's Leadership and Labor Rights, for members of the Women in Peacebuilding Network (August, 29 participants); broadcast a radio program in the context of World Breastfeeding Week, promoting the labor rights of pregnant and nursing mothers (August), and held 4 workshops to socialize and validate the training module on women's human rights and international laws in favor of women (September).																																																															
	3.8. Number of cases detected, reported and sanctioned for gender discrimination, disaggregating cases of pregnant women.	- Most complaints filed before the Labor Inspectorate due to gender-based discrimination concern dismissals, owing to either pregnancy or breastfeeding. Between 2005 and 2010, these cases represented from 85% to 90% of all the complaints of gender-based discrimination filed before the central office of the MTPS. Complaints of gender-based discrimination filed before the Labor Inspectorate in the Metropolitan Area. Period January 2005 – December 2010 <table><tr><th>Reason for the complaint</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Dismissal while pregnant</td><td>302</td><td>283</td><td>252</td><td>367</td><td>330</td><td>238</td></tr><tr><td>Dismissal while nursing</td><td>159</td><td>130</td><td>115</td><td>182</td><td>184</td><td>132</td></tr><tr><td>Payment of pre- and post-natal benefits</td><td>29</td><td>24</td><td>34</td><td>58</td><td>37</td><td>27</td></tr><tr><td>Forced to do inappropriate work</td><td>2</td><td>1</td><td>25</td><td>8</td><td>3</td><td>2</td></tr><tr><td>Request for pregnancy certificate</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Verification of unhealthy areas</td><td>4</td><td>5</td><td>6</td><td>3</td><td>0</td><td>2</td></tr><tr><td>Failure to grant time for nursing</td><td>17</td><td>30</td><td>35</td><td>29</td><td>40</td><td>24</td></tr><tr><td>Total</td><td>513</td><td>473</td><td>467</td><td>647</td><td>594</td><td>425</td></tr></table> Source: Statistics from the Labor Inspectorate General, July 2008, January and August 2010, and April 2011. - The number of complaints filed before the MTPS in 2010 owing to gender-based discrimination (735) was less than in 2009 (1,020), a trend in both the central office and in the departmental offices. In 2010, 45% of the complaints related to the dismissal of pregnant workers and 23% to the dismissal of nursing workers. The previous year, the percentages were 41% and 22% respectively. As in previous years, the complaints based on a request for a pregnancy certificate were filed in the departmental offices (17 complaints).	Reason for the complaint	2005	2006	2007	2008	2009	2010	Dismissal while pregnant	302	283	252	367	330	238	Dismissal while nursing	159	130	115	182	184	132	Payment of pre- and post-natal benefits	29	24	34	58	37	27	Forced to do inappropriate work	2	1	25	8	3	2	Request for pregnancy certificate	0	0	0	0	0	0	Verification of unhealthy areas	4	5	6	3	0	2	Failure to grant time for nursing	17	30	35	29	40	24	Total	513	473	467	647	594	425
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3. Labor dispute in agriculture

Challenge:

- The difficulty that the Ministry of Labor has in enforcing the labor law in the agricultural sector raises particular concern in Guatemala because disputes over such issues as wage payments result in major tensions between indigenous populations and employers and give rise

Awareness-raising and training on labor rights in the agricultural sector

- 3.9. Number and type of awareness-raising and training activities on the enforcement of labor laws in the agricultural sector (number of participants in the activities and, if available, the results of the participants' evaluation of the pertinent training event or program).

- Regarding awareness-raising and dissemination of labor rights in the agricultural sector, the MTPS Indigenous Peoples Department organized the following activities:
 - Two training workshops on ILO Convention 169 concerning Indigenous and Tribal Peoples, for students from the municipalities of Esquipulas, Chiquimula¹⁹⁰ and Ciudad Vieja, Sacatepequez¹⁹¹.
 - Three talks to socialize ILO Convention 169 for 20 municipal workers from Río Hondo, Zacapa; 30 women community municipal leaders from San Ildefonso Ixtahuacán, Huehuetenango, and 39 university students studying social work.
 - Courses of the K'iché and Kaqchikel languages for MTPS employees, offered in coordination with the Academy of Mayan Languages of Guatemala (ALMG), in compliance with the National Languages Law. 5 participants passed the K'iche' course, and 8 officials passed the Kaqchikel course.

