



Governing Body

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Institutional Section

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Annual report on the implementation of the ILO technical cooperation programme “Strengthening the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards”

Purpose of the document

This document contains the annual progress report on the implementation of the technical cooperation programme agreed between the Government and social partners of Guatemala and the ILO. The Governing Body is invited to take note of the report (see the draft decision in paragraph 16).

Relevant strategic objective: Promote and realize standards and fundamental principles and rights at work.

Main relevant outcome: Outcome 2: International labour standards and authoritative and effective supervision.

Policy implications: None.

Legal implications: None.

Financial implications: None.

Follow-up action required: None.

Author unit: International Labour Standards Department (NORMES).

Related documents: [GB.340/PV](#); [GB.340/INS/10](#); [GB.334/PV](#); [GB.334/INS/9 \(Rev.\)](#); [GB.343/INS/7](#); [GB.346/INS/10](#)

1. At its 334th Session (October–November 2018), the Governing Body declared closed the procedure initiated under article 26 of the ILO Constitution concerning the complaint filed in June 2012 alleging non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In that decision, having taken note of the tripartite agreement of November 2017 on the creation of the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS), the Governing Body requested the Office to implement a technical assistance programme to ensure the sustainability of the social dialogue process as well as further progress in the implementation of the road map adopted in 2013 in the context of the follow-up to the complaint. In accordance with the Governing Body's decision, the Office prepared a technical cooperation programme "Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards", the content of which was officially endorsed by Guatemala's tripartite constituents in August 2020. At its 340th Session (October–November 2020), the Governing Body welcomed the technical cooperation programme and called for funding for its implementation. The Governing Body also requested the Office to report annually on its implementation at its October–November sessions for the duration of the three-year programme.
2. It is recalled that the main objectives of the technical cooperation programme are to provide support for: (i) the negotiation, definition and implementation of CNTRLLS agreements; (ii) the preparation of draft legislation agreed upon by the Government, employers and workers in line with the ILO Conventions on freedom of association and collective bargaining; and (iii) the protection and promotion of labour rights, in particular the rights to freedom of association and collective bargaining, with a special focus on action to combat anti-union violence and impunity.
3. The first and second reports on the implementation of the technical cooperation programme were submitted and discussed at the Governing Body sessions in October–November 2021 and 2022. At its October–November 2022 session, the Governing Body took note of the joint mission to Guatemala by the ILO, the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) in September 2022. The Governing Body took particular note of the priority actions that were identified by the mission and agreed on by the CNTRLLS to give fresh impetus to the application of the road map over the following 12 months with the support of the Office through its technical cooperation programme.
4. Since the Governing Body last examined the technical cooperation programme, the status of the application of the road map: (i) was considered by the Committee on the Application of Standards at its June 2023 meeting during its examination of the application of Convention No. 87 by Guatemala; and (ii) was mentioned in the complaint filed in June 2023 under article 26 of the ILO Constitution by various Workers' delegates at the 111th Session of the International Labour Conference alleging non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (see document GB.349/INS/19/2). Furthermore, in June and August 2023, presidential elections were held in Guatemala and the country is currently in a transition phase in the run-up to the new Government taking office on 14 January 2024.

5. In view of the above, this document describes: (i) the actions implemented by the Office since September 2022 as part of the technical cooperation programme, with particular attention to the support provided for the priority actions defined in September 2022; (ii) the follow-up undertaken by the Office with the tripartite constituents to make progress on the priority actions; and (iii) efforts to mobilize funds for the implementation of the technical cooperation programme. The document also has two appendices: (i) a copy of the communication from the Government of Guatemala of 28 October 2023, containing comments on various aspects of the present document (Appendix 1); and (ii) a table summarizing the application status of the priority actions (Appendix 2).