190. Held on October 1 and 7, 2010, in the Municipal Institute of Diversified Education (IMEDE), 320 students.

191. The MTPS indicated that 195 people participated, but did not include the date of the event.

Challenges and recommendations	Indicators	August - December 2010																																						
to land occupations by workers and retaliatory criminal complaints by employers. Recommendations: • Implement a more predictable and effective dispute settlement mechanism for the effective application of the labor law in the agriculture sector that largely impacts Guatemala's indigenous population.	3.10. Number of cases detected, reported and sanctioned for violations of labor rights in the agricultural sector.	• During 2010, 475 complaints were filed before the MTPS for violations of labor laws in the agricultural sector, most of them processed by the visiting inspectors. The Inspectorate brought 9% of the complaints before the courts (45 cases). Complaints and cases of labor rights violations in the agricultural sector handled by the Labor Inspectorate. Period January 2005 – December 2010. <table><tr><th>Section</th><th>Concept</th><th>2005*</th><th>2006*</th><th>2007*</th><th>2008**</th><th>2009**</th><th>2010**</th></tr><tr><td rowspan="2">Visiting Inspectors</td><td>Complaints filed with MTPS</td><td>16</td><td>12</td><td>37</td><td>775</td><td>569</td><td>459</td></tr><tr><td>Elevated to the courts***</td><td>1</td><td>2</td><td>7</td><td>26</td><td>53</td><td>43</td></tr><tr><td rowspan="2">Conciliation inspectors</td><td>Complaints filed with MTPS</td><td>28</td><td>17</td><td>25</td><td>13</td><td>44</td><td>16</td></tr><tr><td>Elevated to the courts***</td><td>8</td><td>3</td><td>4</td><td>1</td><td>2</td><td>2</td></tr></table> * The information available for 2005, 2006 and 2007 corresponds to the Metropolitan Area where very few complaints are lodged by the agricultural sector. Information for 2009 from January 1 to July 31, 2009. ** For 2008, 2009 and 2010, the cases correspond to the whole country, not only the Metropolitan Area. *** When the parties to a dispute are unable to reach agreement, the Inspectorate continues the process stipulated by national law and, if applicable, draws up an incident report that it submits to the courts. Source: Statistics from the Labor Inspectorate General, July 2008, February 2009, March and August 2010, and May 2011.	Section	Concept	2005*	2006*	2007*	2008**	2009**	2010**	Visiting Inspectors	Complaints filed with MTPS	16	12	37	775	569	459	Elevated to the courts***	1	2	7	26	53	43	Conciliation inspectors	Complaints filed with MTPS	28	17	25	13	44	16	Elevated to the courts***	8	3	4	1	2	2
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4. Regional recommendations

- Establish a regional center for employment equality that would provide training, educational materials, a clearinghouse on best practices and other information, and support other programs focused on the elimination of employment discrimination concerns. - Undertake targeted training and enforcement support initiatives for the ministries of labor on effective compliance strategies for violations that might involve pregnancy testing or the exploitation of migrant or indigenous workers.	Regional Center for Employment Equality	
	3.11. Number and type of actions undertaken to establish the regional center, including: - Number of coordination activities for the design, establishment and operation of the Regional Center. - Existence of a sustainable conceptual, operational and financial proposal for the Center for Employment Equality. - The Regional Center for Employment Equality in operation. - Existence of agreements between the countries (formal and informal).	- An employment web site was designed to promote equity in employment for young people and to provide counseling on labor issues to improve their employment insertion strategies. This project, supported by the European Union, is addressed to young people under the age of 30 and will start with a pilot project in the Department of Huehuetenango. - A program of 3-month job internships was put in practice to provide youth with their first job experience, and to generate employability mechanisms with a gender approach for this population.

4. Worst forms of child labor

ILO Convention No. 182 on the Worst Forms of Child Labor (1999) establishes that the States are obliged to adopt immediate and effective measures to prohibit and eliminate the worst forms of child labor, which include: (a) slavery or similar practices, such as the sale and trafficking of children, forced labor and forced recruitment for use in armed conflict; (b) use of children and adolescents for commercial sexual activities; (c) their use in illicit activities, such as the production and trafficking of drugs, and (d) work, which by its nature or by the circumstances in which it is carried out is likely to harm the health, safety or morals of children. Upon ratification of this convention, as well as ILO Convention No. 138 concerning the Minimum Age for Work (1973) and other instruments for the protection of children and adolescents, Governments undertake to implement policies to promote the rights of the child, such as the right to education, health and protection from mistreatment.

The White Paper identified a need to remove children from the fireworks industry by implementing programs that would remove the manufacture of fireworks from residential areas and home production.¹⁹² In addition, the Governments undertook to establish a child-labor-free zone consistent with ILO Convention 182 on the worst forms of child labor by the end of the decade.¹⁹³

Over the period August-December 2010, a fireworks plan of operation was implemented and, 17 inspection visits were made to fireworks production or distribution centers, resulted in the detection of 13 minors and the filing of 15 cases before the courts for sanctions.

According to the annual records of the MTPS, during 2010, 221 cases of minors employed in the fireworks industry were detected and 18 cases were forwarded to the courts; this was more than all the cases reported between 2006 and 2009.

With regard to inter-institutional coordination, the CONAPETI has an Executive Secretariat responsible for the issue of child labor at the national level, as well as 9 sub-secretariats at the departmental level. The latest one was established in Quetzaltenango during this verification period.

The CONAPETI validated the program for the Road Map to make Guatemala a country free of child labor in September 2010 and, in December 2010, the Vice President presented it to the worker and employer sectors and to civil society organizations.

In 2010, 5 State institutions included actions to prevent and eliminate child labor in their work plans.

Regarding the net rate of schooling, the most recent data is from 2009, when 98.3% of boys and girls aged from 7 to 12 years were enrolled in school, however this percentage declined to only 39.3% for those aged from 13 to 15 years.

The MTPS provided guidance on labor rights and obligations to 2,384 adolescents, but no information was provided on the number of minors withdrawn from child and adolescent labor.

192. The White Paper, p. 47.

193. Ibid., p. 65

To make progress in implementing the White Paper recommendations, the country should take the following suggestions into account:

- Carry out more inspection operations in fireworks production and distribution centers, including in the informal sector.
- Monitor the minors who were working in those centers, ensuring inter-institutional coordination to provide them with social and educational services.
- Provide support to the departmental sub-secretariats to ensure adequate coordination inter- and intra-institutional so as to provide a satisfactory response to boys and girls victims of child labor and its worst forms. Among the measures to adopt, give special emphasis to encouraging this population to enroll and remain in the education system.
- Promote continuous monitoring of the Road Map, improving information systems for decision-making, especially of the MTPS and the Ministry of Education.