► I. Actions carried out with the support of the Office since September 2022 ¹

I.1. Support for the National Tripartite Committee on Labour Relations and Freedom of Association

6. The CNTRLLS, which was established in February 2018, has the primary objective of guiding the action necessary for the implementation of the road map. One of the cornerstones of the technical cooperation programme is the strengthening of the structure and activities of the CNTRLLS. The priority actions defined during the joint mission of the ILO, IOE and ITUC in September 2022 also include elements related to the sound functioning of the CNTRLLS.
7. Accompanied and supported by the ILO, the CNTRLLS and its subcommittees on legislation and on the implementation of the road map continued to function on a regular basis throughout 2023. During the reporting period, the CNTRLLS met in full committee on 8 occasions, the subcommittee on legislation and labour policy met on 18 occasions, while the subcommittee on mediation and conflict resolution held 8 meetings and the subcommittee on the implementation of the road map held 4 meetings. The activities of the CNTRLLS since September 2022 include: (i) following up on the priority actions agreed on with the ILO–IOE–ITUC mission and on the commitments under the road map, particularly in respect of legislative reforms and enforcement of reinstatement orders; (ii) receiving progress reports on the status of the investigations into homicides and other acts of anti-union violence; (iii) examining the situation of trade union registrations; and (iv) analysing the challenges related to approvals of collective agreements on working conditions.
8. Despite the volatility of the national political situation, the CNTRLLS succeeded in preserving continued tripartite social dialogue and ensuring that it is institutionalized through alternating presidencies of the full committee and its subcommittees. The CNTRLLS has thus been confirmed as a forum for discussion and social democracy that can facilitate the conclusion of agreements in the future.
9. In addition to the ILO National Coordinator for Guatemala attending the majority of plenary meetings of the CNTRLLS, the Office provided financial support for the holding of meetings of the Committee on 8 and 29 March 2023, and of the subcommittee on legislation and labour policy on 31 March 2023. On 9 and 10 March 2023, a capacity-building workshop on the

¹ Part I of the document focuses exclusively on actions to implement the road map that were carried out with the support of the Office.

ILO supervisory system and international labour standards was held with a view to strengthening the technical capacities of those involved in the development of social dialogue meetings; the workshop was aimed at staff of the technical secretariats of the Committee and its three subcommittees; officials of the Attorney General's Office, the Public Prosecutor's Office and the Ministry of Labour and Social Welfare were also included.

I.2. Action against anti-union violence

10. In accordance with the priority actions and the terms of the technical assistance programme, the Office contributed to building the capacity of the Public Prosecutor's Office of Guatemala on combating anti-union violence. On 30 November 2022, a national workshop was held for 40 managers and staff members of municipal prosecutor's offices on international labour standards and the content of General Directive No. 1-2015 of the Public Prosecutor's Office of Guatemala on the effective investigation and criminal prosecution of offences against trade unionists, members of workers' organizations and other labour and trade union rights activists. Between March and April 2023, the same programme was offered virtually to more than 300 officials of 24-hour duty offices at the national level and municipal prosecutor's offices in coordination with the Training Unit of the Public Prosecutor's Office.

I.3. Trade union registration

11. As reported previously, with the support of the Office, a study was conducted and an electronic tool was designed for the registration of trade unions. In accordance with the priority actions, the implementation of the tool and the supply of the necessary equipment by the ILO are planned to take place in 2023. At the request of the Ministry of Labour and Social Welfare, the Office supported the running of a new diagnostic study to ensure that the tool responds better to the technical and IT security requirements of the labour administration. In March 2023, it finalized the acquisition of the equipment, which includes devices for printing identification cards for trade unionists. The administrative process for classifying the equipment as property of the State is under way.