Challenges and recommendations	Indicators	August - December 2010																																									
I. Fireworks																																											
Challenge: • A priority area has been removing children from the fireworks industry, which is highly dangerous. • With the support of IPEC, two modern factories have been built to move production of fireworks out of neighborhoods and away from being a cottage industry, and this has been a successful pilot program. Recommendations: • Issue a regulation banning homework on fireworks in 2005. • Establish a coordination mechanism that includes the Ministries of labor, economy and defense to scale up pilot fireworks factories to deal with the problem as a national priority. Note in the MTPS 2007-2010 Plan of Implementation of the White Paper Recommendations: • Since February 2007, Government Decision 28-2004, Regulations for Pyrotechnical Activities of January 12, 2004, published in the Diario de Centro América of January 13, 2004 in effect.	Application of the norms on child labor and fireworks																																										
	4.1. Number and type of actions to prevent and eliminate child labor in the fireworks industry (include the number of persons and workplaces sensitized and trained and, if available, the results of the participants' evaluation of the pertinent training event or programs). 4.2. Number of cases detected, reported and sanctioned for using underage persons in the fireworks industry (include the number of companies closed or transferred for using child labor, as well as the number of underage persons removed from the fireworks industry).	• In 2010, within the framework of the MTPS fireworks plan of operations, 17 inspections visits were made, and it was found that none of the workplaces were in compliance with the legislation for this sector. In 13 cases, minors were found working, and 15 cases were forwarded to the courts for the respective sanction proceedings. • As a result of the MTPS fireworks plan of operations, 221 cases of minors involved in the production and distribution of fireworks were detected in 2010; this figure is more than all the cases identified from 2006 to 2009. In addition, the Labor Inspectorate forwarded 18 cases to the courts. This number was also in excess of all the cases forwarded to the courts in the 4 previous years. Cases detected by MTPS of the use of minors in the production and distribution of fireworks. Period January 2006 – December 2010. <table><tr><th>Activity</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th></tr><tr><td>Cases detected in fireworks production centers</td><td>2</td><td>29</td><td>30</td><td>7</td><td>60</td></tr><tr><td>Case files forwarded to the courts in cases detected in fireworks production centers.</td><td>1</td><td>2</td><td>0</td><td>0</td><td>27</td></tr><tr><td>Cases detected in fireworks distribution centers</td><td>13</td><td>54</td><td>22</td><td>42</td><td>161</td></tr><tr><td>Case files forwarded to the courts in cases detected in fireworks distribution centers.</td><td>5</td><td>5</td><td>0</td><td>3</td><td>18</td></tr><tr><td>Total cases detected</td><td>15</td><td>83</td><td>52</td><td>49</td><td>221</td></tr><tr><td>Total cases forwarded to the courts</td><td>6</td><td>7</td><td>0</td><td>3</td><td>18</td></tr></table> * In addition to the 13 cases where minors were found working, cases were forwarded to the courts based on other types of non-compliance with the law. Source: Statistics from the Labor Inspectorate General, January and August 2010, and April 2011.	Activity	2006	2007	2008	2009	2010	Cases detected in fireworks production centers	2	29	30	7	60	Case files forwarded to the courts in cases detected in fireworks production centers.	1	2	0	0	27	Cases detected in fireworks distribution centers	13	54	22	42	161	Case files forwarded to the courts in cases detected in fireworks distribution centers.	5	5	0	3	18	Total cases detected	15	83	52	49	221	Total cases forwarded to the courts	6	7	0	3
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Challenges and recommendations	Indicators	August - December 2010
2. Regional recommendations		
- Establish a child-labor-free zone consistent with ILO Convention 182 by the end of the decade. - Develop viable timelines, needs assessments, and allocation of resources to accomplish the objective.	A child-labor-free zone at the regional level	
	4.3. Existence and status of implementation of the National Plan (date formulated, percentage of financing, percentage of compliance with the goals, principal results, existence of periodic evaluations).	- On September 2, 2010, the program for the Road Map to make Guatemala a country free of child labor¹⁹⁴ was validated in a meeting of the National Commission for the Elimination of Child Labor (CONAPETI). - On December 6, 2010, the Road Map was presented officially; the Vice President of the Republic took part in the event, as well as representatives of the MTPS, the employers' and workers' organizations, and civil society organizations working in this area.
	4.4. Existence and functioning of special inter-institutional committees on child labor.	There is an Executive Secretariat responsible for the issue of child labor at the national level located in Guatemala City, and also 8 sub-secretariats for the elimination of child labor in the departments of Chiquimula, Jalapa, Sololá, El Quiché, Totonicapán, Huehuetenango, San Marcos, Retalhuleu and Quetzaltenango. The latter was created during the period August–December 2010.
	4.5. Number of State institutions that have incorporated actions to prevent and eliminate child labor into their annual plans of operation.	In 2010, 5 State institutions incorporated measures to prevent and eliminate child labor into their institutional work plans: the Labor Ministry, the Ministry of Education, the Attorney General's office, the Ministry of Public Health and Social Assistance, and the Social Welfare Secretariat.
	4.6. Amount of the MTPS institutional budget dedicated to the issue of child labor.	- The budgetary allocation for the MTPS sub-program of assistance to working minors and the executed budget have fluctuated over recent years. The initial budget grew strongly between 2005 and 2007, rising from Q47,000 to more than Q332,000 over this period. In 2008, it was one-third less than of the previous year (Q95,000) but increased by 15% in the two subsequent years. Nevertheless, budget execution has not corresponded to the planned increases. - In 2005 and 2008 higher budget execution was achieved with 89.5% and 79.5% respectively, while the lowest execution corresponded to 2007 (8.5%) and 2009 (9.3%)

194. The Road Map is a public policy that incorporates the initiatives of public and private entities into a single effort in order to prevent and eliminate child labor and its worst forms, and also to protect adolescent workers. The Road Map organizes national actions in order to achieve the goals established in the Hemispheric Agenda on Decent Work, and its strategic framework has six elements: poverty reduction, education, health care, institutional and legal framework, awareness-raising and social mobilization, and generation of knowledge and monitoring, with their respective objectives, results, indicators and goals, and the fundamental strategies to achieve these.

Challenges and recommendations	Indicators	August - December 2010																																			
		Program 13 sub-program 006 Assistance to working minors: initial, modified and executed budget. Period 2005 –2010. <table><tr><th>Budget</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010*</th></tr><tr><td>Initial budget</td><td>47,275</td><td>195,504</td><td>331,631</td><td>95,343</td><td>109,461</td><td>109,461</td></tr><tr><td>Modified budget</td><td>47,275</td><td>195,504</td><td>331,631</td><td>95,343</td><td>97,661</td><td>109,461</td></tr><tr><td>Executed budget</td><td>42,289</td><td>34,702</td><td>28,171</td><td>75,761</td><td>10,141</td><td>n.d.</td></tr><tr><td>% executed in relation to initial</td><td>89.5</td><td>17.8</td><td>8.5</td><td>79.5</td><td>9.3</td><td>n.d.</td></tr></table> * Data at August 5, 2010. Source: Prepared by the authors based on data provided by the Integrated Financial Administration System (SIAF) of the Ministry of Public Finance. August 5, 2010.	Budget	2005	2006	2007	2008	2009	2010*	Initial budget	47,275	195,504	331,631	95,343	109,461	109,461	Modified budget	47,275	195,504	331,631	95,343	97,661	109,461	Executed budget	42,289	34,702	28,171	75,761	10,141	n.d.	% executed in relation to initial	89.5	17.8	8.5	79.5	9.3	n.d.
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	4.7. Number of underage persons recorded as withdrawn from child labor and its worst forms as a result of the actions of the existing national plans.	• According to figures from the National Statistics Institute, in 2006 there were 966,361 child workers in Guatemala, of whom 528,003 were aged 5 and 14 years (55%), and 438,358 were aged 15 to 17 years (45%).¹⁹⁵ • No information was provided on the number of minors withdrawn from child and adolescent labor through measures taken by the entities responsible for dealing with this problem.																																			
	4.8. Number of cases sanctioned for employing boys, girls and adolescents in child labor and in its worst forms (include the cases recorded by MTPS and the criminal cases recorded by the Public Prosecutor’s Office.	• No relevant information was provided during this period.																																			
	4.9. Net rate of schooling, by age and sex.	• Although the Guatemalan Ministry of Education has no data on the net rate of enrolment for 2010 as yet, the following table shows the sustained increased in this rate since 2005. At the primary level, a rate of 98.3 has been achieved; however, for the population aged from 13 to 18 years, the rates are extremely low (39.3 for basic education and 20.8 for diversified education).																																			