I.4. Protection against anti-union dismissals and enforcement of reinstatement orders

12. In accordance with the priority actions, the Office is undertaking a technical diagnostic study on the mechanisms for enforcing reinstatement orders in the event of dismissals of trade unionists in Guatemala. Two experts from Costa Rica and El Salvador engaged by the ILO visited Guatemala in August and September 2023 to complete their research and meet with all relevant parties (labour and social welfare courts; the court of justices of the peace in criminal matters; appeals courts; the Supreme Court of Justice; the Constitutional Court; the Office of the Attorney General; the Special Investigation Unit for Crimes against Judicial Officials and Trade Unionists; the Ministry of Labour and Social Welfare; representatives of employers' and workers' organizations; jurists and professors of labour rights). Sectoral meetings were held in the second week of October 2023 to present the results of the diagnostic study and to receive comments so as to be able to present the final version to the CNTRLLS.

► II. Follow-up with the tripartite constituents on the implementation of the priority actions defined in September 2022

13. The joint ILO-IOE-ITUC mission agreed that three meetings would be held with the tripartite constituents to follow up on the priority actions. At the time of writing, one tripartite meeting had been held virtually on 8 March 2023 and one in-person meeting had been held on the occasion of the International Labour Conference in June 2023. At the request of the Minister of Labour and Social Welfare, the Office held two additional meetings with the Ministry on 19 July and 5 September 2023. In addition to providing the Office with an opportunity to share information on the actions described in paragraphs 6 to 11 above, the various meetings enabled participants to learn about: (i) the implementation of measures in relation to the priority actions (such as the operationalization of a multi-judge court for misdemeanours to accelerate the enforcement of court-ordered reinstatements, and ad hoc initiatives to disseminate information on freedom of association); (ii) the national tripartite constituents' perceptions of the progress made in the priority actions; (iii) the lack of progress in the adoption of the two bills on the strengthening of the CNTRLLS and on the various reforms to labour law and criminal law that had been agreed on a tripartite basis; and (iv) developments in the political situation related to the presidential elections and the transition period that began on 20 August 2023, and the impact on the various outstanding priority actions.

► III. Mobilization of funds for the implementation of the technical cooperation programme

14. As previously reported, in response to a request by the Governing Body, the Office developed, together with the delegation of the European Union to Guatemala and the Ministry of Labour and Social Welfare, the project "Supporting the State of Guatemala in meeting the commitments in the road map on freedom of association and collective bargaining (ILO Conventions Nos 87 and 98)" for the period from 31 July 2022 to 30 January 2024, with a budget of €500,000 remitted to the Ministry of the Economy of Guatemala.
15. The possibility has been raised of extending the project timeline owing to some difficulty in remitting the second payment to the ILO, which is in the process of being resolved. The delegation of the European Union has offered to support the implementation of a second phase of the project from 2024 with an additional €500,000 in funding.

► Draft decision

16. The Governing Body took note of the information provided by the Office in document GB.349/INS/10(Rev.1).

► Appendix I



Guatemala, 26 October 2023

Official letter No. DM 1884-2023 RERP/EEM

Dear Minister,

I am writing to you with reference to the 349th Session of the Governing Body of the International Labour Organization (ILO), which will be held in person from 30 October to 9 November 2023 in Geneva, Switzerland.

As you are well aware, document GB.349/INS/10, entitled "Annual report on the implementation of the ILO technical cooperation programme 'Strengthening the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards'", will be discussed under the tenth item on the agenda of the 349th Session.

In this regard, I wish to convey the comments of the Ministry of Labour and Social Welfare on the aforementioned document, via the Permanent Mission of Guatemala to the United Nations Office and other international organizations in Geneva, for submission to the ILO Governing Body for publication, preferably by 30 October 2023, before the discussion on Monday, 6 November 2023.

I thank you for your attention and avail myself of this opportunity to renew the assurances of my highest consideration.

The block contains a handwritten signature in blue ink over a circular official stamp. The stamp features the coat of arms of Guatemala and the text "MINISTERIO DE TRABAJO Y PREVISIÓN SOCIAL" and "GUATEMALA". Below the signature, the name "Rafael Eugenio Rodríguez Pellecer" and the title "Ministro de Trabajo y Previsión Social" are printed.

Ambassador

Mario Adolfo Búcaro Flores

Minister of Foreign Affairs

Office of the Minister

Cc. Sara Sofía Soto, Director of Human Rights, Ministry of Foreign Affairs

Permanent Mission of Guatemala to the United Nations Office and other international organizations in Geneva



Comments by the Ministry of Labour and Social Welfare of Guatemala on document GB.349/INS/10

The Ministry of Labour and Social Welfare hereby submits its comments on document GB.349/INS/10, entitled “Annual report on the implementation of the ILO technical cooperation programme ‘Strengthening the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards’” (CNTRLLS), which will be examined at the 349th Session of the Governing Body, to be held from 30 October to 9 November 2023 in Geneva, Switzerland.

Document GB.349/INS/10 is divided into three parts:

- I. Actions carried out with the support of the Office since September 2022;
- II. Follow-up with the tripartite constituents on the implementation of the priority actions defined in September 2022;
- III. Mobilization of funds for the implementation of the technical cooperation programme.

The draft decision is as follows:

“The Governing Body took note of the information provided by the Office in document GB.349/INS/10.”

Following the analysis, it was concluded that the technical assistance programme had no additional funding other than that of the European Union and, in a lesser amount, the funds allocated by the Office, which had no impact in terms of accelerating implementation of the road map or measuring its implementation through the nine key indicators.

The main objectives of the technical assistance programme are recalled in paragraph 2 of document GB.349/INS/10: “(i) the negotiation, definition and implementation of CNTRLLS agreements; (ii) the preparation of draft legislation agreed upon by the Government, employers and workers in line with the ILO Conventions on freedom of association and collective bargaining; and (iii) the protection and promotion of labour rights, in particular the rights to freedom of association and collective bargaining, with a special focus on action to combat anti-union violence and impunity.” However, they do not correspond to the objectives of the programme presented by the ILO and approved by the CNTRLLS on 6 August 2020.

In point I.4, on protection against anti-union dismissals, the Office failed to mention that, according to the timeline (second semester of 2023) in priority action 5, as approved in document GB.346/INS/10, the schedule was as follows: “(i) the ILO presents the findings of the analysis to the judicial authorities, the Public Prosecutor’s Office and the Ministry of Labour and Social Welfare (responsible party: ILO); (ii) tripartite discussions are held within the CNTRLLS on the actions to be taken in the light of those findings (responsible parties: national tripartite constituents, CNTRLLS); and (iii) the public authorities take the necessary measures to ensure compliance with court-issued reinstatement orders (responsible party: public authorities)”. The activities as planned in document GB.346/INS/10, priority action 5, are

incomplete. It is concerning that the activities have been changed without adhering to the previously established programme.

In paragraph 13, it states that the Office attended two additional meetings requested by the Ministry of Labour, without mentioning that the purpose of the meetings was to discuss the procedure following the complaint.

Lastly, the Office also fails to mention that the priority actions for which the ILO was responsible have still not been completed: Priority action 4: Approval of collective agreements; Priority action 5: Protection against anti-union dismissals and enforcement of reinstatement orders; Priority action 7: Functioning of the CNTRLLS, under the responsibility of that Committee, with ILO support.

In summary, actions were presented whose anticipated impact is not measurable, especially in areas related to social dialogue.