195. National Statistics Institute, National Living Conditions Survey (ENCOVI), 2002 and 2006.

Challenges and recommendations	Indicators	August - December 2010																																			
		Net rate of enrolment,* by level. Period 2005-20010 <table><tr><th></th><th>2005</th><th>2006</th><th>2007</th><th>2008*</th><th>2009</th><th>2010</th></tr><tr><td>Pre-school (5 to 6 years)</td><td>47.0</td><td>48.1</td><td>48.2</td><td>49.0</td><td>56.3</td><td>n.d.</td></tr><tr><td>Primary (7 to 12 years)</td><td>93.5</td><td>94.5</td><td>95.0</td><td>95.1</td><td>98.3</td><td>n.d.</td></tr><tr><td>Basic (13 to 15 years)</td><td>33.2</td><td>34.7</td><td>36.4</td><td>37.2</td><td>39.3</td><td>n.d.</td></tr><tr><td>Diversified (16 to 18 years)</td><td>19.0</td><td>20.0</td><td>20.7</td><td>20.1</td><td>20.8</td><td>n.d.</td></tr></table> * The information for 2008 varies in relation to the previous report, which was the result of a preliminary consolidation. Source: Statistical Yearbooks of the Ministry of Education and 2008 estimate in Report on the general situation of the Republic, by the President of the Republic of Guatemala: Second year of Government. Enfrentando la crisis con Solidaridad. Juntos lo estamos logrando. Government of Álvaro Colom, January 2010		2005	2006	2007	2008*	2009	2010	Pre-school (5 to 6 years)	47.0	48.1	48.2	49.0	56.3	n.d.	Primary (7 to 12 years)	93.5	94.5	95.0	95.1	98.3	n.d.	Basic (13 to 15 years)	33.2	34.7	36.4	37.2	39.3	n.d.	Diversified (16 to 18 years)	19.0	20.0	20.7	20.1	20.8	n.d.
	2005	2006	2007	2008*	2009	2010																															
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	4.10. Number and type of national and regional actions designed to establish a child-labor-free zone by the end of the decade.	The MTPS counseled and raised the awareness of 2,384 adolescents about labor rights and obligations, as well as about the risks and consequences of working in activities defined as hazardous work. The activity was carried out in educational establishments and in the MTPS offices.																																			

5. Promotion of a culture of compliance

Compliance with labor rights calls for a population that is informed, educated, aware and trained about these rights and obligations and their implementation in daily life. It is also necessary to develop awareness in society so that it demands compliance with those rights and monitors their effective implementation in both the formal and the informal sector. All social sectors must participate in order to achieve this culture of compliance, including: public institutions, the media, trade unions, employer organizations, non-governmental organizations (NGOs) and other social actors. Moreover, this culture is only possible if there is a solid base of social dialogue; it is therefore vital to strengthen the tripartite consultative councils on labor issues.

The White Paper recognized the urgency of speeding up “*efforts to overcome the legacy of the civil war’s impact on industrial relations*” in Guatemala, so that public institutions feel they are being supported by other sectors in the task of guaranteeing the enforcement of labor standards. Consequently, emphasis was placed on the importance of developing a “*public information and awareness-raising campaign on national labor law and international standards on fundamental labor rights*”, as well as “*programs to create greater levels of social dialogue and confidence-building between labor, management and government actors*”.¹⁹⁶

Over the period August–December 2010, the MTPS took measures to disseminate labor rights by broadcasting radio programs, distributing printed materials, and organizing awareness-raising talks on labor rights to people with disabilities (2,345 personas), and on occupational health and safety (700 workers, employers and students). Over the verification period, the budget dedicated to actions to disseminate labor rights was Q20,000.

Regarding social dialogue mechanisms, the CTAIT held three meetings over the period August–December 2010, and discussed the following issues: best practices as regards tripartite social dialogue mechanisms; the sanction procedure for labor offenses, and follow-up to the Cooperative Labor Consultations under DR-CAFTA Chapter 16.

The CONASSO met 23 times between August and December 2010.

The CNS held 13 meetings over the period, and the main issue discussed was the establishment of the minimum wage for 2011.

During the tripartite workshop to analyze implementation of the White Paper, organized by the ILO on May 2, 2011, the workers’ representatives indicated that some confederations and organizations were excluded from the above-mentioned mechanisms, which reduced their representativeness.

The CEACR accepted the Government’s request for technical assistance in relation to integrating the worker sector into the CTAIT in order to improve its effectiveness.

To make progress in implementing the White Paper recommendations, the country should take the following suggestions into account:

- Disseminate labor rights systematically, especially those relating to the fundamental ILO conventions, with the participation of workers’ and employers’ organizations, organizing dissemination campaigns.
- Promote the culture of dialogue at the bipartite and tripartite level, particularly with regard to issues such as labor law reform, reinforcement of labor inspection, equity and non-discrimination in employment, and child labor.
- Promote the participation of all the representative trade union organizations in the tripartite social dialogue mechanisms.