Guatemala, October 2023

Rafael Eugenio Rodríguez Pellecer
Ministro de Trabajo y Previsión Social



► Appendix II

Summary of the priority actions defined in September 2022	Responsible parties	Actions carried out	Next steps
1. Anti-union violence			
1.1. The CNTRLLS invites the Public Prosecutor's Office to a face-to-face meeting at least twice a year to report on the status of investigations into homicides and other acts of anti-union violence.	CNTRLLS and Public Prosecutor's Office	• Meetings of the Trade Union Committee of the Public Prosecutor's Office on 29 September and 24 November 2022. • Meetings of the Attorney-General with the CNTRLLS on 29 January, and 8 and 29 March 2023.	
1.2. The CNTRLLS invites the Ministry of the Interior to a face-to-face meeting at least twice a year to report on the protection measures accorded to members of the trade union movement and on other actions to prevent and mitigate acts of anti-union violence, and the outcomes achieved.	CNTRLLS and Ministry of the Interior	The Government has requested the CNTRLLS constituents to set a date to meet with the Minister of the Interior in the last quarter of 2023.	Meeting in the last quarter of 2023
1.3. Revise Ministerial Agreement 288-2022 establishing the body responsible for analysing attacks against trade union leaders and trade unionists, on the basis of input from the workers, and the above-mentioned body continues to operate on a regular basis.	Ministry of the Interior	16 February 2023: meeting between the Ministry of the Interior and trade unions to follow up on the final approval of Ministerial Agreement 288-2022. At the meeting, the Ministry of the Interior presented a draft amendment.	Comments from the workers on the draft amendment
1.4. (i) Organize training on freedom of association for members of the Public Prosecutor's Office, with the participation of trade unionists and employers; and (ii) the Office facilitates the exchange of international experiences on anti-union violence with public prosecutors' offices in other countries.	ILO and Public Prosecutor's Office	• 30 November 2022: national workshop for managers and staff members of municipal prosecutor's offices on ILS and the content of Directive No. 1-2015 on the investigation of offences against trade unionists.	

Summary of the priority actions defined in September 2022	Responsible parties	Actions carried out	Next steps
		- March–April 2023: the same programme was offered virtually to more than 300 officials of 24-hour duty offices at the national level and municipal prosecutor's offices. 20–24 March 2023: training on the ILO, supervisory mechanisms and Conventions Nos 97 and 98 for members of the Public Prosecutor's Office Special Investigation Unit for Crimes against Judicial Officials and Trade Unionists.	An exchange of experiences with public prosecutors' offices in other countries will be facilitated once the current tensions involving the Public Prosecutor's Office have been overcome.
2. Legislative reform			
2(a) Institutional strengthening of the CNTRLLS through Bill 5508 (pending its third reading by the Congress): (i) before 30 September 2022, the Government and the social partners send an official letter to the Office of the President of the Congress; (ii) the Government and the social partners carry out lobbying activities to promote the approval of the bill; and (iii) the Government and the CNTRLLS publicly announce the submission of the above-mentioned official letter.	Government, CNTRLLS, social partners	On 23 September 2022, the CNTRLLS sent a letter to the Congress of the Republic reiterating the tripartite support for Bill 5508.	Discussion of Bill 5508 by the Congress of the Republic
2(b) Tripartite agreement of March 2018 (right to organize in the public sector; essential services and strike: criminal sanctions that could affect the	Government, CNTRLLS, social partners	On 28 October 2022, the executive branch submitted the bill containing the	Discussion of the bill by the Congress of the Republic

Summary of the priority actions defined in September 2022	Responsible parties	Actions carried out	Next steps
exercise of the right to strike): (i) By the end of October 2022 at the latest, the Government presents the bill in question to the Congress of the Republic and proactively monitors its legislative passage; (ii) the social partners carry out lobbying activities to promote the bill; and (iii) the Government and the CNTRLLS publicly announce the submission of the bill.		tripartite agreements of March 2018 to the Congress.	
2(c) Tripartite agreements of August 2018 on guiding principles for reforming legislation on sectoral unions, sectoral bargaining and certain aspects of the right to strike: (i) The CNTRLLS subcommittee on legislation includes this point as a priority in its work plan (responsible party: CNTRLLS); (ii) the Office prepares a proposal on providing technical assistance and support and facilitating tripartite dialogue with the international social partners; (iii) implementation of technical assistance and dialogue to reach a consensus text on proposed reforms to submit to the Governing Body in November 2023.	National constituents, CNTRLLS, ILO, IOE, ITUC	- The item was included in the 2023 work plan of the CNTRLLS subcommittee on legislation. - In view of the electoral period (27 March to 19 August 2023) and the transition period from the incumbent to the elected authorities (20 August 2023 to 14 January 2024), the start of this aspect of technical assistance was rescheduled.	Submission in early 2024 of a technical assistance proposal to facilitate the tripartite dialogue