¹⁹⁶ The White Paper, p. 47. ILO Convention 87

Challenges and recommendations	Indicators	August - December 2010
I. Information and training on fundamental rights		
Challenge: - Beyond the needs to strengthen and further professionalize the operations of the labor ministry and the labor courts, additional efforts to overcome the legacy of the civil war's impact on industrial relations need to be accelerated in Guatemala, since the ability of governmental institutions alone to enforce compliance is unlikely to be sufficient. The effort in Guatemala also requires corresponding developments to build a deeper culture of compliance. Recommendations: - Launch an aggressive public information and awareness raising campaign on national labor law and international standards on fundamental labor rights. - Institute programs to create greater levels of social dialogue and confidence building between labor, management and government actors, and more intensive training on effective approaches to industrial relations.	Dissemination of labor rights	
	5.1. Existence and level of implementation of a wide-ranging campaign on labor rights (include number and type of information and social awareness-raising actions on labor rights and number of people that benefit from the education and awareness-raising actions and, if available, the results of the participants' evaluation of the pertinent training event or programs).	- Over the verification period, the MTPS took the following measures to disseminate labor rights: - Transmission of 20 programs on the radio program "Diálogo Laboral," which is broadcast every Tuesday from 10 to 11 a.m. - Distribution of printed materials such as the monthly MTPS newsletter, flyers with information on the right to denounce violations of labor rights, on compliance with the Bono-14, and on payment of the Christmas bonus. - Awareness-raising talks on the labor rights of people with disabilities to 70 people with disabilities, 2,041 middle-school students, and 234 businessmen interested in promoting the employment of people with disabilities in the private sector. - Twenty talks on occupational health and safety, with the participation of 700 workers and employers, members of bipartite occupational health and safety committees, and middle-school students.
	5.2. Amount of the budget dedicated to implementing education and awareness-raising actions on labor rights.	According to the MTPS, over the verification period, the budget dedicated to actions to disseminate labor rights was Q20,000.

Challenges and recommendations	Indicators	August - December 2010
	Social dialogue mechanisms (the National Wage Commission, the National Occupational Health and Safety Council, and the Tripartite Commission for International Labor Affairs) 5.3. Number of ordinary and extraordinary meetings of the tripartite entities (include the level of tripartite participation in the meetings, the number and type of agreements reached and the degree of compliance with those agreements) and also the number of information and training events held by these entities on compliance with labor laws (include the level of tripartite participation and, if available, the results of the participants' evaluation of the pertinent training event or program).	Guatemala has 3 official social dialogue mechanisms: the Tripartite Commission for International Labor Affairs (CTAIT), the National Occupational Health and Safety Council (CONASSO) and the National Wage Commission (CNS).¹⁹⁷ • The CTAIT held 3 meetings during the period August–December 2010, in which it dealt with the following items: a presentation by the ILO on “Tripartite social dialogue mechanisms: best practices”; follow-up to the issue of the sanction proceedings for labor offenses, and follow-up to the Cooperative Labor Consultations under DR-CAFTA Chapter 16; • The CONASSO held 23 meetings between August and December 2010, in which it continued the process of elaborating the proposed national occupational health and safety policy; followed up on the authorization of the new Occupational Health and Safety Regulations, and reviewed and modified decision 191-2010. • The CNS held 13 meetings over the verification period, and the main item on the agenda was the establishment of the minimum wage for 2011. The results of reports issued by the National Statistics Institute, the Banco de Guatemala, and the Parity Committees of the productive sectors were presented during the meetings. Both employers and workers submitted proposals for the minimum wage, without reaching consensus; consequently the minimum wage was established by the Executive Branch in Government Decision 388-2010.

197. Regarding these tripartite mechanisms. See Annex 2 of the Verification Report on the implementation of the White Paper recommendations. Period February–July 2010; and the Report of the CEACR on the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948, No 87, 2011.