3. Trade union registration

3.1. Study and design of an electronic platform for the registration of trade unions.	ILO	A new platform to better respond to the technical requirements of the Ministry of Labour and Social Welfare was completed in March 2023.	
3.2. Implementation of the platform and supply of equipment.	ILO	- Development of modules of the electronic trade union registration system, ensuring its compatibility with the main system of the Ministry. - Acquisition of all necessary equipment.	Administrative process for classifying the systems and equipment as property of the State.

Summary of the priority actions defined in September 2022	Responsible parties	Actions carried out	Next steps
4. Approval of collective agreements			
The Office facilitates a tripartite review of the approval process for collective agreements with a view to ensuring compliance with the principle of free and voluntary collective bargaining.	ILO, Ministry of Labour and Social Welfare, CNTRLLS	The Office's (specialists in standards, ACTRAV and ACTEMP) mission initially planned for September 2023 had to be rescheduled (delay in the allocation of funds for technical cooperation).	Mission rescheduled for late 2023.
5. Protection against anti-union dismissals and enforcement of reinstatement orders			
5.1. (i) The ILO carries out a technical analysis of the challenges faced in complying with reinstatement orders; (ii) the analysis is presented to and discussed with the competent authorities and the CNTRLLS; (iii) the authorities take the necessary action based on the analysis.	ILO, national tripartite constituents, CNTRLLS, public authorities	- The technical analysis project was devised with the support of two international consultants. The consultation process included visits to Guatemala to gather information from the various institutions involved and interview key actors. - A major national development was the creation in February 2023 of the court of justices of the peace in criminal matters to hear offences of disobedience of labour and social welfare decisions.	From November 2023, meetings will be held with the competent authorities and the CNTRLLS to present the results of the analysis and receive feedback.
5.2. In her presentations to the CNTRLLS (see point 1 of this document), the Attorney-General will report on the progress made and outcomes achieved in respect of the certified reports procedure.	Public Prosecutor's Office	The Attorney-General's meetings with the CNTRLLS referred to in point 1.1 focused on anti-union violence issues.	
5.3. Training for labour judges on international labour standards, with emphasis on freedom of association.	ILO	The training had to be rescheduled (delay in the allocation of funds for technical cooperation).	Rescheduled for early 2024

Summary of the priority actions defined in September 2022	Responsible parties	Actions carried out	Next steps
6. Awareness-raising campaign on freedom of association			
In the light of the recent campaign promoted by the Ministry of Labour and Social Welfare on the prevention of child labour, the Government could consider organizing a similar campaign on freedom of association.	Government	• Posters displayed in 35 Guatemalan municipalities in the first four months of 2023. • A campaign in the print media and on radio, television and social networks was launched on 13 September 2023: material distributed through three official social network accounts; three publications in the digital edition of the Diario de Centro América; three publications in Nuestro Diario (the media outlet with the largest circulation nationwide); information broadcasts on Sonora, a national radio station, and transmitted through 31 relays (82 slots of 20 seconds).	
7. Functioning of the CNTRLLS			
Subcommittee on dispute settlement: Define a profile for the mediator based on tripartite agreement.	CNTRLLS with ILO support	• The subcommittee on mediation and dispute settlement has included the item on its agenda. • The mission initially planned for September 2023 had to be rescheduled (delay in the allocation of funds for technical cooperation).	Mission rescheduled for late 2023.